

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

ON THE FOLLOWING MEASURE:

S.B. NO. 3207, RELATING TO BACKGROUND CHECKS.

BEFORE THE:

SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

DATE: Friday, February 6, 2026 **TIME:** 1:00 p.m.

LOCATION: State Capitol, Room 225

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Angela A. Tokuda, Deputy Attorney General

Chair San Buenaventura and Members of the Committee:

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

The purpose of this bill is to 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.

The Federal Bureau of Investigation (FBI) Office of the General Counsel, Criminal Justice Information Law Unit (CJILU), reviews state statutes seeking access to FBI criminal history record information (CHRI), including fingerprinting, for licensing and employment purposes pursuant to Public Law 92-544. Any CHRI-related state statute must be approved by the FBI prior to its enactment. 28 CFR § 50.12(a). When developing statutes regulating fingerprinting for licensing and employment purposes, states may not authorize receipt of CHRI by a private entity. See, FBI's Public Law 92-544 criteria at: <https://www.fbi.gov/how-we-can-help-you/more-fbi-services-and-information/public-law-92-544>.

If this bill is adopted, the Hawaii Criminal Justice Data Center, Hawaii's designated state agency responsible for the administration and usage of the Criminal Justice Information Services programs operated by the FBI, must submit the wording of the bill to the FBI CJILU, requesting review and approval before fingerprint-based

background checks could be conducted in the State in accordance with the bill. The bill as written would likely not be approved by the FBI because it authorizes receipt of the CHRI by a private entity. This is not allowed under the criteria the FBI developed for Public Law 92-544, which only allows the exchange of CHRI with "officials of state and local governments for purposes of employment and licensing." 28 CFR § 50.12(a).

Based on the foregoing, we respectfully ask that this bill be held.



February 6, 2026 at 1:00 pm
Conference Room 225

Senate Committee on Health and Human Services

To: Chair Joy A. San Buenaventura
Vice Chair Angus L.K. McKelvey

From: Paige Heckathorn Choy
Vice President, Government Affairs
Healthcare Association of Hawaii

Re: **Testimony in Support with Amendments**
SB 3207, 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 on this measure in **support with amendments**. This bill seeks to clarify Hawaii's fingerprinting requirements for health care workers. Our members share a commitment to patient safety and comply with rigorous background check requirements, as required by state and federal laws and regulations. We understand that the Department of Health (DOH) believes that fingerprinting should be a requirement as part of these background checks and have started to enforce this requirement in the past few years. However, as this enforcement effort has rolled out, our members have identified significant challenges that require statute change to address.

The fingerprinting process, as it exists today, has created significant operational challenges for hospitals, long-term care facilities, home health agencies, hospices, and other providers across the state. These challenges are not the result of resistance to oversight, but rather the product of statutory ambiguity and implementation issues that make it difficult to apply a cost-effective, least burdensome process for healthcare providers. As a result, we support this measure as a vehicle for further changes that may be identified through ongoing conversations between DOH and our members.

As part of those discussions, we recently learned that the bill's proposal to allow healthcare facilities to perform their own fingerprint-based background checks could potentially conflict with federal requirements applicable to the handling of FBI criminal history information. While we appreciate that modifications may be needed to ensure compliance with all relevant state and federal laws, we believe that this bill must move forward to address sincere, difficult issues our members have faced in complying with the fingerprinting mandates as currently prescribed in Hawaii state law.

The first major issue for our members is the required use of a single vendor to conduct background checks. This vendor charges approximately \$70 per person. For large hospitals, the cost could be significant, and compliance costs could exceed \$500,000. Allowing the use of qualified alternative vendors could introduce competition, reduce costs, and preserve the integrity of the process while avoiding unnecessary financial strain on facilities that are already operating under tight margins.

A second issue is the potential conflict between these background checks and Hawaii's employment nondiscrimination laws, particularly with respect to look-back periods. The current process provides healthcare facilities with only a yes/no determination of whether a person has a "finding" in the FBI database, without additional details regarding the nature of the finding or its recency. Hawaii state law generally requires consideration of convictions to be rationally related to a person's job duties and limits an employer's consideration of convictions to seven years for felonies and five years for misdemeanors. Clarifying this ambiguity would avoid placing employers in the impossible position of attempting to comply with one statute while potentially violating another.

Third, this measure appropriately narrows the scope of who must be fingerprinted. Individuals who are already fingerprinted as part of a separate licensure process should not be required to duplicate that step, and low-risk individuals who do not provide hands-on patient care or have only incidental contact with patients should be excluded. As the law is currently being interpreted, even administrative staff, dietary workers, and volunteers who do not have unsupervised access to patients are swept into the requirement. We do not believe fingerprinting is warranted for these roles, and broadening the mandate in this way diverts resources without meaningfully improving patient safety.

