

ACT 78

S.B.NO. 1092

A Bill for an Act Relating to the Attorney General.

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

SECTION 1. **Purpose.** The purposes of this Act are to: (1) consolidate the functions of the bureau of crime statistics and civil identification with the functions of the Hawaii criminal justice data center; and (2) expand the purpose of the Hawaii criminal justice data center.

SECTION 2. Chapter 28, Hawaii Revised Statutes, parts III and IV are repealed.

SECTION 3. Chapter 846, Hawaii Revised Statutes, is amended as follows:

1. By amending the title to read:

**“[CRIMINAL HISTORY RECORD INFORMATION]  
HAWAII CRIMINAL JUSTICE DATA CENTER”**

2. By designating sections 846-1 to 846-16 as “Part I. Data Center”.

3. By amending section 846-1, by amending the definitions of “criminal history record information system” or “system” and “data center” to read:

“(2) “Criminal history record information system” or “system” means a system, including the equipment, facilities, procedures, agreements,

and organizations thereof, for the collection, processing, preservation, or dissemination of [criminal history record information;] intrastate, interstate, and national criminal justice data;

- (10) "Data center" means the [State] state agency responsible for the collection, storage, dissemination, and analysis of all pertinent criminal [history record information] justice data and related functions, including but not limited to, functioning as the state repository for criminal history records, providing technical assistance in the development of information systems, and conducting appropriate research and statistical studies."

4. By amending section 846-2 to read:

**"§846-2 Establishment of the data center.** There shall be a data center [which shall be attached to the judiciary for administrative purposes until July 1, 1981, at which time the data center shall be attached to] established in the department of the attorney general [for administrative purposes]. The data center shall be directed and managed [by an interim director to be appointed by the governor until July 1, 1981, and thereafter,] by a director appointed by the attorney general without regard to chapters 76 and 77. There shall also be a committee, appointed by the attorney general, composed of selected criminal justice user-agency personnel, to act in an advisory capacity to the data center in matters related to interagency coordination and user needs."

5. By amending section 846-2.5 to read:

**"§846-2.5 Purpose of the criminal justice data center.** (a) The Hawaii criminal justice data center, hereinafter referred to as the "data center", shall be responsible for the collection, storage, dissemination, and analysis of all pertinent criminal [history record information] justice data from all criminal justice agencies [and to provide for], including, the collection, storage, and dissemination of criminal history record information by criminal justice agencies in such a manner as to balance the right of the public and press to be informed, the right of privacy of individual citizens, and the necessity for law enforcement agencies to utilize the tools needed to prevent crimes and detect criminals in support of the right of the public to be free from crime and the fear of crime.

[(b) In order to accomplish this purpose, the data center shall publish periodic reports which shall provide the public with a clear view of the criminal justice systems.]

(b) The attorney general shall select and enforce systems of identification of all persons arrested or charged with a criminal offense and provide for the recording and compilation of statistics related to crime. The attorney general shall establish systems of identification and provide for the collection of data and statistics relating to crime.

The several counties shall provide the necessary equipment and the compensation of the persons required to install and carry out the work of such systems of identification and statistics in their respective jurisdictions; provided that all such expenses in connection with prison matters exclusively within the control of the State shall be borne by the State.

The systems shall be uniform throughout the State, shall be continuous in operation, and shall be maintained as far as possible in such manner as shall be in keeping with the most approved and modern methods of identification and of the collection and compilation of the statistics.

The attorney general shall keep a uniform record of the work of the courts, prosecuting officers, the police, and other agencies or officers for the prevention or detection of crime and the enforcement of law in a form suitable (1) for the study of the cause and prevention of crime and delinquency and of the efforts made and efficacy thereof to detect or prevent crime and to apprehend and punish violators of law and (2) for the examination of the records of the operations of such officers and the results thereof.

(c) The attorney general may prescribe, establish, and change forms to be followed in keeping records and in making reports to the data center. All courts and the judges and other officers thereof and all prosecuting officers, chiefs of police, and other agencies and officers for the prevention or detection of crime and for the enforcement of law shall use such forms, keep such records, and make such reports to the data center as may be so required.

(d) In order to accomplish this purpose, the data center shall develop systems and provide the structure that support criminal justice information systems, provide statistical research and data analysis, and make public periodic reports which shall provide the public with a clear view of the criminal justice systems."

6. By adding a new Part II to read:

## **"PART II. CIVIL IDENTIFICATION**

**§846-21 Authority of attorney general.** The attorney general shall carry out this part. In conformity with chapter 76, the attorney general may appoint such subordinates, at such compensation, within the limits of available appropriations therefor and in conformity with chapter 77, or without compensation, as may be necessary or proper to carry out this part, and, the attorney general may delegate to such subordinates such of the attorney general's powers and duties as may be necessary for the efficient administration of this part.

**§846-22 Oaths and investigations.** The attorney general and each of the attorney general's authorized subordinates may administer oaths and require and take the oral or written statements under oath of any person in connection with any information validly required by the attorney general or the attorney general's subordinates under this part or any rule issued under this part.

