

ACT 210

H.B. NO. 2454

A Bill for an Act Relating to the Rap Back Program of the Hawaii Criminal Justice Data Center.

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

SECTION 1. The purpose of this Act is to allow programs statutorily authorized to conduct criminal history record checks to participate in a state-wide rap back program. A rap back program will inform an employer or other designated entity when an individual, who has undergone a fingerprint-based background check and whose fingerprints are retained by a criminal history repository after the check, is subsequently arrested. Such employers will be notified of an individual's arrest, if the individual's fingerprints, obtained after the arrest, are matched against the fingerprints that were initially submitted to the repository.

The Federal Bureau of Investigation is targeting 2013-2014 for its national rap back program to go into effect. The State's ability to take advantage of the information and capabilities that other states and the Federal Bureau of Investigation are using will help Hawaii develop its own program and will allow the State to be proactive in decision making for our vulnerable populations: children, the elderly, and the disabled.

The rap back program would allow a user department like the department of education or the department of human services to be affirmatively notified if an employee's or licensee's fingerprints, previously authorized for retention, are matched upon subsequent arrest.

The public will be better protected because employers and licensing agencies will get up-to-date criminal history information. In addition, employees and licensees may not need to be fingerprinted again as part of a re-application or renewal process because up-to-date information will be automatically forwarded to employers and licensing agencies as part of the rap back program.

SECTION 2. Section 846-2.7, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

“(a) The agencies and other entities named in subsection (b) may conduct state and national criminal history record checks on the personnel identified in subsection (b), and participate in the rap back program, for the purpose of determining suitability or fitness for a permit, license, or employment; provided that the Hawaii criminal justice data center may charge a reasonable fee for the criminal history record checks performed. The agencies and other entities named in subsection (b) shall notify applicants and employees subject to a criminal history record check pursuant to this section that their fingerprints shall be

ACT 210

retained by the Hawaii criminal justice data center~~[;]~~ and the Federal Bureau of Investigation. Notification shall also be given to the applicants and employees subject to the rap back program. The criminal history record check shall include the submission of fingerprints to:

- (1) The Federal Bureau of Investigation for a national criminal history record check; and
- (2) The Hawaii criminal justice data center for a state criminal history record check that shall include nonconviction data.

Except as otherwise provided in this section, criminal history record information shall be used exclusively for the stated purpose for which it was obtained.”

2. By amending subsection (c) to read:

“(c) The applicant or employee subject to a criminal history record check shall provide to the requesting agency:

- (1) Consent to obtain the applicant’s or employee’s fingerprints [~~and~~], conduct the criminal history record check[;], and participate in the rap back program;
- (2) Identifying information required by the Federal Bureau of Investigation [~~which shall include but not be limited to~~], such as the applicant’s or employee’s name, date of birth, height, weight, eye color, hair color, gender, race, and place of birth; and
- (3) A statement indicating whether the applicant or employee has ever been convicted of a crime.”

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

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

(Approved July 3, 2012.)