Fourth, this measure clarifies how third-party employees should be managed. Healthcare facilities often rely on contracted services, such as security or agency nurses, and it would be operationally burdensome to require the facility to complete fingerprinting for all of those employees. We believe that the employer of these third-party employees should be responsible for completing the fingerprinting requirement and can attest to their compliance.

Finally, the measure applies fingerprinting prospectively to new employees rather than requiring facilities to fingerprint their entire existing workforce all at once. Health care facilities employ tens of thousands of individuals, and a retroactive, across-the-board mandate is neither realistic nor necessary to achieve the underlying safety goals. A prospective approach allows for orderly implementation without disrupting patient care or exacerbating workforce shortages.

Taken together, these revisions do not weaken background check requirements. Instead, they make the law clearer, more workable, and more consistent with both federal standards and state employment policy. We respectfully urge your support for this measure to ensure that fingerprinting, where required, is implemented in a reasonable, cost-effective, and legally sound manner that allows health care providers to remain focused on delivering care to Hawaii's communities.

We have provided suggested amendments to the measure, which are outlined in full below and highlighted in yellow. These amendments are made to add further clarity for providers and employers and ensure that unnecessary barriers are removed. Thank you for the opportunity to provide testimony.

Proposed amendments:

SECTION 1. The purpose of this Act clarify and streamline the background check requirements for applicants, operators, employees, and volunteers at healthcare facilities.

SECTION 2. Section 321-15.2, Hawaii Revised Statutes, is amended to read as follows:

"§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, including criminal history record checks obtained 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[~~-~~]; and

(7) Fingerprints submitted pursuant to subsection (c).

"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]~~ **Employee**" 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:]~~ **"Employee"** includes but is not limited to physicians, nurses, nursing assistants, home health aides, therapists, activities personnel, and support staff (i.e., housekeeping, dietary, etc.) who have direct access to patients or patient belongings.

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

"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 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 and is rationally related to the duties and responsibilities of the position in accordance with section 378-2.5(a). This [includes] may include

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]~~ 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]~~ applicants, operators, and third-party employers may conduct background checks in accordance with this section.

(c) All applicants, ~~[and]~~ prospective operators, prospective ~~[direct patient]~~ employees, prospective adult

volunteers, 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; [and]
- (2) Provide consent [~~to the department or its designee~~] to the applicant, operator, or third-party employer to conduct background checks[-]; and
- (3) Submit fingerprints, provided that fingerprints need not be submitted for:

(A) Individuals who have submitted fingerprints as a condition of their licensure;

(B) Adult volunteers for whom all other reviews required by this section have been completed; or

(C) 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.

~~[(d) 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 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)]~~ (d) All applicants or operators shall obtain and ensure completion of the background checks required by this section for any prospective employee or prospective adult volunteer [retained after the applicant is issued a license or certification under this part]; provided that for purposes of any prospective employee of a third-party employer described under subsection (g), the applicant or operator may satisfy the requirements of this section by obtaining and maintaining the written certification required by subsection (h); provided further that the applicant or operator shall provide background check information to the department upon request.

(e) No applicant or operator shall employ, contract with, or permit any [direct patient access] prospective employee to work at, or any prospective adult volunteer to serve at, a healthcare facility unless:

(1) The individual has completed the background check required by this section; and

(2) No disqualifying information is found.

(f) A third-party employer shall be responsible for obtaining and ensuring the completion of the background check required by this section for any prospective employee who is employed, retained, or assigned by the third-party employer prior to assigning the employee to work at a healthcare facility.

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

(1) The background check required by this section has been completed; and

(2) No disqualifying information has been found.

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

(h) Any inquiry into, and consideration of, conviction record information obtained pursuant to this section shall comply with section 378-2.5(a), (b), and (c), including the requirements of a rational relationship to the position, post-conditional-offer inquiry, and the time limitations set forth in section 378-2.5(c). [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.]~~

(i) 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, 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 a background check,~~ provide the results of a background check to the department upon request, refuses to authorize the department ~~[or its designee]~~ to obtain background check record information for verification, or refuses to consent to be fingerprinted [†] when required under this section;

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

(3) Has any disqualifying information; or

(4) Has any 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)]~~ (j) The fee charged ~~[by the Federal Bureau of Investigation and the Hawaii criminal justice data center to perform criminal history record]~~ for conducting background checks may be passed on to all applicants, operators, 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)]~~ (k) The department, applicant, operator, or third-party employer ~~[or its designee]~~, in obtaining and relying upon the background check information in accordance with this section, is presumed to be acting in good faith and shall be immune from civil liability for taking or recommending action based upon the 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, applicant, operator, or third-party employer ~~[or its designee]~~ relied upon information or opinion that it knew was false or misleading or that such reliance was not reasonable.

