

ACT 87

S.B. NO. 2791

A Bill for an Act Relating to the Hawaii State Public Library System.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. The Hawaii state public library system provides year-round programs that require staff members to have a direct contact with children of all ages. This direct contact between staff members and children increases the potential liability to the Hawaii state public library system.

The purpose of this Act is to deem sex offenders ineligible for employment for any position within the Hawaii state public library system.

SECTION 2. Section 846-43, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

“(a) The department of education, including the Hawaii state public library system, and the counties shall develop procedures for obtaining verifiable information regarding the criminal history of persons who are employed, seeking employment, or seeking to serve as teacher trainees in any public school, or who are employed or seeking employment in any county, or in the Hawaii state public library system in positions which place them in close proximity to children. These procedures shall include but not be limited to criminal history record checks. For the purposes of this section, “criminal history record check” means an examination or search for evidence of an individual’s criminal history by means of:

- (1) A search of the individual's fingerprints in the Federal Bureau of Investigation criminal history record files and, if found, an analysis and any other information available pertaining thereto; and
- (2) A criminal history record check conducted by the Hawaii criminal justice data center;

provided that the Hawaii criminal justice data center may charge a reasonable fee for criminal history record checks performed for Federal Bureau of Investigation criminal history record checks.

(b) Except as otherwise specified, any person who is employed or seeks employment with a public school, or as a teacher trainee in any public school, or who is employed or seeks employment with any county or with the Hawaii state public library system in a position that necessitates close proximity to children shall be required to provide to the employer or prospective employer:

- (1) A sworn statement indicating whether or not the person has ever been convicted of an offense for which incarceration is a sentencing option, and the details thereof;
- (2) Written consent for the employer to conduct a criminal history record check as provided in subsection (a) and to obtain other information for verification; and
- (3) Permission to be fingerprinted for the purpose of the Federal Bureau of Investigation criminal history record check.

Information obtained pursuant to subsection (a) and this subsection shall be used exclusively by the employer or prospective employer for the purpose of determining whether or not a person is suitable for working in close proximity to children. All such decisions shall be subject to federal laws and regulations currently or hereafter in effect."

2. By amending subsection (d) to read:

"(d) This section shall not be used by the department<sup>1</sup> to secure criminal history record checks on persons who have been employed continuously by the department, including the state public library system, on a salaried basis prior to July 1, 1990."

3. By amending subsection (g) to read:

"(g) For the purpose of this section, notwithstanding any other law to the contrary, the department of education, including the Hawaii state public library system, and the counties shall be exempt from section 831-3.1 and need not conduct its investigations, notifications, or hearings in accordance with chapter 91."

SECTION 3. Statutory material to be repealed is bracketed and stricken.<sup>2</sup> New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 31, 2002.)

#### Notes

1. Prior to amendment "of education" appeared here.
2. No bracketed and stricken material.