



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
KA 'OIHANA O KA LOIO KUHINA  
THIRTY-THIRD LEGISLATURE, 2026**

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 2576, H.D. 1, RELATING TO BACKGROUND CHECKS.

**BEFORE THE:**

HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

**DATE:** Tuesday, February 24, 2026      **TIME:** 2:00 p.m.

**LOCATION:** State Capitol, Room 325

**TESTIFIER(S):** Anne E. Lopez, Attorney General, or  
Philip D. Higdon, Administrator, Hawaii Criminal Justice Data  
Center

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Chair Tarnas and Members of the Committee:

The Department of the Attorney General (Department) respectfully opposes this bill.

This bill would authorize applicants, operators, and third-party employers, rather than the Department of Health, to conduct background checks of employees and adult volunteers at healthcare facilities. The bill amends the definition of "background check" to include the submission of fingerprints.

Under Public Law 92-544, the Federal Bureau of Investigation (FBI) reviews state statutes that seek access to FBI criminal history record information (CHRI), including fingerprinting, for licensing and employment purposes. The FBI's Office of the General Counsel, Criminal Justice Information Law Unit (CJILU), must review and approve any CHRI-related state statute before it may be implemented. See 28 C.F.R. § 50.12(a).

Importantly, states may not authorize private entities to receive FBI CHRI for licensing and employment purposes. Pursuant to 28 C.F.R. § 50.12(a) and the FBI's implementation of Public Law 92-544, CHRI may be disseminated only under an approved state statute and only to governmental entities—not directly to private parties. See FBI "How We Can Help You" <https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/public-law-92-544>.

Our primary concern is that the bill authorizes private entities to collect fingerprints and receive CHRI.

If enacted, the Department's Hawaii Criminal Justice Data Center, Hawaii's designated state agency responsible for administering FBI Criminal Justice Information Services programs, would be required to submit the new statute to the FBI CJILU for review and approval before fingerprint-based background checks could be conducted under that statute. However, as currently written, the bill would likely not be approved because it authorizes private entities to receive CHRI.

**If the FBI does not approve the enacted legislation, the State would need to amend the statute in a subsequent legislative session to comply with federal law and FBI CJILU requirements.** This process would continue until the statutory wording satisfies federal criteria and receives FBI approval.

To comply with federal law, **the bill must ensure that only a government agency (such as the Department of Health or its designee) conducts fingerprint-based background checks and receives CHRI.** Private entities may not directly obtain or receive CHRI; they may receive only an eligibility determination from the government agency.

There are multiple provisions in the bill that appear to conflict with 28 CFR § 50.12(a) by authorizing private entities to conduct background checks that involve collecting or receiving CHRI and fingerprints:

1. Page 6, lines 11-13: Replaces "the department or its designee" with "applicants, operators, and third-party employers," authorizing these private entities to conduct background checks.
2. Page 7, lines 1-2: Replaces "the department or its designee" with "applicants, operators, and third-party employers" regarding consent to conduct background checks.
3. Page 7, line 19, through page 8, line 2: Authorizes applicants or operators to "obtain and ensure completion of the background checks required by this section, including background checks of any prospective direct patient access employee or adult volunteer retained after the applicant is issued a license or certification under this part[.]"

4. Page 8, lines 16-21: Makes third-party employers "responsible for obtaining and ensuring the completion of the background check required by this section[.]"
5. Page 11, lines 13-18: Deletes "from the department or its designee," allowing applicants or operators to receive background check information directly.
6. Page 12, lines 6-9: Replaces "or its designee" with "applicant, operator, or third-party employer," allowing private entities to receive background check information directly.

If the Committee wishes to move this bill forward, we recommend removing fingerprinting from the definition of "background check." Specifically:

- On page 2, lines 16-17, replace "Criminal history records in accordance with section 846-2.7;" with "Criminal history record name inquiry;"
- Delete the new subsection (n) on page 12, lines 17-20, as fingerprinting would no longer be included.

We note, however, that removing fingerprint-based checks would reduce the scope and reliability of background screenings. Fingerprinting provides biometric confirmation of identity and access to national criminal history record information, which offers a higher level of assurance, particularly in healthcare settings involving vulnerable populations.

The bill also adds a new subsection (h) to section 321-15.2, Hawaii Revised Statutes (HRS) (page 9, lines 11-15), which would require employment decisions based on conviction record information to comply with section 378-2.5(c), HRS, concerning look-back limitations. However, DOH is exempt from these time limitations under section 378-2.5(d)(18), HRS, and may look back beyond seven years for felony convictions and five years for misdemeanor convictions. The proposed amendment could create confusion regarding whether employers must comply with section 378-2.5(c), HRS, or are exempt under section 378-2.5(d)(18). We recommend deleting the new subsection (h).

For these reasons, we respectfully request that this bill be held. Thank you for the opportunity to testify.



# HAWAI‘I CIVIL RIGHTS COMMISSION

## KOMIKINA PONO KĪWILA O HAWAI‘I

830 PUNCHBOWL STREET, ROOM 411, HONOLULU, HI 96813 · PHONE: (808) 586-8636 · FAX: (808) 586-8655 · TDD: (808) 586-8692

DATE: Tuesday, February 24, 2026  
TIME: 2:00 PM  
PLACE: VIA VIDEOCONFERENCE  
Conference Room 325  
State Capitol  
415 South Beretania Street

To:

[COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS](#)

Rep. David A. Tarnas, Chair

Rep. Mahina Poepoe, Vice Chair

From: Marcus L. Kawatachi, Executive Director of the Hawai‘i Civil Rights Commission  
and HCRC Staff

### Re: HB 2576 HD1 Relating to Background Checks

#### HCRC Staff Comments

While the Commissioners of the Hawai‘i Civil Rights Commission (HCRC) have not yet had the opportunity to meet and take an official position on H.B. 2576 HD1, HCRC staff provide the following comments. The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5. HCRC has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment (Chapter 378, Part I, HRS), housing (Chapter 515, HRS), public accommodations (Chapter 489, HRS), and access to state and state-funded services (HRS § 368-1.5).