~~[(i)]~~ (l) Any applicant or operator who receives information ~~[from the department or its designee]~~ relating to a background check of a 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.] background check information obtained in accordance with this subsection or a written certification received from a third-party employer pursuant to subsection (g). Nothing in this section shall affect rights, obligations, remedies, liabilities, or standards of proof under chapters 368 and 378.

(m) Background check record information obtained in accordance with subsection (l) shall be used exclusively by the department [or its designee], applicant, operator, or third-party employer for the sole purpose of determining whether an applicant, operator, 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.

Any requirement to conduct fingerprint-based background or criminal history record checks shall apply only to individuals hired, engaged, or retained on or after July 1, 2028. Prior to that date, and for all individuals regardless of hire date, healthcare facilities shall continue to complete all other

elements of the required background check, including name-based criminal history inquiries and all registry and abuse-prevention checks required under state or federal law. ~~[An applicant, operator, or third-party employer may apply to register as a qualified entity under section 846-2.7(c) for the purposes of obtaining the background checks required by this section.]~~

SECTION 3. Section 846-2.7(b), Hawaii Revised Statutes, is amended by amending paragraph (3) to read as follows:

"(3) The department of health ~~[or its designee]~~ or an applicant, operator, or third-party employer of a healthcare facility on all applicants for licensure or certification for, operators for, prospective employees, prospective adult volunteers, and all adults, except adults in care, at healthcare facilities as defined in section 321-15.2;"

SECTION ~~[3]~~ 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION ~~[4]~~ 5. This Act shall take effect upon its approval.

Friday, February 6, 2026; 1:00 p.m.
Conference Room 225 & Video Conference

Senate Committee on Health and Human Services

To: Senator Joy San Buenaventura, Chair
Senator Angus McKelvey, Vice Chair

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

**Re: SB 3207 – Testimony Supporting Intent and Requesting Amendments
Relating To Background Checks**

My name is Michael Robinson, and I am the 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 the intent of SB 3207 but has significant concerns regarding the bill's scope and operational feasibility. The measure requires applicants, operators, employees, and adult volunteers at healthcare facilities to undergo criminal, abuse, and fingerprint-based background checks, and to submit these results to the Department of Health (DOH). The requirement applies to anyone with access to a patient or resident.

HPH aligns with and supports the amendments proposed by the Healthcare Association of Hawai'i (HAH).

HPH currently conducts comprehensive background checks on the 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 checks meet federal program participation requirements and accreditation standards, including Joint Commission requirements.

Additionally, certain professional license applicants in Hawai'i—such as APRNs, RNs, LPNs, and security guards—are already required to submit fingerprints to the Department of Commerce and Consumer Affairs. The requirements in SB 3207 therefore duplicate existing processes. Although the Hawai'i Medical Board does not currently require FBI fingerprinting, this initiative would now make Hawaii one of the few states in the country

to impose FBI Fingerprinting requirement for all currently employed and contracted physicians as well as prospective MDs seeking to practice in Hawai'i.

The proposed amendments also seek to address the currently broad definition of individuals with “access to a patient” which would require FBI fingerprinting for many roles with only incidental or supervised patient contact. For HPH, this would extend FBI fingerprinting to approximately 2,200 non-licensed professionals who are employees, volunteers, contract workers, and student interns—significantly increasing administrative and financial burden.

The measure also conflicts with Hawai'i Employment laws under HRS §378-2.5, which limits how far back employers may inquire into and consider conviction records, requiring that any conviction be 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, the bill may inadvertently discourage entry into the healthcare workforce. For example, the state vendor's algorithm 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.

For these reasons, we respectfully urge the committee to adopt the amendments proposed by HAH.

Thank you for the opportunity to provide testimony.

Testimony of
Jonathan Ching
Head of Government Relations

Before:
Senate Committee on Health and Human Services
The Honorable Joy A. San Buenaventura, Chair
The Honorable Angus L.K. McKelvey, Vice Chair

February 6, 2026
1:00 p.m.
Conference Room 225
Via Videoconference

Re: SB 3207, Relating to Background Checks.

Chair San Buenaventura, Vice Chair McKelvey, and committee members, thank you for this opportunity to provide testimony on SB 3207, which proposes to shift the responsibility of fingerprinting and background check requirements for healthcare employees from the Department of Health (DOH) or its designee to healthcare operators and employers.

Kaiser Permanente Hawai'i SUPPORTS SB 3207 and requests AMENDMENTS.

Kaiser Permanente Hawai'i has significant concerns with the current process for background checks and fingerprinting requirements mandated by DOH, which has the potential to unnecessarily disrupt our current operations, workforce, and exacerbate the shortage healthcare providers, impacting patient care. Although Kaiser Permanente Hawai'i has been part of conversations over the interim with other health systems to request clarity and guidance from DOH, we still do not have sufficient information to successfully adopt the process. SB 3207 and HAH's amendments maintain the intent of current law and offer practical solutions to the hurdles we currently face in adopting the law's requirements.

