

**ACT 189**

H.B. NO. 2308

A Bill for an Act Relating to Youth Gangs.

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

SECTION 1. The legislature finds that there is a growing youth gang problem in Hawaii. This is evidenced by a statewide increase in gang membership as well as an increase in gang-related graffiti, violence, and criminal activity.

Because youth gang members are of school age, negative activities may impact school campuses as well. It is reported that gang members distribute illegal drugs on campus. It is also reported that members possess weapons and may be prone to violent behavior, endangering the safety and well-being of students as well as school personnel.

Gang delinquency tends to appear in communities where the factors of poverty, adolescence, and social disorganization are present. Social disorganization is activated in communities that have a high rate of in-migration, in families that lack the skills or time to provide adolescents with the support and guidance they need, and in schools and communities which fail to offer the types of activities which foster in adolescents a sense of challenge, purpose, and belonging, and which fail to recognize and effectively assist youths who are at-risk. When youths turn to gangs for support and recognition, their destructive behavior is an expression of their desperate need for help from the social disorganization which they are facing.

Clearly, the existence of gangs is but a symptom of a larger set of problems which our communities are experiencing.

The legislature finds that the development of a coordinated youth gangs response system is essential to maintaining control of the gang situation. While this response system must be community-based, it must also be systemwide and linked to the schools, courts, parents, government, agencies, community organizations, and community leaders.

A coordinated gang response system includes:

- (1) Effective intelligence and law enforcement;
- (2) Sharing of information;
- (3) Establishment of public awareness programs;
- (4) Development of community and school-based intervention and prevention programs; and
- (5) Evaluation and research.

The purpose of this Act is to provide for the development of a youth gangs response system coordinated by the department of the attorney general that incorporates the critical elements of law enforcement and intelligence, training and community awareness, community intervention, community prevention, information, and evaluation.

**SECTION 2.** In accordance with Section 9 of Article VII of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that the appropriations contained in this Act will cause the state general fund expenditure ceiling for fiscal year 1990-1991 to be exceeded by \$1,856,743, or 0.073 per cent. The reasons for exceeding the general fund expenditure ceiling are that the appropriations made in this Act are necessary to serve the public interest and to meet the needs provided for by this Act.

**SECTION 3.** Section 571-84, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The court shall maintain records of all cases brought before it. In proceedings under section 571-11, and in paternity proceedings under chapter 584, the following records shall be withheld from public inspection: the court docket, petitions, complaints, motions, and other papers filed in any case; transcripts of testimony taken by the court; and findings, judgments, orders, decrees, and other papers other than social records filed in proceedings before the court. The records other than social records shall be open to inspection by the parties and their attorneys, by an institution or agency to which custody of a minor has been transferred, by an individual who has been appointed guardian; with consent of the judge, by persons having a legitimate interest in the proceedings from the standpoint of the welfare of the minor; and, pursuant to order of the court or the rules of court, by persons conducting pertinent research studies,

and by persons, institutions, and agencies having a legitimate interest in the protection, welfare, [or] treatment, or disposition of the minor.”

SECTION 4. Section 571-84, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Reports of social and clinical studies or examinations made pursuant to this chapter shall be withheld from public inspection, except that information from such reports may be furnished, in a manner determined by the judge, to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare, [and] treatment, or disposition of the minor.”

SECTION 5. Section 806-73, Hawaii Revised Statutes, is amended to read as follows:

**“§806-73 Duties and powers of probation officers; adult probation records.**

A probation officer shall investigate any case referred to the probation officer for investigation by the court in which the probation officer is serving and report thereon to the court. The probation officer shall instruct each defendant placed on probation under the probation officer’s supervision regarding the terms and conditions of the defendant’s probation. The probation officer shall keep informed concerning the conduct and condition of the defendant and shall report thereon to the court and shall use all suitable methods to aid the defendant and to bring about improvement in the defendant’s conduct and condition. The probation officer shall keep [such] these records and perform [such] other duties as the court may direct.