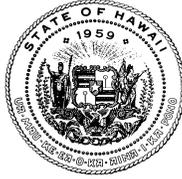
The HCRC's staff comments concern the proposed language of HRS § 321-15.2(h): "Any use of background check information to make an employment

decision based on conviction record information shall comply with the requirements of section 378-2.5(c), including any applicable limitation on the consideration of conviction record information."

We assert that the state's employment discrimination law, including but not limited to HRS §378-2.5, already encompasses a wide range of employment-related decisions and would continue to do so whether or not the proposed language is added. However, we do not object to the language, as it makes the coverage of HRS §378-2.5 explicit and may therefore provide clarity to the public.

The analysis of whether a covered employment action violates the state's employment discrimination law requires an individualized assessment of the relevant facts. With a practice or policy applied to a group of individuals to make employment decisions, a violation could be found if the practice or policy is either discriminatory on its face, or if it is applied in a discriminatory manner. HRS §378-2.5 provides detailed information specifically relating to employment decisions based on conviction record information, including subsection (c) that is cited in the proposed language. Moreover, subsection (d) describes specific employers, including but not limited to the Department of Health, that under certain circumstances may be exempted from HRS §378-2.5 but subject to the restrictions of other HRS sections. HCRC staff do not interpret H.B. 2576 HD1 to change employers' obligations under any section of existing state employment law under the jurisdiction of the HCRC. Thank you for the opportunity to provide these comments.

JOSH GREEN, M.D.  
GOVERNOR OF HAWAII  
KE KIA'ĀINA O KA MOKU'ĀINA 'O HAWAII'



KENNETH S. FINK, MD, MGA, MPH  
DIRECTOR OF HEALTH  
KA LUNA HO'OKELE

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
KA 'OIHANA OLAKINO  
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**Testimony in OPPOSITION to HB2576, HD1  
RELATING TO BACKGROUND CHECKS**

REPRESENTATIVE DAVID A. TARNAS, CHAIR  
HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

Hearing Date and Time: TUES., February 24, 2026 @ 2:00pm

Room Number: 325

- 1 **Fiscal Implications:** There is no cost to the Department of Health (Department).
- 2 **Department Position:** The Department opposes this measure and offers comments.
- 3 **Department Testimony:** The Office of Health Care Assurance (OHCA) provides the following
- 4 testimony on behalf of the Department. Protecting the health and safety of Hawai'i residents
- 5 is our highest priority. Every individual receiving care in our healthcare facilities deserves the
- 6 assurance that those entrusted with their well-being have undergone the most rigorous and
- 7 continuous screening available. For this reason, the Department opposes this measure relating
- 8 to background checks.
- 9       Comprehensive state and federal background checks are critical to ensuring the health
- 10 and safety of Hawai'i residents receiving care in any healthcare facility.
- 11       Fingerprints are biometrics that uniquely tie records to an individual and reduce false
- 12 matches which can occur in name-based searches. Furthermore, fingerprint background checks
- 13 using the FBI database provides access to arrest records not available through a non-FBI scan.
- 14 This is an important aspect for screening prospective employees who have access to a
- 15 vulnerable population at risk of abuse or financial exploitation.

1           In long-term care settings and certain other healthcare facilities, which care for the most  
2 vulnerable individuals, fingerprints are an essential component of a thorough background  
3 check. Many states, including California, Colorado, Florida, Illinois, New York, Oregon, and  
4 Pennsylvania – require fingerprinting for healthcare facilities, and nearly all states require it for  
5 long-term care facilities. OHCA currently has a process in place that supports compliance with  
6 current state and federal requirements.

7           Access to authorized entities who can conduct fingerprint-based background checks  
8 remains limited. Any vendor performing fingerprinting must be approved by the FBI, and to our  
9 knowledge, only one such approved vendor currently operates in Hawai'i. The Office of Health  
10 Care Assurance (OHCA) contracts with this vendor to meet statutory requirements. We  
11 recognize that the one-time fingerprinting requirement may create logistical and financial  
12 hardship for some providers. However, the requirement is intended to safeguard vulnerable  
13 patients by ensuring accurate identity verification and a comprehensive review of criminal  
14 history records.

15           The Department supports participation in the FBI's RapBack program which provides an  
16 important safety benefit by notifying agencies of subsequent criminal activity. The Department  
17 would support public funding for this ongoing monitoring after initial fingerprinting, as is done  
18 in some other states.

19           Although the Department believes that statutory change is unnecessary because the  
20 current system safeguards patients, we acknowledge that some areas of the statute could be  
21 clarified. The department has been working collaboratively with the Healthcare Association  
22 of Hawai'i (HAH) to agree on proposed amendments. Additionally, the department has been  
23 working with the Hawaii Criminal Justice Data Center (HCJDC) to ensure that proposed  
24 amendments would have a good chance to be approved by the FBI if this measure moves  
25 forward and is enacted.

- 1 **Offered Amendments:** We support the agreed upon proposed amendments submitted in
- 2 HAH's testimony.
- 3 Thank you for the opportunity to testify on this measure.

February 23, 2026

House Committee on Judiciary & Hawaiian Affairs  
Chair David A. Tarnas  
Vice Chair Mahina Poepoe  
Members of the Committee

**Re: HB 2576 HD 1 – Relating to Background Checks – Comments**

Aloha kākou!

LeadingAge Pacific West is pleased to provide comments on House Bill 2576 HD 1 which would clarify the background check requirement process for employees, applicants and volunteers working in healthcare settings in Hawaii.

LeadingAge Pacific West advocates for quality, mission-driven housing, care and services for older adults. Our nonprofit members include providers of affordable senior housing, residential care facilities for the elderly (assisted living), life plan communities, skilled nursing care, home and community-based services, home health and hospice care.

The current background process is arduous and time-consuming for employers. It is important to ensure the safety of residents living in our member communities; it is also imperative that changes are made to the current process to support recruitment and retention of a high-quality caregiver and clinical workforce. HB 2576 HD 1 provides a much-needed first step to expedite the process by allowing health care employers to utilize additional background check vendors to conduct background checks in Hawaii. While we believe additional changes would be helpful, this measure is a step in the right direction.

