

S.B. NO. 1363

JAN 25 2023

A BILL FOR AN ACT

RELATING TO EXPUNGING JUVENILE RECORDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 571-88, Hawaii Revised Statutes, is
2 amended to read as follows:

3 (1) By amending subsection (a) to read as follows:

4 "(a) The court may issue an order expunging a juvenile
5 arrest record of a person upon written application by the person
6 or, if the person is a minor, the minor's parent or guardian;
7 provided the arrest was made pursuant to section 571-11(1) or

8 (2) and the arrest record meets the following criteria:

9 (1) The matter was not referred to the prosecuting
10 attorney or the family court and:

11 (A) The person was not counseled and released by the
12 police; or

13 (B) The person was counseled and released by the
14 police and the person has become an adult; or

15 (C) The person has completed a diversion program that
16 the person was referred to by the arresting law
17 enforcement agency, and the person is 16 years of

S.B. NO. 1363

1 age or older and without an arrest for one year
2 prior to application; or

3 (2) The matter was referred to the prosecuting attorney or
4 family court and:

5 (A) The person was not adjudicated responsible by the
6 court; or

7 (B) The matter was dismissed with prejudice."

8 (2) By amending subsection (e) to read as follows:

9 "(e) As used in this section:

10 "Arrest record" means any record maintained by a county
11 police department or the department of the attorney general
12 under chapters 846 and 846D, relating to the arrest of the minor
13 for a specific offense, including fingerprints taken during the
14 arrest and maintained under section 846-2.5(b).

15 "Diversion program" means a program delivering an
16 intervention approach that redirects a minor away from formal
17 processing in the juvenile justice system while still holding
18 the minor accountable for the minor's actions, and with the goal
19 to remove the minor as early as possible from the juvenile
20 justice process to avoid later negative outcomes.

21 "Expunge" means a process defined by agency policy in which
22 records are segregated and kept confidential, or destroyed."

S.B. NO. 1363

1 SECTION 2. New statutory material is underscored.

2 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: *Ann M. Williams*

5

BY REQUEST

S.B. NO. 1363

Report Title:

Expungement of Juvenile Arrest Records; Diversion Program

Description:

Adds additional circumstances in which family courts may expunge juvenile arrest records.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: HUMAN SERVICES

TITLE: A BILL FOR AN ACT RELATING TO EXPUNGING JUVENILE RECORDS

PURPOSE: Expand the criteria for minors arrested pursuant to section 571-11(1) or (2), Hawaii Revised Statutes (HRS), to have their juvenile arrest records expunged. This bill seeks to (1) incentivize participation in diversion programs as an additional path to have one's juvenile arrest records expunged and increase opportunities for success in adulthood, (2) facilitate access to needed services to avoid court involvement, and (3) allow any person sixteen years of age or older who completes the diversion program and remains arrest-free for one year to petition the court to expunge the person's juvenile arrest records.

MEANS: Amend section 571-88, HRS.

JUSTIFICATION: Increasing expungements of juvenile arrest records will assist youth in their transition to becoming successful and contributing adults. Persons with juvenile arrest records face difficulty accessing educational and employment opportunities, obtaining scholarships, participating in the Job Corps, or entering the military. As part of the admissions and financial aid processes, colleges often request information about juvenile records. In addition, fields such as child care or nursing require licensing that inquires about juvenile records.

Adding successful participation in a diversion program as a path to expungement of arrest records is an incentive to participate in diversion programs, access needed services, and avoid further court involvement. Diversion programs provide

early intervention approaches to redirect minors from status offenses, criminal activity, and involvement in the juvenile justice system. The goal of diversion is to remove youth from formal juvenile justice system processing or adjudication as early as possible to avoid the harmful consequences of system involvement. Diversion programs assess a minor's needs and provide referrals to treatment programs and services to address adverse issues in the minor's life and build protective factors that increase prosocial behaviors. Diversion programs impart positive life skills to minors, resulting in better education and employment opportunities and reduced costs for the judiciary, law enforcement, and government agencies.

Starting in 2009 and led by the Judiciary's Family Court, Hawaii received technical support from the Anne E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI) project to develop and implement diversion programs. The Anne E. Casey Foundation continues to partner with Hawaii to improve the juvenile justice system.

The Office of Youth Services contracts a diversion assessment center, Ho'opono Mamo, in Honolulu Police District 5- Kalihi. From 2015-2019, 55 minors who completed the diversion program had a re-arrest rate 28.8% lower than minors who did not complete the program after six (6) months.

Other Hawaii diversion programs have seen similar success with minors who complete the program. The Family Court will soon open its own Oahu diversion assessment and resource center. However, overall participation and completion rates are low.

SB. NO. 1363

Impact on the public: Increased participation of minors in diversion programs will improve outcomes for youth while promoting prosocial behaviors, holding minors accountable for their actions, reducing recidivism, and increasing public safety. The long-term fiscal impact will be positive if youth remain out of trouble and avoid involvement with the juvenile and criminal justice systems.

Impact on the department and other agencies: The Judiciary, Offices of the Prosecuting Attorney, the Office of the Public Defender, and the Department of the Attorney General may be impacted if more minors engage in diversion programs and request expungement.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION:

OTHER AFFECTED
AGENCIES: The Judiciary, the Department of the Attorney General, the Office of the Public Defender, and County Offices of the Prosecuting Attorney. The county police departments and other law enforcement agencies.

EFFECTIVE DATE: Upon Approval.