A few of our concerns with the current process include:

- **Scope of the DOH's designee's review lack detail.**
 - For example: §378-2.5(d) limits employers to the most recent seven-year period for felony convictions and the most recent five-year period of misdemeanor convictions. Per the current background check law, DOH is exempted from this limitation. Will DOH's designee adhere to the same look-back periods as us or will they utilize DOH's exemption from this requirement?

- **Potential conflict of law and litigation risks.**
 - If DOH's look-back periods are different from the ones we are required to follow, will DOH or its designee accept liability if an employee or prospective employee pursues legal action against us for discrimination since they are exempt from this law and we are not?
- **Potential lack of access to fingerprinting facilities.**
 - Many of our prospective employees, and a majority of our physicians, are from out-of-state and some move to Hawai'i a few days prior to their hire date. Being required to travel to access DOH's designee, in addition to not knowing how long this process will take, may deter a prospective employee from considering employment with us or any healthcare employer in Hawai'i.

Patient safety is of paramount importance to Kaiser Permanente Hawai'i, which is why we have established a robust screening process for all prospective employees. Our physicians, providers, and employees must pass an extensive criminal background check. Additionally, physicians, providers go through credentialing and privileging processes, which include verification of their education, training, experience, and malpractice history. We also have established policies to address a variety of issues that can arise from the various checks and ensure an efficient hiring process while ensuring patient safety.

We appreciate DOH's efforts thus far and understand the various challenges faced in establishing this process. We are committed to patient safety and look forward to continuing this discussion and working together to implement helpful safeguards.

We support SB 3207 and concur with proposed amendments submitted by Healthcare Association of Hawai'i (HAH).

Mahalo for the opportunity to testify on this important measure.



HAWAII HEALTH SYSTEMS
C O R P O R A T I O N

"Quality Healthcare For All"

COMMITTEE ON HEALTH AND HUMAN SERVICES

Senator Joy A. San Buenaventura, Chair
Senator Angus L.K. McKelvey, Vice Chair

February 6, 2026
1:00 PM
State Capitol
Room 225 & Via Videoconference

Testimony in Support of SB 3207
RELATING TO BACKGROUND CHECKS

Authorizes applicants, operators, and third-party employers, rather than the Department of Health, to conduct background checks of employees and adult volunteers at healthcare facilities.

Edward N. Chu
President & Chief Executive Officer
Hawai'i Health Systems Corporation

On behalf of the Hawai'i Health Systems Corporation (HHSC) Corporate Board of Directors, thank you for the opportunity to present testimony **in support of SB 3207**.

This bill seeks to clarify Hawai'i's fingerprinting requirements for health care workers. HHSC shares a commitment to patient safety and compliance with rigorous background checks, as required by state and federal laws and regulations. HHSC has its own provision for Criminal history record checks codified in HRS323F-5.5. However, HHSC supports the amendments to this bill proposed by the Healthcare Association of Hawai'i, as it will be of great benefit to all healthcare providers in Hawai'i. These amendments make the law clearer, more workable, and more consistent with both federal standards and state employment policy. HHSC respectfully urges your support for this measure to ensure that fingerprinting, where required, is implemented in a reasonable, cost-effective, and legally sound manner that allows health care providers to remain focused on delivering care to Hawai'i's communities.

Thank you for the opportunity to provide testimony on this matter.



February 19, 2025 at 1:00 pm
Conference Room 225

Senate Committee on Health and Human Services

To: Chair Joy A. San Buenaventura
Vice Chair Henry J.C. Aquino

From: Darlene H. Nakayama, CEO
Palolo Chinese Home

Re: **Support**
GM 642, Submitting for consideration and confirmation to the Department of Human Services, Gubernatorial Nominee, Ryan Yamane

The Palolo Chinese Home would like to thank the committee for the opportunity to **support** the nomination of Ryan Yamane to serve as the Director of the Department of Human Services. We have had the privilege of working with Mr. Yamane for many years on critical initiatives to improve the health and well-being of all people in Hawaii, and we are confident in his ability to lead this department with a deep commitment to serving our communities.

Throughout his years of public service, Mr. Yamane has demonstrated an ability to bring diverse stakeholders together to achieve meaningful policy advancements. His leadership in championing the Hospital and Nursing Facility Sustainability Programs has played a pivotal role in supporting Hawaii's nonprofit hospitals and nursing homes, ensuring that they can continue to provide high-quality care to the state's most underserved residents. His pragmatic and solutions-driven approach has allowed him to navigate complex challenges and build consensus in ways that produce real, lasting improvements.