All records of the Hawaii state adult probation divisions are confidential and are not public records, including but not limited to, all records made by any adult probation officer in the course of performing official duties; provided that [such] the records, or the content of [such] the records, shall be divulged only as follows:

- (1) A copy of any adult probation division case record or of a portion of it, or the case record itself, may upon request be provided only to an adult probation officer of a Hawaii state adult probation division; provided that a written summary of the record may be provided upon request to any state or federal criminal justice agency which is providing supervision of a defendant or offender convicted and sentenced by the courts of Hawaii, or which is responsible for the preparation of a report for a court.
- (2) The contents of any adult probation division case record relevant for the purpose of serving a summons or bench warrant in a civil or criminal proceeding or in a deportation proceeding[, including, but not limited to, contents indicating the whereabouts or residence of a defendant or offender], may be released only to a state or federal law enforcement agency.
- (3) A copy of a presentence report or investigative report shall be provided only to the persons or entities named in section 706-604; to the Hawaii paroling authority; to any psychiatrist, psychologist, or other mental health practitioner who is treating the defendant pursuant to a court order for mental health care; to the intake service centers; in accordance with applicable law to persons or entities doing research; to any Hawaii state adult probation officer or to an adult probation officer of another state who is engaged in the supervision of a defendant or offender convicted and sentenced in

the courts of Hawaii, or which is engaged in the preparation of a report for a court regarding a defendant or offender convicted and sentenced in the courts of Hawaii.

Every probation officer shall, within the scope of the probation officer's duties, have the powers of a police officer."

**SECTION 6.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$292,807, or so much thereof as may be necessary for fiscal year 1990-1991, for the continued development of:

- (1) a statewide information system and information clearinghouse on youth gangs;
- (2) public education on the youth gang problem;
- (3) community support groups to help citizens confront and deal with the problem of youth gangs;
- (4) a statewide training program for public citizens and government personnel who are involved or are in contact with youth gangs; and
- (5) a statewide law enforcement task force focused on resolving youth gang criminal activities.

**SECTION 7.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000, or so much thereof as may be necessary for fiscal year 1990-1991, for the police department of the counties of Honolulu, Hawaii, Maui, and Kauai to monitor gang activities, and establish new gang prevention programs; provided that each county shall be allocated \$125,000.

**SECTION 8.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$50,000, or so much thereof as may be necessary for fiscal year 1990-1991, to commission the center for youth research of the University of Hawaii, to:

- (1) assist the department of parks and recreation to plan and develop programs for targeted youth groups; and
- (2) conduct a study of the activities offered to youths between 13 and 18 years of age by the department of parks and recreation for the city and county of Honolulu in the targeted communities of Ewa Beach/Makakilo; Waianae/Nanakuli; Waipahu; Kaneohe/Kailua/Waimanalo; Kalihi; Palolo; and Wahiawa.

The study shall focus on the following issues:

- (1) Which facilities are under the jurisdiction of the department in the targeted areas and the kinds of recreational activities each facility can accommodate;
- (2) How the department's facilities in the targeted areas are currently being utilized;
- (3) Why additional activities for youths in the targeted age group are not being offered by the department and what would be required to offer more activities to this age group; and
- (4) The feasibility of extending facility hours.

**SECTION 9.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$30,000, or so much thereof as may be necessary for fiscal year 1990-1991, for the statewide expansion of the campus disturbance plan of the department of education. The sum appropriated shall be expended by the department of education.

**SECTION 10.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$225,000, or so much thereof as may be necessary for fiscal year 1990-1991, for the department of education to continue the school based gang and drug prevention/intervention project initiated by the Honolulu Police Department in 1990 at Kalakaua and Dole Intermediate schools, and to expand the project to include Wahiawa Intermediate, Kailua Intermediate, Waipahu Intermediate, and Jarrett Intermediate Schools. Unexpended funds at the conclusion of the authorized expenditure period in this section will be used to expand this project statewide.

**SECTION 11.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$600,000, or so much thereof as may be necessary for fiscal year 1990-1991, for the office of youth services to provide and develop prevention and intervention services and programs statewide for youth-at-risk. The sum appropriated shall be expended by the office of youth services.

**SECTION 12.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$66,000, or so much thereof as may be necessary for fiscal year 1990-1991, to commission the center for youth research of the University of Hawaii to conduct an evaluation of the youth gangs response system created by this Act. The sum appropriated shall be expended by the University of Hawaii.

**SECTION 13.** There is appropriated out of the general revenues of the State of Hawaii the sum of \$92,936, or so much thereof as may be necessary for fiscal year 1990-1991, to the department of the attorney general to provide personnel, equipment, office space, and monitoring trips to the neighbor islands in its role as the overall coordinator of this Act.

**SECTION 14.** The unexpended and unencumbered balance of the appropriated sums shall not lapse until the close of business on June 30, 1992.

**SECTION 15.** The sums appropriated in sections 6, 7, 8, 10, and 13 shall be expended by the department of the attorney general for the purposes of this Act.

**SECTION 16.** Statutory material to be repealed is bracketed. New statutory material is underscored.

**SECTION 17.** This Act shall take effect on July 1, 1990.

(Approved June 19, 1990.)