**§846-23 Rules.** For the purpose of carrying out this part the attorney general, subject to chapter 91, may prescribe rules having the force and effect of law.

**§846-24 Powers and functions.** The department of the attorney general shall register and issue certificates of identification to all persons in the State applying for the certificates in accordance with the requirements of this part.

**§846-25 Other government employees to cooperate.** With the approval of the head of the department concerned, any officer or employee of any county or of the State may be appointed in the manner provided by section 846-21 to act in such capacity and to perform such duties as shall be required by such order in

connection with the administration of this part, with or without additional compensation.

**§846-26 Geographical subdivisions; regional and other officers.** The attorney general may subdivide the State into such enumeration tracts or other subdivisions with such designations, and with such regional officers, registrars, assistants, enumerators, and other employees, as the attorney general deems necessary or proper for the efficient administration of the registration required by this part.

**§846-27 Registration and issuance of certificates; fee.** Every person residing or present in the State may be registered, and have issued to the person a certificate of identification, under this part.

Application for the registration shall be made in person by any adult person or minor over the age of sixteen years. In the case of a minor under the age of sixteen years, the application shall be made in the minor's behalf by the parent or other person in loco parentis of such minor. In the case of an incompetent person, the application shall be made by the person having the custody or control of or maintaining the incompetent person. A fee of \$6 shall be paid by each applicant, which fee, however, may be waived by the attorney general in cases of extreme hardship.

**§846-28 Information to be secured.** The department of the attorney general shall require, collect, secure, make, and preserve a written record of the following items of information so far as it is practicable to secure the same, with respect to each applicant for registration:

- (1) The name of the person applying to be registered (hereinafter called the "registrant" or "applicant"), the street and number or address of the applicant's place of habitation in the State, and the applicant's residence and business telephone numbers, if any;
- (2) Whether the applicant has ever been fingerprinted and, if so, where, when, and why;
- (3) The applicant's occupation and any pertinent data relating thereto;
- (4) The applicant's nationality or racial extraction;
- (5) The applicant's citizenship status;
- (6) The date and place of the applicant's birth;
- (7) The applicant's personal description including sex, height, weight, hair, eyes, complexion, build, scars, and marks;
- (8) The fingerprints of both hands of the applicant; provided that this requirement shall not apply to minors until they reach the age of six years, except as may be requested by a parent or guardian;
- (9) The name, relationship, and address of the nearest relative or other person to be notified in case of sickness, accident, death, emergency, or need of the applicant, if such notification is desired;
- (10) The social security number of the applicant.

**§846-29 Procedure.** All information required by section 846-28, as far as practicable, shall be secured by employees of the department of the attorney general by personal interviews with the persons registered or responsible members of the same household. Every person giving information in behalf of any applicant under

this part shall answer truthfully all questions and furnish all information within the possession or knowledge of the person which may be asked or requested by the employee within the scope of the requirements of this part.

Special provisions may be made by rules of the attorney general (1) for the registration of inmates, employees, and others residing at or in hospitals, jails, prisons, asylums, homes for the aged, indigent homes, and other institutions, and (2) for the registration of other persons, whenever special treatment is required so as to minimize hardship or inconvenience attendant upon the registration contemplated by this part.

**§846-30 Identification certificates; form.** The department of the attorney general, after taking the fingerprints of each registrant as provided in this part (except as otherwise provided in the case of children under six years of age), and after securing the information required by or pursuant to this part, shall issue to each registrant a certificate of identification in such form, and with such information, as the attorney general deems necessary and practicable, the certificate to contain, among other things: the registrant's social security number; the date of issue; the name, residence, citizenship status, date of birth (if known), the registrant's signature, a facsimile signature of the attorney general, the signature of the officer or employee issuing the certificate (to be designated as the "director of the data center"), the fingerprints of the index and middle fingers of each of the registrant's hands (except as otherwise provided in the case of children under six years of age), the name and address of the person to be notified in case of need, and such other personal identification data as the attorney general deems necessary and practicable. Upon the fingerprinting of each child attaining the age of six years after having been registered, the child's previous certificate shall be canceled and a new certificate shall be issued under the same number, bearing the child's fingerprints.

**§846-31 Identification certificates not to be altered, etc.; duties of holder; lost certificates.** No person, except agents of the department of the attorney general acting pursuant to its authority, shall alter, deface, or destroy any certificate of identification. Except as specifically authorized by this section or the rules of the attorney general, no registrant shall loan or give the registrant's certificate of identification to any other person, and no person shall use the certificate of identification of any other person. Any registrant whose certificate of identification is stolen or otherwise lost, or altered, defaced, or destroyed, shall report the fact to the nearest office of the department within forty-eight hours after discovering the fact, and may at any time apply for a duplicate certificate of identification in such manner as the attorney general may require, which duplicate shall be issued by the department upon being satisfied as to such loss, alteration, defacing, or destruction and the payment of a fee of \$6, and shall be distinctly marked as a duplicate. The fee may be waived by the attorney general where the requirement thereof would impose extreme hardship. In the case of an altered or defaced certificate of identification, the certificate, if available, shall be surrendered by the registrant and canceled by the department. Any person finding or coming into the possession of the certificate of identification of any other person shall promptly return or deliver the same to the owner thereof or to the nearest office of the department. Any person finding the person's own lost certificate after having

received a duplicate certificate shall promptly deliver the previously lost certificate to the department.