As the Department of Human Services faces critical issues—from healthcare access to social services and public assistance programs—having a director that understands the intricacies of these systems and has a proven track record of working across sectors is needed. We are confident that under his leadership, DHS will continue to make strides in improving the lives of Hawaii's most vulnerable populations. For these reasons, we strongly urge the committee to confirm his nomination. Thank you for the opportunity to testify in support of Ryan Yamane's appointment.

The Rehabilitation Hospital of the Pacific 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.

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 regulations. Our comprehensive, third-party background checks already include:

- 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.

This bill clarifies the process by which hospitals and other healthcare organizations can ensure consistent and effective background screening, including fingerprinting, where indicated. The Department of Health's effort to mandate the addition of fingerprinting by way of one selected vendor, for virtually all employees, current and future, is not only unnecessary but also introduces significant, undue financial and operational burden.

As a small hospital, REHAB works diligently to manage expenses to remain a sustainable resource for the people of Hawaii. Implementing another expensive, resource-intensive process within our already highly-regulated environment is neither needed nor prudent. Being able to choose an appropriate vendor to conduct the fingerprinting, and to implement it moving forward vs. requiring the check for our existing workforce, is the most logical, practical and cost-effective solution.

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



THE QUEEN'S HEALTH SYSTEMS

To: The Honorable Joy San Buenaventura, Chair
The Honorable Angus McKelvey, Vice Chair
Members, Senate Committee on Health & Human Services

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

Date: February 6, 2026

Re: Support SB 3207 – Relating to Background Checks.

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 SB3207, which authorizes applicants, operators, and third-party employers, rather than the Department of Health, to conduct background checks of employees and adult volunteers at healthcare facilities. Queen's shares the sentiments and proposed amendments provided by the Healthcare Association of Hawaii (HAH).

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 implore the Department to meaningfully collaborate with stakeholders to find a mutually agreed to policy that balances the interest in safety and security with our system's existing policies and contracts. By doing so, the Department may find that we are able to leverage existing relationships that could save both our systems and the state valuable time and resources.

Thank you for considering our comments on this measure.

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.

SB-3207

Submitted on: 2/5/2026 12:08:57 PM

Testimony for HHS on 2/6/2026 1:00:00 PM

| Submitted By | Organization | Testifier Position | Testify |
|--------------|--------------|--------------------|------------------------|
| Maya Maxym | Individual | Comments | Written Testimony Only |

Comments:

Aloha Chair San Buenaventura, Vice-Chair McKelvey, and Committee Members,

I am writing to provide testimony relating to SB 3207. I have been an employed physician in Hawai‘i for the past decade and am proud to practice with colleagues who prioritize safety and high quality care. In order to obtain my employment I had to undergo extensive checks and a lengthy credentialing process, which included, among other things, a background check and drug testing.

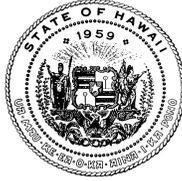
While I support the intent to protect patient safety and prevent harm from within the healthcare system, I am concerned that the measures as outlined in SB3207, in its current form, will impose an undue burden on physicians, other healthcare workers, and hospital systems without any added benefit. An 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 alludes to subsection (c) regarding look-back periods, it still risks unfairly penalizing potential healthcare workers based on minor convictions from long ago, as well as putting employers at risk of discriminatory hiring practice claims due to conflicting with Hawai‘i employment law.

Finally, 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 follow in my footsteps. 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.

Thank you for your consideration.

Maya Maxym, MD, PhD, FAAP



STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

LATE

**Testimony in OPPOSITION to SB3207
RELATING TO BACKGROUND CHECKS.**

SENATOR JOY A. SAN BUENAVENTURA, CHAIR
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

Hearing Date and Time: FRI, February 6, 2026 @ 1:00PM

Room Number: 225

- 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 is
- 5 the Department's highest priority. Every individual receiving care in our healthcare facilities
- 6 deserves the assurance that those entrusted with their well-being have undergone the most
- 7 rigorous and continuous screening available. For this reason, the Department opposes this
- 8 measure relating to background checks.
- 9 Background checks, including fingerprinting, are critical to ensuring the health and safety of
- 10 Hawai'i residents receiving care in any healthcare facility. Fingerprints are an essential
- 11 component of a thorough background check and are required by the Centers for Medicare and
- 12 Medicaid Services (CMS) for compliance with federal standards for long-term care and certain
- 13 other healthcare facilities. OHCA has a process currently in place that supports facilities'
- 14 compliance with state and federal requirements.

1 OHCA believes that acute care hospitals and other healthcare providers should not be held to a
2 lesser standard than what has been determined necessary to protect vulnerable populations in
3 healthcare facilities.