For these reasons, LeadingAge Pacific West is pleased to provide comments on HB 2576 HD 1. If you have any questions, please do not hesitate to contact me directly at [aking@leadingagepacificwest.org](mailto:aking@leadingagepacificwest.org).

Sincerely,  
Amber King  
Vice President, Legislative Affairs



**February 24, 2026 at 2:00 pm**  
**Conference Room 325**

**House Committee on Judiciary and Hawaiian Affairs**

To: Chair David A. Tarnas  
Vice Chair Mahina Poepoe

From: Hilton R. Raethel  
President and CEO  
Healthcare Association of Hawaii

Re: **Testimony in Support with Amendments**  
**HB 2576 HD 1, Relating to Background Checks**

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 170 member organizations who represent almost every aspect of the healthcare continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high-quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 30,000 people statewide.

Thank you for the opportunity to provide testimony **in support, with amendments** on this measure. These amendments were reached through discussions with the Department of Health (DOH) and we appreciate their collaboration on this important matter.

Protecting vulnerable individuals is a core responsibility for every healthcare provider, and comprehensive background checks are already a standard part of our hiring and onboarding processes. Facilities routinely conduct robust name-based screenings that include multi-state criminal database searches, county-level court record reviews, sex offender registry checks, abuse and neglect registry checks, OIG exclusion list screening, and the use of unique identifiers to detect aliases or prior identities. These layered tools are designed specifically for healthcare settings and are meaningful safeguards.

However, we understand and appreciate DOH's perspective that fingerprinting be required for employees working in home- and residential-based settings. We recognize that the risk profile in those settings can differ from that of hospitals, which operate in highly structured, team-based, and continuously supervised clinical environments. We respect DOH's interest in retaining fingerprinting requirements for facilities outside the hospital setting based on those distinctions.

We remain committed to working collaboratively with DOH to find a balanced solution—one that maintains strong protections for patients while ensuring that regulatory requirements are practical and appropriately tailored to different care settings. We believe the amendments in this bill will provide some relief for our members regarding current fingerprinting requirements and look forward to working more with DOH to ensure that the process works effectively going forward.

Thank you for the opportunity to testimony on this important measure.

Proposed amendments:

**§321-15.2 Background checks.** (a) For the purposes of this section:

"Adults" means individuals aged eighteen years or older.

"Applicant" means a person or entity seeking licensure or certification to operate a healthcare facility. If the applicant is an entity, the term "applicant" shall also include its principals, directors, partners, managers, agents, and representatives to the extent that any of these individuals will have access to or contact with clients, their finances, assets, personal property, medical records, or individually identifiable information.

~~["Background check" means a review of records stored in state or national record repositories for history of abuse, neglect, threatened harm, or other maltreatment against children or adults, and for any criminal history, including:~~

~~(1) Adult abuse perpetrator records by means of a search of the individual's name and birth date in the state adult protective services central registry of reported cases established in section 346-224;~~

~~(2) Child abuse and neglect records by means of:~~

~~(A) An initial name inquiry in the state child welfare record files;~~

~~(B) A subsequent child abuse confirmation history check for new hires and rehires; and~~

~~(C) An annual name inquiry into state child welfare record files;~~

~~(3) Criminal history records in accordance with section 846-2.7;~~

~~(4) Sex offender registry records;~~

~~(5) Certified nurse aide registry for information or findings pursuant to section 457A-3; and~~

~~(6) Adult abuse perpetrator records, child abuse and neglect records, criminal history records, sex offender registry records, and certified nurse aide registry records of another state where a prospective employee or adult volunteer previously resided.]~~

"Conviction for a relevant crime" means any federal or state conviction for any relevant crime as defined in this section.

~~["Criminal history record name inquiry" means a record check by name for any federal or state conviction for any relevant crime as defined in this section.]~~

"Department" means the department of health.

"Direct patient access [employee] worker" means any individual, including a volunteer, who has access to a patient or resident of a healthcare facility, or any provider through

employment or through an agreement or contract with such a facility or provider. [~~Such individuals include but are not limited to:~~] "Direct patient access worker" includes but is not limited to physicians, nurses, nursing assistants, home health aides, therapists, activities personnel, and support staff (i.e., housekeeping, dietary, etc.), , as well as volunteers, who have direct access to patients or patient belongings. "Direct patient access worker" does not include individuals whose duties do not involve the provision of health care services or direct physical contact with patients and whose access to patients or patient belongings is incidental, limited, or supervised.

"Disqualifying information" means a conviction for a relevant crime or a finding of patient or resident abuse.

"Fingerprint-based background check" means a fingerprint-based inquiry search of Hawaii state criminal history records and the Federal Bureau of Investigations national criminal history records database, the results of which are accessible only to the department or its designee.

"Healthcare facility" means a facility, setting, or agency licensed or certified by the department of health that provides mental health or health care services or living accommodations to individuals, such as a skilled nursing facility, intermediate care facility, adult residential care home, expanded adult residential care home, assisted living facility, home health

agency, home care agency, hospice, adult day health center, special treatment facility, therapeutic living program, intermediate care facility for individuals with intellectual disabilities, hospital, [~~rural health center,~~] community care foster family home, home and community-based case management agency, adult day care center, developmental disabilities domiciliary home, adult foster home for individuals with developmental disabilities, community mental health center, and rehabilitation agency.

"Name-based background check" means a search conducted by using the name and other identifying information of the individual of records stored in state or national record repositories for history of abuse, neglect, threatened harm, or other maltreatment against children or adults, and for any criminal history, including the:

- (1) Hawaii adult protective services central registry of reported cases established in section 346-224;
- (2) Hawaii child abuse and neglect central registry;
- (3) Criminal history records;
- (4) Hawaii sex offender registry;
- (5) Hawaii certified nurse aide registry for information or findings pursuant to section 457A-3; and
- (6) Adult abuse perpetrator records, child abuse and neglect records, criminal history records, sex offender

registry records, and certified nurse aide registry records of another state where a prospective direct patient access worker previously resided.