**§846-32 Correction or alteration of records and certificates in cases of error or subsequent changes concerning names, citizenship, description, etc.** If, after registration, the name of any registrant is legally changed by marriage, divorce, adoption, legitimation, order of the lieutenant governor, or other legal means, or if there is a change in the registrant's citizenship status, the registrant or other person in charge of the registrant (in the case of a minor or incompetent person), within thirty days after the change of name or citizenship status, report the change and present the registrant's certificate of identification to the department of the attorney general and pay to the department a fee of \$6 (which fee, however, may be waived by the department in cases of extreme hardship). The department, upon being satisfied as to the change and receiving payment of the fee, shall cancel the certificate and issue a new certificate bearing the new name or citizenship status of the registrant, making appropriate notation of the facts upon the records of the department.

If any error has been made in any item of information contained in the records of the department or the certificate of identification concerning any registrant, the department, of its own motion, or upon application by the registrant, and upon receipt of evidence satisfactory to it that error has been committed, with the approval of the attorney general or the attorney general's specially authorized representatives, may correct the error and, in such case, shall make appropriate changes or notations stating the error and the correct information upon the records of the department and the certificate of identification.

In case any item of personal information originally correct with respect to any registrant shall change after registration, the change, if material, may be registered by the department and the records and certificate of identification may be altered to conform thereto, upon receipt by the department of satisfactory evidence as to the change and the approval of the attorney general or the attorney general's specially authorized representative and the payment of a fee of \$6 (which fee, however, may be waived by the department in cases of extreme hardship).

**§846-33 Exemptions.** The requirements of this chapter as to fingerprinting (except with respect to the fingerprints upon the certificate of identification) may be waived by the attorney general as to any individual whose fingerprints are otherwise available, upon the making of proper cross references upon the records of the department of the attorney general.

**§846-34 Forms.** The attorney general may prepare, prescribe, and furnish, in conformity with this part, forms for questionnaires, notices, fingerprint cards or forms, certificates of identification, instructions, and all other forms necessary or proper for the prompt, efficient, and adequate execution of the functions of the department of the attorney general set forth in this part.

**§846-35 Custody and use of records; information confidential.** (a) All information and records acquired by the department of the attorney general under this part shall be confidential. All records shall be filed in an appropriate office in the custody and under the control of the department, which shall at all times be kept separate from any similar records relating to the identification of criminals. The

information shall be available only to authorized persons in the department, and such other persons or agencies as the attorney general shall authorize, under such restrictions as the attorney general shall prescribe. The information and records shall not be subject to subpoena or other court process.

(b) No officer or employee of the department shall divulge any information concerning any registrant acquired from the records of the department or acquired in the performance of any of the officer's or employee's duties under this part to any person not authorized to receive the same pursuant to this part or pursuant to the orders of the attorney general made under subsection (a). No person acquiring from the records any information concerning any registrant shall divulge the information to any person not so authorized to receive the same.

**§846-36 Violations; penalties.** Any person who (1) knowingly furnishes any false or untruthful information or answer validly required under this part; (2) violates or without adequate excuse fails to comply with any requirement of this part or of any rule issued pursuant thereto, which is legally applicable to the person, and for which no other penalty is specifically prescribed by this part; or (3) without adequate excuse, fails to perform any act lawfully required to be performed by the person pursuant to this part or such rules shall be fined not more than \$500, or imprisoned not more than six months, or both; provided that failure of a person to report that the person's certificate is lost, stolen, or destroyed, or to return to the department of the attorney general the person's lost certificate when the person has secured a duplicate and finds the lost certificate for which such duplicate was issued, shall be punishable by fine of not more than \$5.

"Adequate excuse", as used in this section, means inability to comply with any such requirement or perform any such act, due to any cause beyond the control of the individual concerned and not due to the individual's malfeasance, nonfeasance, or gross negligence.

**§846-37 Disposition of income.** All moneys received by the department of the attorney general under this part shall be deposited with the director of finance to the credit of the general fund.

**§846-38 Uniformity of identification certificates issued.** In order to insure uniformity in certificates, no police department in this State shall issue any certificate of identification to others than police officers, except in conformity with the rules of the department of the attorney general, and as its agent, and any fee collected by any police department for certificates shall by it be paid over to the department as required by the rules."

SECTION 4. Section 831-3.2, Hawaii Revised Statutes, is amended by amending subsection (h) to read as follows:

"(h) Nothing in this section shall affect the compilation of crime statistics as provided in [part IV of] chapter [28.] 846."

SECTION 5. Notwithstanding any provision in this Act for the consolidation of functions, the personnel involved shall continue to discharge their duties and functions to the same extent as immediately prior to the effective date of this Act.

SECTION 6. Statutory material to be repealed is bracketed. New material, except for Part II of Chapter 846, is underscored.

**SECTION 7.** This Act shall take effect upon its approval.  
(Approved May 20, 1983.)