4 There is currently limited access to entities authorized to conduct background checks, and any
5 vendor performing fingerprinting must be approved by the Federal Bureau of Investigation
6 (FBI). To our knowledge, there is only one approved in Hawai'i, and OHCA contracts with that
7 vendor. We acknowledge that the requirement for a one-time fingerprint can create hardship
8 for many providers and recognize that it is an unfunded mandate that protects patients.

9 The Department supports participation in the FBI's Rap-Back program which provides an
10 important safety benefit by notifying agencies of subsequent criminal activity. The Department
11 would support public funding for this ongoing monitoring after initial fingerprinting, as is done
12 in some other states.

13 The Department believes that statutory change is not necessary because the existing system
14 already works to safeguard patients. Instead, we remain committed to working collaboratively
15 with the Healthcare Association of Hawai'i (HAH) to develop policy changes and guidelines that
16 will assist providers in meeting these requirements more efficiently.

17 In closing, we urge the Legislature to maintain the current standards that prioritize patient
18 safety and uphold federal compliance. Weakening these safeguards would place vulnerable
19 individuals at risk. The Department stands ready to partner with stakeholders to find practical
20 operational solutions without compromising the health and well-being of Hawai'i's residents.

21 **Offered Amendments:** None

22 Thank you for the opportunity to testify on this measure.

1011 Waiuanue Avenue
Hilo, Hawaii 96720-2019
Phone: (808) 969-1733
Fax: (808) 961-7397

care@hawaiicarechoices.org
www.hawaiicarechoices.org

BOARD OF DIRECTORS

President
Christine Takahashi

Vice President
Thomas Yeh

Secretary
Kerri Okamura

Treasurer
Lehua M. Veincent

MEMBERS

Peggy Farias
Dean Fuke
Edwin M. Montell, MD
Bill Moore
Blayne Nakasone Sakata
Casey K. Nakatsu
Alan M. Okamoto
Lisa Rantz
Sandy Taniguchi
Joni Waltjen
Jennifer L. Zelko-Schlueter

Medical Director
Lynda Dolan, MD

Chief Executive Officer
Brenda S. Ho, MS, RN

*Director of Human
Resources & Accounting*
Shirley S. Dellinger, MHRM

Director of Clinical Services
Jeanene Helene Andrew,
MSN, RN

*Director of Organizational
Excellence & Advancement*
Lori Jordan, BA, ACHE

ADVISORY COUNCIL

Haidee Abe
Sidney Fuke
David Hammes
William A. Hartman, MD
Robert D. Irvine, MD
Jeracah Lawless
Reverend Junshin Miyazaki
Karen A. Moriuchi
Clarysse Kami Nunokawa
Margaret Shiba
Claire Shigeoka
Kevin Wilcox, MD

COMMITTEE ON HEALTH AND HUMAN SERVICES

Senator Joy A. San Buenaventura, Chair
Senator Angus L.K. McKelvey, Vice Chair

RE: Testimony in Support of SB 3207 with Amendments Proposed by Healthcare Association of Hawaii, Relating to Background Checks

Hearing: Friday, February 6, 2026, at 1:00 p.m.

Dear Chair San Buenaventura, Vice Chair McKelvey, and Members of the Committee:

Thank you for the opportunity to provide testimony in SUPPORT of SB 3207, with amendments proposed by the Healthcare Association of Hawaii (HAH), which seeks to streamline background-check processes and clarify fingerprinting requirements.

Hawaii Care Choices is a nonprofit palliative and hospice care provider serving the Big Island community for over 40 years, and a member of HAH. Currently, the State mandates that hospice programs use the Fieldprint system for background checks and fingerprinting. This system presents considerable challenges, including:

- Operational and Administrative Failures – Inability to establish a Company Account, HR has no visibility or control over background checks status when results are delayed
- Lack of Transparency and Due Process in “Red Light/Green Light” Determination - Unclear validity period for appeals, which places an excessive burden on employees and HR
- Absence of Meaningful Customer Support or Accountability - Fieldprint refers all questions to the State, the State provides no clear point of contact capable of resolving Fieldprint related issues
- Redundant and Unnecessary Fingerprint Requirements – Requiring additional fingerprinting through Fieldprint for the same individual is duplicative and unnecessary. There is no evidence that the Fieldprint mandate provides additional safety beyond existing licensure safeguards
- Overly Broad Scope of Applicability – Applies to all staff regardless of role
- Jurisdictional Concerns – The State does not license hospice programs in Hawaii. As federally regulated providers, hospices already comply with extensive CMS Conditions of Participation.
- Significant Financial and Administrative Impact – Creates a major administrative burden for hospice programs with limited staffing and resources. Diverts funds away from direct patient care and community services.
- Inefficiency of Employee-Controlled Data Access – Employers must rely on employees to retrieve and relay critical compliance information. This model is inconsistent with standard employment compliance practices and increases organizational risk.