~~["Name inquiry" means a criminal history record check conducted by using the name and other identifying information of the individual, in lieu of a fingerprint check.]~~

"Operator" means an individual or entity that is licensed or is seeking licensure to operate a healthcare facility and is responsible for the management and overall operations of that healthcare facility.

"Relevant crime" means:

- (1) Any offense described in title 42 United States Code ~~[\$1320a-7]~~ section 1320a-7 (section 1128(a) of the Social Security Act); or
- (2) A crime of such a serious nature or circumstance that the department finds its perpetrator to pose a risk to the health, safety, or well-being of a patient or resident. This includes but is not limited to murder, manslaughter, assault, sex offenses, domestic violence, theft or forgery, arson, kidnapping, or possession, use, sale, manufacture, or distribution of dangerous drugs or controlled substances.

"Third-party employer" means any person or entity other than the applicant or operator that employs, contracts with,

provides through an educational affiliation agreement, or otherwise retains an individual who provides services at a healthcare facility pursuant to a contract, subcontract, agreement, or other arrangement, including a staffing agency, contractor, or subcontractor.

(b) The department shall adopt rules pursuant to chapter 91 to ensure the reputable and responsible character of all prospective applicants, operators, direct patient access workers [~~employees, and adult volunteers~~] of a healthcare facility, and, in the case of any healthcare facility operated in a private residence, all adults living in the home other than the clients [~~. These rules, among other things, shall specify how the department or its designee may conduct background checks~~] in accordance with this section.

(c) All prospective applicants, [~~and prospective~~] operators [~~shall~~], and direct patient access workers of a healthcare facility, and, in the case of any healthcare facility operated in a private residence, all adults living in the home other than the clients shall provide consent to the department or its designee to conduct and be subject to the following background checks conducted by the department or its designee:

(1) [~~Be subject to background checks; and~~] A one-time fingerprint-based background check; and

~~(2) [Provide consent to the department or its designee to conduct background checks]~~ An initial name-based background check.

~~(3) A fingerprint-based background check shall not be required for:~~

~~(A) Individuals, including students, who will be working or volunteering at a hospital licensed under HRS 321-14.5; and~~

~~(B) Individuals who have submitted fingerprints as a condition of their licensure.~~

~~(d) All operators and direct patient access workers of a healthcare facility, and, in the case of any healthcare facility operated in a private residence, all adults living in the home other than the clients shall provide consent to the department or its designee to conduct and shall undergo a name-based background check biennially. [All prospective direct patient access employees and adult volunteers of healthcare facilities and, in the case of any healthcare facility operated in a private residence, all adults living in the home other than the clients shall:~~

~~(1) Be subject to background checks in accordance with this section; and~~

~~(2) Provide consent to the department or its designee to conduct background~~

~~checks.]~~

(e) The department or its designee shall obtain all fingerprint-based background check and named-based background check information required under this section.

(1) Notwithstanding this subsection, or any law to the contrary, hospitals licensed under HRS 321-14.5 may conduct the name-based background checks required under this section in lieu of the department or its designee.

(2) Hospitals licensed under HRS 321-14.5 that conduct required name-based background checks must possess documentation of compliance and must provide access to such documentation upon request by the department.

~~The department or its designee shall obtain background check information in accordance with this section from an applicant or operator, on the applicant or operator, and on any prospective employees of the applicant or operator including any new employee retained after the applicant is issued a license or certificate under this part, which shall include an annual name inquiry into state criminal history record files.]~~

(f) No applicant or operator shall employ, contract with, or permit any prospective direct patient access worker to work at a healthcare facility unless:

- (1) The individual has completed the initial name-based background check and the one-time fingerprint-based background check required by this section; and
- (2) No disqualifying information is found, or any disqualifying information found is determined not to be disqualifying following an appeal process.

(g) An applicant or operator may satisfy the requirements of this section with respect to a prospective direct patient access worker of a third-party employer by obtaining and maintaining written certification from the third-party employer that:

(1) The initial name-based background check and the one-time fingerprint-based background check required by this section has been completed; and

(2) No disqualifying information has been found, or found disqualifying information is determined not to be disqualifying following an appeal process.

The applicant or operator shall provide this information to the department upon request.

(h) The department may revoke or suspend a current license or certificate, impose penalties or fines, or deny an application for a license or certificate under rules adopted pursuant to chapter 91 if the applicant, operator, or direct patient access worker [~~employee, or adult volunteer~~] at the

healthcare facility or, in the case of any healthcare facility operated in a private residence, any adult living in the home other than the client:

(1) Refuses to authorize, ~~[the department or its designee to conduct]~~ provide information required to perform, or undergo a name-based or fingerprint-based background check required pursuant to this section, ~~[refuses to authorize the department or its designee to obtain background check record information for verification, or refuses consent to be fingerprinted;~~

~~(2) Refuses or fails to submit to the department or its designee information required to perform a background check;~~

~~[(3)]~~ (2) Has any disqualifying information; or

~~[(4)]~~ (3) Has any name-based or fingerprint-based

background check information that the department finds may pose a risk to the health, safety, or welfare of the residents or patients of the healthcare facility.

~~[(g)]~~ (i) The fee charged ~~[by the Federal Bureau of Investigation and the Hawaii criminal justice data center]~~ to perform the required name-based and fingerprint-based background ~~[criminal history record]~~ checks may be passed on to all

applicants, operators, direct patient access workers [~~employees,~~  
~~and adult volunteers~~] at the healthcare facility and, in the  
case of a facility operated in a private residence, all adults  
living in the home other than the clients.

~~[(h)]~~ (j) The department or its designee, in obtaining and  
relying upon the name-based or fingerprint-based background  
check information, is presumed to be acting in good faith and  
shall be immune from civil liability for taking or recommending  
action based upon the name-based or fingerprint-based background  
check information. The presumption of good faith may be rebutted  
upon a showing of proof by a preponderance of the evidence that  
the department or its designee relied upon information or  
opinion that it knew was false or misleading or that such  
reliance was not reasonable.

