

ACT 128

H.B. NO. 1124

A Bill for an Act Relating to the Transfer of the Hawaii Criminal Justice Data Center from the Judiciary to the Department of the Attorney General.

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

SECTION 1. **Findings and purpose.** Act 269, Session Laws of Hawaii 1980, provided for the establishment of a Hawaii criminal justice data center to be attached to the judiciary for administrative purposes until July 1, 1981, and thereafter to be attached to the department of the attorney general for administrative purposes. No

provisions were made by the legislature, however, for the transfer of personnel, equipment, appropriations, authorizations, and other property. This Act provides for such transfer.

SECTION 2. Rights and obligations of succeeding department. On July 1, 1981, the department of the attorney general (hereinafter "succeeding department") shall assume all of the rights and powers exercised, and all of the duties and obligations incurred by the judiciary (hereinafter "former department") in the administration of the Hawaii criminal justice data center (hereinafter "data center") whether such powers, duties, and obligations are mentioned in or granted by any law, contract, or other document. All references in any such law, contract, or document to the former department in connection with the programs and organizational segments transferred shall apply to the succeeding department as if the latter were named in such law, contract, or document in place of the former department.

SECTION 3. Transfer of personnel. The transfer shall include all personnel, the major portion of whose functions and duties is in the transferred programs and organization segments.

No employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act; provided that subsequent changes in status may be made pursuant to chapters 76 and 77, Hawaii Revised Statutes.

Any employee who, prior to this Act, was exempted from civil service and who may be transferred as a consequence of this Act, shall continue to retain the employee's exempt status and shall not be appointed to a civil service position because of this Act. Employees who may be transferred by this Act and who are receiving entitlements, benefits, or privileges in accordance with chapter 77, but not chapter 76 of the Hawaii Revised Statutes, shall continue to receive only those entitlements, benefits, or privileges received under chapter 77, Hawaii Revised Statutes, after such transfer.

SECTION 4. Transfer of records, equipment, appropriations, authorizations, and other property. All records, equipment, files, supplies, contracts, books, papers, documents, maps, appropriations, authorizations, and other property heretofore made, used, acquired, or held by the data center in the exercise of its programs shall be transferred to the succeeding department.

SECTION 5. Prosecutions and civil actions. No offense committed and no penalty or forfeiture incurred under the law shall be affected by this Act; provided that whenever any punishment, penalty, or forfeiture is mitigated by an provision of this Act, such provision may be extended and applied to any judgment pronounced after the passage of this Act. No suit or prosecution pending at the time this Act takes effect shall be affected by this Act. The right of any administrative officer to institute proceedings for prosecution for an offense or an action to recover a penalty or forfeiture shall henceforth be vested in the head of the department or some person designated by the head of the department or as may be directed by law.

SECTION 6. Appeals. The right of appeal from administrative actions or determinations as provided by law shall not be impaired by this Act.

Except as otherwise provided by this Act, wherever a right of appeal from

administrative actions or determinations is provided by law, such right of appeal shall lie to or from the succeeding department. Such right of appeal shall exist to the same extent and in accordance with the procedures as immediately prior to the effective date of this Act.

If the provisions of the preceding paragraph relating to appeals cannot be effected by reason of the abolishment, splitting, or shifting of functions or otherwise, the right of appeals shall lie to the circuit court of the State pursuant to the Hawaii Rules of Civil Procedure.

SECTION 7. Continuity of administration. Until so transferred, the data center shall continue to discharge its duties and functions with the same personnel and to the same extent as immediately prior to the effective date of this Act.

SECTION 8. This Act shall take effect on July 1, 1981.

(Approved June 10, 1981.)