In conclusion, the Fieldprint mandate imposes excessive costs, administrative burdens, and operational inefficiencies. We support this measure as a means to initiate meaningful dialogue toward improvements and change with the Department of Health and HAH members.

Respectfully,

Brenda S. Ho, MS, RN
Chief Executive Officer



LATE

Hawaii Medical Association

1360 South Beretania Street, Suite 200 • Honolulu, Hawaii 96814
Phone: 808.536.7702 • Fax: 808.528.2376 • hawaiimedicalassociation.org

SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

Senator Joy A. San Buenaventura, Chair
Senator Angus L.K. McKelvey, Vice Chair

Date: February 6, 2026
From: Hawaii Medical Association (HMA)
Elizabeth Ann Ignacio MD - Chair, HMA Public Policy Committee

RE SB 3207 RELATING TO BACKGROUND CHECKS. Healthcare Facilities; Background Checks; Applicants; Operators; Third-Party Employers; Department of Health **Position: Comments**

This measure 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.

HMA supports the intent of this measure to protect public safety. Criminal background checks (CBCs) and fingerprinting are required for Hawaii for medical licenses, specifically for physicians applying through the Interstate Medical Licensure Compact (IMLC). While historically not mandatory for all, recent legislation authorizes the Hawaii Medical Board to conduct these checks for compact participation. Additionally, applicants for medical licensure in Hawaii must disclose any convictions, and failure to do so truthfully will delay or prevent licensure.

Protecting patient safety is paramount. However the proposed procedural changes may be redundant with current law and administrative practices and could introduce unintended cost, delay, and operational complexity for providers and healthcare facilities. HMA requests clarification and alignment on specific background check operations with existing standards to support efficient, protective implementation without compromising patient safety.

Thank you for allowing Hawaii Medical Association to provide comments on this measure.

REFERENCES AND QUICK LINKS

Hawai'i Medical Board. *Department of Commerce and Consumer Affairs, Professional and Vocational Licensing Division*, State of Hawai'i, <https://cca.hawaii.gov/pvl/boards/medical/>

Interstate Medical Licensure Compact. *Interstate Medical Licensure Compact Commission*, <https://imlcc.com/>

2026 Hawaii Medical Association Public Policy Coordination Team

Elizabeth A Ignacio, MD, Chair • Robert Carlisle, MD, Vice Chair • Christina Marzo, MD, Vice Chair
Linda Rosehill, JD, Government Relations • Marc Alexander, Executive Director

2026 Hawaii Medical Association Officers

Nadine Tenn-Salle, MD, President • Jerald Garcia, MD, President Elect • Elizabeth Ann Ignacio, MD, • Immediate Past President
Laeton Pang, MD, Treasurer • Thomas Kosasa, MD, Secretary • Marc Alexander, Executive Director

Aloha Chair San Buenaventura, Vice Chair McKelvey, and Members of the Senate Committee on Health and Human Services,

My name is Hannah Litt. I am an APRN and faculty member at the University of Hawai'i Maui College, and I oversee healthcare clearance requirements for nursing students placed in clinical settings. I submit this testimony in general support of SB 3207, as the existing background check process is administratively burdensome and, in practice, leaves certain temporary direct-care caregivers—particularly students and clinical faculty—in a persistent gray area. While I am employed at UH Maui College, I submit this testimony on my own behalf as I have not had time to consult with the administration on this matter.

To improve clarity and implementation, I respectfully request the Committee consider the following amendments or clarifications:

Define “adult volunteer.”

SB 3207 creates a fingerprinting exception for “adult volunteers,” yet the term is not defined. Because this exemption has major operational implications, a definition is needed to avoid inconsistent interpretation across facilities and programs.

Create a new category for “student” and “clinical faculty,” and clarify how they are classified.

Students and non-employee clinical faculty from many academic programs may provide direct patient care and access protected health information across multiple facilities during training. This applies not only to nursing, but also to medicine, respiratory therapy, and other health disciplines. The bill should clarify whether these temporary caregivers are intended to be treated as “adult volunteers” (potentially exempt from fingerprinting) or as individuals provided by a “third-party employer.” Clear definitions would reduce variability across clinical sites and educational programs, and clarify roles.

Clarify whether educational programs may function as “third-party employers” and/or register as qualified entities.

The bill contemplates that an applicant, operator, or third-party employer may register as a “qualified entity” under HRS §846-2.7(c) for purposes of obtaining the required background checks. If the Legislature intends to streamline compliance for students and clinical faculty placed across multiple sites, explicitly recognizing educational programs as eligible third-party employers/qualified entities would support centralized, reliable clearance processes while still protecting patient safety.