~~[(i)]~~ (k) Any applicant or operator who receives  
information from the department or its designee relating to a  
name-based or fingerprint-based background check of a direct  
patient access worker [~~employee or adult volunteer~~] or, in the  
case of a healthcare facility operated in a private residence,  
an adult living in the home other than the clients, is presumed  
to be acting in good faith and shall be immune from civil  
liability for reasonably taking or recommending action based  
upon the department's recommendation or direction. Nothing in

this section shall affect rights, obligations, remedies, liabilities, or standards of proof under chapters 368 and 378.

Name-based or fingerprint-based background ~~[Background]~~ check record information pursuant to this section shall be used exclusively ~~[by the department or its designee]~~ for the sole purpose of determining whether an applicant, operator, or direct patient access worker ~~[employee, or adult volunteer]~~ at a healthcare facility, or, in the case of a facility operated in a private residence, any adult living in the home other than the clients is suitable for working or living in close proximity to residents of a healthcare facility such that the health, safety, and welfare of the residents would not be at risk.



## THE QUEEN'S HEALTH SYSTEMS

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To: The Honorable David A. Tarnas, Chair  
The Honorable Mahina Poepoe, Vice Chair  
Members, House Committee on Judiciary & Hawaiian Affairs

From: Jace Mikulanec, Director, Government Relations, The Queen's Health Systems

Date: February 24, 2026

Re: Support of HB2576 HD1 - Relating to Background Checks.

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The Queen's Health Systems (Queen's) is a nonprofit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, and more than 10,000 affiliated physicians, caregivers, and dedicated medical staff statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity to provide testimony in support of HB2576 HD1, with amendments proposed by the Healthcare Association of Hawai'i. We share the Department of Health's interest in ensuring the safety of healthcare facilities; which is why we adhere to stringent background checks that meet state, federal, and industry standards – including those required by CMS and The Joint Commission. HB2576 HD1 will provide much needed clarity of existing statute and streamline the background check requirements for applicants, operators, employees, and volunteers at healthcare facilities.

Queen's would additionally note that the Department's proposed fingerprinting policy impacts contracts and agreements that systems, like Queen's, already have in place for background checks. We appreciate the Department's recent collaboration with stakeholders to find common ground on the policies addressed in this measure. The proposed amendments provided by the Healthcare Association of Hawai'i balance the Department's interest in safety and security with our system's existing policies and contracts.

Thank you for hearing this important measure and for allowing Queen's to provide testimony in support.

*The mission of The Queen's Health System is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.*

Tuesday, February 24, 2026, 2:00 pm  
Conference Room 329 & Video Conference

**House Committee on Judiciary & Hawaiian Affairs**

To: Representative David Tarnas, Chair  
Representative Mahina Poepoe, Vice Chair

From: Michael Robinson  
Vice President, Government Relations & Community Affairs

**Re: HB 2576, HD1 – Testimony in Support and Requesting Amendments  
Relating To Background Checks**

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My name is Michael Robinson, Vice President of Government Relations & Community Affairs at Hawai'i Pacific Health. Hawai'i Pacific Health is a not-for-profit health care system comprised of its four medical centers – Kapi'olani, Pali Momi, Straub and Wilcox and over seventy locations statewide with a mission of creating a healthier Hawai'i.

HPH supports HB 2576, HD1 and requests that your committee adopt the amendments suggested by the Healthcare Association of Hawai'i (HAH). The measure requires applicants, operators, employees, and adult volunteers at healthcare facilities to undergo background checks which include criminal history, abuse, and neglect, and to submit these results to the Department of Health (DOH) upon request as a condition of licensure.

Hospitals operate in highly structured, team-based, and continuously supervised clinical environments. HPH currently conducts comprehensive background checks on more than 7,500 employees, including statewide and federal criminal history searches, credential and education verification, and license-related disciplinary reviews through a long-standing, trusted vendor. These background checks do not utilize fingerprints and instead utilize an individual's social security number, legal names and aliases to meet federal program participation requirements and accreditation standards, including Joint Commission requirements.

**There are no Federal statutes or regulations requiring hospitals to subject any of its employees to undergo FBI fingerprinting of its employees for purposes of conducting background checks.** As such, HB 2576, HD1 is consistent with federal law. Some states require fingerprinting as a condition of professional licensure. For example, in Hawaii licensed health professionals such as APRNs, RNs, LPNs, and security guards—are already required to submit fingerprints to the Department of Commerce and Consumer Affairs. For those licensed professionals in our workforce the requirements under HB 2576 duplicate existing processes for that class of professionals and create

unnecessary administrative burden with questionable marginal benefit to patient safety given current safeguards.

For physicians the requirement of FBI fingerprinting as part of background check would be a brand-new requirement for these health care professionals. The Hawai'i Medical Board does not currently require FBI fingerprinting as a condition of licensure which will make Hawaii one of the few states in the country requiring hospitals to subject current and prospective physicians to the requirement of FBI Fingerprinting *as a condition of hospital licensure*.

We are concerned with the broad class of health care employees that fall within the definition of “direct patient access employee” which includes employees with only incidental or supervised patient contacts – such as cafeteria workers and security guards. Should fingerprinting be mandated for hospitals in the statute, HPH’s hospitals would be compelled to require FBI fingerprinting of approximately 2,200 non-licensed professionals who are employees, volunteers, contract workers, and student interns—significantly increasing administrative and financial burden.

We are also concerned that compliance with HRS §378-2.5 could compel employment action that would violate Hawai'i Employment laws aimed at protecting employees from discriminatory hiring practices. Under HRS §378-2.5, employers are limited on how far back they may inquire into and can only consider *conviction records* – not just whether an individual has been arrested and fingerprinted. Employers are additionally required to ensure that any conviction is rationally related to job duties. While the bill references subsection (c) regarding look-back periods, it omits other critical subsections, potentially exposing employers to claims of discriminatory hiring practices.