Clarify the schedule and scope of ongoing checks.

As written, the only component explicitly described as annual or ongoing is the child abuse/neglect check. It is otherwise unclear whether—and how often—other components (including criminal history checks, and whether federal checks are repeated) are intended to recur after the initial screening. Please see attached table for illustration of this. Because the bill references HRS §846-2.7, which includes federal checks, it would be helpful to clarify whether subsequent years require state-only name inquiries (such as eCrim), periodic fingerprint-based checks, or another defined schedule.

If a DOH/OHCA portal remains planned, allow educational program access.

The Office of Health Care Assurance webpage notes that OHCA, MQD, and Fieldprint have been working toward a streamlined web-based portal for submitting applications and accessing results. If this remains the plan, I respectfully request that accredited educational programs be authorized to access the portal for students and clinical faculty who rotate across multiple facilities. Of note, with the current system, because educational systems are not licensed OHCA healthcare facilities, they can only perform checks using “generic codes.”

Address accountability when facilities rely on third-party certifications.

I have long felt responsible for ensuring completion of background checks on behalf of clinical partners, while recognizing that the only explicit statutory consequences fall on licensed facilities. SB 3207 appropriately permits facilities to rely on third-party employer certifications, but it remains unclear what accountability applies if a certification is inaccurate or false. I respectfully suggest the bill include an explicit enforcement mechanism applicable to third-party employers who certify compliance.

Mahalo for the opportunity to provide testimony and for your consideration of these comments.

Respectfully,

Hannah Litt, MS, APRN, CNM

UH Maui College Health Center

A handwritten signature in black ink that reads "Hannah Litt APRN, CNM". The signature is written in a cursive, flowing style.

BACKGROUND CHECK REQUIREMENT DETAILS SB 3207 AS WRITTEN 2/06/2026

| Category | Who must ensure it's done (statutory structure) | Fingerprinting | Adult abuse registry (APS central registry) | Child abuse/neglect checks (child welfare files) | "Other background check" components (criminal/sex offender/etc.) | How often (explicit in bill text) |
|--|--|---|---|---|--|--|
| Nursing/Medical/Etc. Student/Instructor | ? | Student? Instructor is licensed. Repeat? | ? | ? | ? | ? |
| Applicant | Applicant/operator must ensure compliance for covered persons; DOH sets rules for how checks are conducted. | Yes, unless person already fingerprinted as a condition of licensure. Repeat? Or Name-based | Initial. Repeat? | Initial name inquiry + annual name inquiry | Sex offender registry; CNA registry (as applicable). Repeat? | Initial; Annual child welfare name inquiry is stated, but mechanics for applicants are unclear. |
| Prospective operator | Same overall framework; DOH rules specify "how ... may conduct background checks." | Yes, unless already fingerprinted for licensure. Repeat? Or Name-based | Initial. Repeat? | Included: initial + annual | Sex offender registry; CNA registry (as applicable). Repeat? | Initial; Annual child welfare name inquiry stated; otherwise not specified. |
| Prospective direct patient access employee (this is the bucket nursing students most naturally fall into) | If provided via a third-party employer, that third party must complete checks before assignment; facility may rely on certification but still can't permit access unless completed/clear. | Yes, unless already fingerprinted for licensure. Repeat? Or Name-based | Initial. Repeat? | Initial name inquiry + annual name inquiry Confirmation history check for new hires/rehires | Sex offender registry; CNA registry (as applicable); plus other-state equivalents where previously resided (applies explicitly to prospective employees). Repeat? | Initial before assignment/access; Annual child welfare name inquiry; New hire/rehire child abuse confirmation check. |
| Prospective adult volunteer | Facility can't permit service unless completed/clear; if volunteer is "supplied" by a third party, facility may rely on third-party certification framework (explicitly written for direct patient access employees; volunteer handling is less explicit). | Fingerprints not required for adult volunteers <i>if all other reviews required by the section have been completed.</i> | Initial. Repeat? | Initial + annual; "new hire/rehire" confirmation check is explicitly mentioned for "new hires/rehires" and may apply functionally to onboarding volunteers, but the statute's wording is employment-framed. | Criminal history per §846-2.7; sex offender; CNA registry; other-state equivalents where volunteer previously resided. Repeat? | Initial before service; Annual child welfare name inquiry. Other recurrence not specified. |
| Adult living in the home other than the client (private-residence facility) | Covered category; applicant/operator must ensure background checks are completed per rules. | Yes (same general fingerprint rule and exceptions). Repeat? Or Name-based | Initial. Repeat? | Initial name inquiry + annual name inquiry | Criminal history per §846-2.7; sex offender registry; CNA registry (less likely relevant, but listed as part of "background check"). | Initial; Annual child welfare name inquiry; otherwise not specified. |