Finally, we are concerned that this bill may inadvertently prevent workers qualified under Hawai'i laws entry into the healthcare workforce . The state’s contracted vendor utilizes an algorithm that flags certain petty misdemeanors as *automatically disqualifying without regard for look-back periods or job relevance*. This can delay hiring, divert resources from patient care, and adversely impact individuals who may be suitable candidates despite past, low-level offenses.

HPH aligns with and supports the amendments proposed by the HAH. For these reasons, we respectfully urge the committee to keep this measure alive to allow us to continue our dialogue with DOH.

Thank you for the opportunity to provide testimony.



**Testimony Presented Before the House Committee on  
Judiciary & Hawaiian Affairs  
Tuesday, February 24, 2026 at 2:00 PM  
Conference Room 325 and Videoconference  
by  
Laura Reichhardt, APRN, AGPCNP-BC  
Director, Hawai'i State Center for Nursing  
University of Hawai'i at Mānoa**

**Comments on HB 2576 HD1**

Chair Tarnas, Vice Chair Poepoe, and members of the Committee:

The Hawai'i State Center for Nursing is dedicated to fostering workplace conditions that support nurse recruitment, retention thus leading to high-quality patient care. HB2576 HD1, which authorizes healthcare facility applicants, operators, and third-party employers to conduct background checks instead of the Department of Health, has significant implications for the nursing workforce and the overall safety and integrity of healthcare environments.

The Center is particularly interested in understanding how the proposed changes will intersect with existing nurse licensing and credentialing requirements. Nurses in Hawai'i already undergo background checks as part of the licensure process, and it is important that any new procedures do not create duplicative requirements or confusion for nurses and employers. **Additionally, under the current process, nursing students are being requested to undergo new background checks as frequently as each semester, causing a considerable fiscal and administrative burden to students, schools of nursing, and facilities.**

We commend this discussion and thank the Legislature, as well as DOH OHQA and the Healthcare Association of Hawai'i for their work to improve the feasibility and function of this law. The Center stands ready to collaborate on solutions that maintain patient safety while supporting an efficient and supportive environment for Hawai'i's nursing workforce.

*The mission of the Hawai'i State Center for Nursing is to collaborate on fostering workplace conditions that support nurses to remain in a fulfilling profession.*

Testimony of  
Jonathan Ching  
Head of Government Relations

Before:  
House Committee on Judiciary & Hawaiian Affairs  
The Honorable David A. Tarnas, Chair  
The Honorable Mahina Poepoe, Vice Chair

February 24, 2026  
2:00 p.m.  
Conference Room 325  
Via Videoconference

**Re: HB 2576, HD1 Relating to Background Checks.**

Chair Tarnas, Vice Chair Poepoe, and committee members, thank you for this opportunity to provide testimony on HB 2576, HD1, which authorizes applicants, operators, and third-party employers, rather than the Department of Health (DOH), to conduct background checks of employees and adult volunteers at healthcare facilities.

**Kaiser Permanente Hawai'i SUPPORTS HB 2576, HD1.**

Kaiser Permanente Hawai'i appreciates the recent engagement between stakeholders on this issue following passage of HB 2576, HD1 by the House Health Committee. We are currently reviewing the most recent amendments that are being offered by DOH and the Healthcare Association of Hawai'i. Furthermore, we are appreciative of DOH for its willingness to address our concerns and to this committee for scheduling this important measure. Kaiser Permanente Hawai'i requests this committee pass HB 2576 to continue discussion on this bill.

As background, Kaiser Permanente Hawai'i supports robust background checks, however, we have significant concerns with the current process for background checks and fingerprinting requirements mandated by DOH. Our concerns include lack of details related to the scope of DOH's designee's review, potential conflicts of law, and potential lack of access to fingerprinting facilities, particularly for out-of-state prospective employees. The current process has the potential to unnecessarily disrupt our current workforce, our recruiting and onboarding processes, and our operations, impacting patient care.

Patient safety is of paramount importance to Kaiser Permanente Hawai'i, which is why we have a robust screening process for all prospective employees. Our physicians, providers, and employees must pass an extensive criminal background check, which include a search across all states as well as at the county level. In these searches, Kaiser Permanente Hawai'i utilizes multiple identifiers

(name, previously used names, social security number, date of birth) to ensure the correct person's records are being searched.

Additionally, nurses already submit electronic fingerprints as a condition of their licensing. While physicians and providers do not submit fingerprints, they go through credentialing and privileging processes every two years, which include verification of their education, training, experience, and malpractice history.

Kaiser Permanente Hawai'i is committed to patient safety and looks forward to continuing to collaborate on the implementation of meaningful safeguards. Thank you again to DOH for their engagement and to this committee for its consideration of this bill.

Mahalo for this opportunity to testify on this important measure.

# SURGICARE OF HAWAII

500 Ala Moana Blvd. Tower 1, Suite 1B Honolulu, HI 96813

Tuesday, February 24, 2026, 2:00 pm  
Conference Room 329 & Video Conference

## **House Committee on Judiciary & Hawaiian Affairs**

To: Representative David Tarnas, Chair  
Representative Mahina Poepoe, Vice Chair

From: Brandy Kirstein, DNP, MBA, FNP-C, APRN  
Administrator, Surgicare of Hawai'i  
Hawai'i Pacific Health

**Re: HB 2576, HD1 – Testimony in Support and Requesting Amendments  
Relating To Background Checks**

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My name is Brandy Kirstein, and I am the administrator of Surgicare of Hawai'i (SOH). Surgicare is a multispecialty for-profit ambulatory surgery center which is accredited by AAHC, with five operating rooms and two procedure rooms. Originally opened in 1983, the facility is managed by Hawai'i Pacific Health (HPH). At SOH we provide care to 25-40 patients per day.

SOH supports HB 2576, HD1 and requests that your committee adopt the amendments suggested by the Healthcare Association of Hawai'i (HAH). The measure requires applicants, operators, employees, and adult volunteers at healthcare facilities to undergo background checks which include criminal history, abuse, and neglect, and to submit these results to the Department of Health (DOH) upon request as a condition of licensure.

We would like to add that our physicians who provide care at our facility are not employed by us. Our physicians are employed by other health care systems including Hawai'i Pacific Health and others or are independent practitioners and go through the same rigorous background checks as do our 70-75 employees who are employed by Surgicare. These background checks do not utilize fingerprints and instead utilize an individual's social security number, legal names and aliases to meet federal program participation requirements and accreditation standards. Thus, it would be duplicative and unnecessary for Surgicare to conduct additional background checks on the providers and staff at our facility.

We also note that in Hawai'i licensed health professionals such as APRNs, RNs, LPNs, and security guards are already required to submit fingerprints to the Department of Commerce and Consumer Affairs as a condition of professional licensure. For these licensed professionals on our staff, the requirements under HB 2576 duplicate existing

processes and create unnecessary administrative burdens with questionable marginal benefit to patient safety given current safeguards.

As Surgicare works with more than 170 physicians who use multiple facilities, it would be burdensome for those physicians to be subject to background check requirements at every facility. This results in a delay in filling critical clinical positions. Given the shortages in nearly every healthcare field in the state, we are concerned that this bill may inadvertently prevent workers qualified under Hawai'i laws entry into the healthcare workforce .

We are also concerned that the utilization of the state's contracted vendor may result in outcomes that do not conform with what is required under Hawaii employment law per HRS 378-2.5 to prevent discriminatory hiring practices by employers. HRS 378-2.5 requires that an employer may only consider an individual's criminal conviction *if the conviction bears both (1) a rational relationship to the duties and responsibilities of the position and (2) limited to protected look back periods based on time of offense or release from incarceration.*

Despite the statutory protections under HRS 378-2.5 aimed to prevent discriminatory hiring practices by employers, it is our understanding that the state's contracted vendor utilizes an algorithm that flags certain petty misdemeanors as automatically disqualifying without regard for those protected look-back periods (7 years for felonies and 5 years for misdemeanors), job relevance, and potentially in some cases where a conviction of a crime has not occurred but the individual has only been arrested and fingerprinted. In these instances, it is our concern that the state's contracted vendor's algorithm may adversely impact on individuals who would otherwise be a suitable candidates despite past, low-level offenses that are automatically flagged by DOH's vendor.

SOH therefore aligns with and supports the amendments proposed by the HAH. For these reasons, we respectfully urge the committee to keep this measure alive to allow us to continue our dialogue with DOH.

Thank you for the opportunity to provide testimony.



226 N Kuakini Street Honolulu Hawaii 96817

February 24, 2026 at 2:00 PM  
Conference Room 325

House Committee on Health

To: Chair Gregg Takayama  
Vice Chair Sue L. Keohokapu-Lee Loy

From: Stephanie Nadolny  
President and CEO  
Rehabilitation Hospital of the Pacific

Re: Testimony in Support with Amendments  
HB 2576, Relating to Background Checks

The Rehabilitation Hospital of the Pacific (REHAB) is Hawaii's sole acute inpatient rehabilitation hospital. REHAB is dedicated to providing high-quality, comprehensive and innovative inpatient and outpatient rehabilitation services for individuals recovering from serious, life-altering injuries and illnesses.

Thank you for the opportunity to provide **testimony in support of this measure, with amendments**. Our Hawaii hospitals, including REHAB, are deeply committed to patient safety and have extensive background check processes in place to protect vulnerable patients. Fingerprinting is an unnecessary, costly and imperfect step that, if added to our current robust background check process, would create administrative burden for very little/no benefit.

As a licensed acute hospital, Medicare-certified Inpatient Rehabilitation Facility (IRF), and Joint Commission-accredited organization, REHAB adheres to rigorous, high-level background screening for all personnel—employees, contractors, students, and volunteers. We are deeply committed to patient safety and ensure full compliance with all relevant laws and regulations. Our comprehensive, third-party background checks include the following:

- SSN Trace
- County Criminal Search
- Enhanced Nationwide Criminal Search
- DOJ Sex Offender Registry
- Employment Verification
- Education Verification
- FACIS Level III Check (Sanction Check)
- National Practitioner Database (NPDB)
- Primary Source State Licensure Verification

**We are confident that our current, successful screening process effectively identifies and filters out individuals who should not be working with vulnerable patients.**

Thank you for your consideration as you weigh the merits of this measure. The hospitals and other healthcare organizations of Hawaii are dedicated to providing safe and secure environments for the people we serve.

Mahalo,

*Stephanie Nadolny*

Stephanie Nadolny  
President and CEO



**PALOLO CHINESE HOME**  
*Better Care. Better Lives*

**February 23, 2026**

**TO:** House of Representatives, State of Hawai‘i  
**RE:** HB2576 – Relating to Background Checks  
**POSITION:** Support

Aloha Chair, Vice Chair, and Members of the Committee,

My name is Darlene H. Nakayama, Chief Executive Officer of Palolo Chinese Home, and I submit this testimony in support of HB2576.

Palolo Chinese Home supports background checks as an important safeguard for vulnerable populations. We appreciate the intent behind these requirements and the shared commitment to resident safety across the healthcare system.

We also understand that both our Healthcare Association of Hawai‘i and the Department of Health are actively working on amendments and implementation improvements. We appreciate these efforts and support the Healthcare Association of Hawai‘i’s work in collaboration with the Department of Health, with the hope that a practical agreement can be reached that protects residents while also supporting providers and workforce access.

As this process continues to be refined, we respectfully ask that the following areas remain under consideration at a broad policy level:

- Transparency in determinations, so employers can appropriately evaluate applicants while maintaining fairness and due process.
- Job-related review standards, including consideration of whether findings are relevant to the position being filled.
- Reasonable time limits / lookback periods, aligned with existing law and employment practices.
- Workforce impact, especially in light of ongoing staffing shortages across healthcare settings.
- Cost and administrative burden, particularly for providers who must apply these requirements across many position types.

We are encouraged that discussions are ongoing and that stakeholders are working together in good faith. We respectfully ask that the Legislature continue to support a balanced approach that protects vulnerable individuals while also ensuring Hawai‘i’s healthcare providers can recruit and retain the workforce needed to care for our Kūpuna.

Mahalo for the opportunity to testify in support of HB2576.

Respectfully submitted,

Darlene H. Nakayama  
Chief Executive Officer  
Palolo Chinese Home



# HOSPICE MAUI

**February 24, 2026 at 2:00 p.m.**

**Conference Room 325**

**House Committee on Judiciary and Hawaiian Affairs**

To:

Chair David A. Tarnas

Vice Chair Mahina Poepoe

From:

Melanie Dwyer

Chief Executive Officer

Hospice Maui

**Re: Testimony Providing Comments**

**HB 2576 HD1, Relating to Background Checks**

Hospice Maui is a nonprofit, community-based hospice and palliative care provider serving Maui County, including Maui, Moloka'i, and Lāna'i. For over forty years, we have provided end-of-life and serious illness care to our community's most vulnerable individuals.

Thank you for the opportunity to provide comments on this measure.

Protecting vulnerable individuals is a core responsibility of hospice providers. Comprehensive background checks are already a standard and longstanding part of our hiring and volunteer onboarding processes. Hospice Maui conducts robust name-based screenings that include multi-state criminal history record searches, state and national sex offender registry checks, abuse and neglect registry checks, Office of Inspector General exclusion list screening, and FACIS Level 2 screening, which includes federal sanctions and state-level sanctions data.

**We respectfully offer comments specific to hospice programs and request consideration that hospice be excluded from the fingerprint-based background check requirement.**

Hospice operates under a distinct regulatory framework. It is a federally defined Medicare benefit governed by the Conditions of Participation established by the Centers for Medicare & Medicaid Services. In Hawai'i, the Department of Health conducts surveys in its role as the designated CMS state survey agency. Oversight of hospice is therefore integrated through federal certification and state survey authority rather than through a separate, stand-alone state licensure framework. The federal Conditions of Participation governing hospice do not require fingerprint-based background checks.

Caring for families on Maui • Moloka'i • Lana'i

400 Mahalani Street, Wailuku, HI 96793 • T 808.244.5555 • F 808.244.5557 •

HospiceMaui.org

Hospice programs are already subject to rigorous interdisciplinary oversight, quality assessment and performance improvement requirements, medical director accountability, and regular survey review. We are concerned that the proposed fingerprint requirement may create additional administrative burden without a demonstrated improvement in patient safety outcomes, particularly given the existing layered safeguards already in place.

Hospice is also unique in that volunteer participation is not optional — it is a federal requirement of the Medicare hospice benefit. Volunteers must provide at least five percent of total patient care hours. This volunteer model is foundational to hospice philosophy and care delivery. Any additional procedural or cost barrier may unintentionally deter volunteer participation, particularly in rural and neighbor island communities where hospice relies heavily on community-based volunteers to meet patient needs.

We remain committed to working collaboratively with the Department of Health and the Legislature to ensure that background check requirements are practical and aligned with the existing federal regulatory structure governing hospice care.

Thank you for the opportunity to provide comments on this important measure.

**HB-2576-HD-1**

Submitted on: 2/23/2026 12:57:04 PM

Testimony for JHA on 2/24/2026 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Maya Maxym	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Tarnas, Vice-Chair Poepoe, and Committee Members,

Thank you for the opportunity to testify in support of HB2576 HD1 while also raising a few concerns about the impacts of its implementation as currently drafted.

I have been a licensed and employed practicing pediatrician in Hawai‘i for the past decade and am proud to practice with colleagues who prioritize safety and high quality care. In order to secure my employment and be credentialed I had to undergo extensive checks and a lengthy credentialing process, which included, among other things, a background check and drug testing.

While I support the intent to protect patient safety and prevent harm from within the healthcare system, I am concerned that the measures as outlined in HB2576 HD1, in its current form, will impose an undue burden on physicians, other healthcare workers, and hospital systems without any added benefit. An additional administrative burden added to the already cumbersome process of licensing and credentialing has the potential to disincentivize physicians and other healthcare workers from practicing in Hawai‘i, which would only worsen the already severe shortage of healthcare workers.

Additionally, Hawai‘i employment law under HRS §378-2.5 limits how far back employers may consider conviction records when making hiring decisions, requiring that any conviction be rationally related to job duties. While the bill as currently written seeks to address some concerns about unfairly penalizing potential healthcare workers based on minor convictions from long ago, this remains a concern. Moreover, during this time of unprecedented threats to our constitutionally protected rights of free speech and assembly, cross-checking fingerprinting with the FBI database, which contains individuals who have been arrested but never convicted, has the potential to threaten the livelihood and wellbeing of healthcare workers who choose to exercise their constitutionally protected right to protest against violations of human rights, such as the violent detention of immigrants and citizens alike by federal agents from ICE and CBP, among others.

An additional concern is that the measure as written applies to anyone who comes into contact (no matter how minimal or how consistently supervised) with patients, which is an additional burden to all. For example, I occasionally have highschool students shadow me during rounds, which is one way of exposing young people to health careers and inspiring them to become doctors. They are never alone with patients and are, in fact, not even allowed to touch patients

(even to listen to heart or lungs through a hospital gown) during their shadowing experience. There would be no additional safety benefit to requiring a highschool student shadowing a qualified, credentialed, employed physician for 4 hours on a Saturday morning, to undergo fingerprinting.

Finally, I would like to ask for clarity in this bill regarding its effects on the autonomy of independent physicians, many of whom have been in practice for years to decades and are already deeply trusted by their community. Will they be required to cross-check their own and their staff's fingerprints with the FBI database as well, or could they alternatively certify to the Department of Health that they have conducted appropriate background checks at the time of hiring and/or choose the vendor with whom to undertake background checks?

I thank you for your consideration of the concerns raised in this testimony.

Sincerely,

Maya Maxym, MD, PhD, FAAP