

## ACT 311

S.B. NO. 1167

A Bill for an Act Relating to the Establishment of a Juvenile Justice Information System.

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

SECTION 1. The purpose of this Act is to establish a juvenile justice information system containing juvenile offender information which will be used by agencies with juvenile justice responsibilities. The statewide juvenile justice information system will provide current juvenile information to enable juvenile justice agencies to provide the most effective identification, protection, counseling, rehabilitation, and education programs and other services that help juvenile offenders to become law-abiding and productive citizens.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER  
JUVENILE JUSTICE INFORMATION SYSTEM**

§ -1 **Responsibility for system.** (a) The department of the attorney general shall be responsible for the collection, storage, dissemination, and analysis of all juvenile justice custodial, adjudicative, and program data from all agencies which have primary investigative, action, or program responsibility for minors, including the county police departments, the county prosecutors, the family courts, and the Hawaii youth correctional facilities, in such a manner as to balance the right of the public and press to be informed and the right of privacy and confidentiality of minors and their families, and to provide accurate, comprehensive, and timely information to government agencies concerned with juvenile offenders to carry out their responsibilities.

(b) The information collected and stored in the juvenile justice information system shall not include any fingerprints, psychiatric reports, or social and clinical studies or examinations, but may contain information indicating the availability of reports and the procedures for requesting such information.

(c) The attorney general shall develop the system and the procedures for reporting, inputting, accessing, and protecting the information and obtaining the agreement of agencies permitted to directly input and access information.

§ -2 **Juvenile justice information committee.** There is established within the department of the attorney general a juvenile justice information committee, which shall include, but not be limited to, representatives from the family courts, the police departments of the various counties, the prosecutors of the various counties, the Hawaii youth correctional facilities, and the department of the attorney general. The committee shall meet as needed to promote interagency cooperation and coordination in the development and management of an accurate, complete, timely, and fully integrated statewide juvenile justice information reporting and retrieval system.

The members of the committee shall be appointed by the attorney general and shall have the decision-making authority of the represented agencies.

§ -3 **Responsibility of agencies.** Agencies that have investigative, detention, custodial, adjudicative, and program responsibility for juveniles shall

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cooperate with the attorney general in establishing the juvenile justice information system by:

- (1) Providing information in the agency files that can be included pursuant to the format approved by the juvenile justice information committee;
- (2) Maintaining procedures internally consistent with uniform procedures and guidelines provided by the juvenile justice information committee;
- (3) Reporting information to the attorney general that is timely, complete, and accurate, after the occurrence of an event over which the agency had direct responsibility; and
- (4) Maintaining procedures for the periodic checking of information to minimize the possibility of storing and maintaining inaccurate information.

§ -4 **Limitations on dissemination.** Dissemination of information from the juvenile justice information system shall be limited whether directly or through any intermediary only to:

- (1) Agencies which have primary investigative, detention, custodial, adjudicative, and program responsibility for minors, including but not limited to the county police departments, the county prosecutors, the family courts, and the Hawaii youth correctional facilities;
- (2) Individuals and agencies pursuant to a specific agreement with an agency with primary investigative, detention, custodial, and program responsibility to provide services to fulfill that responsibility; provided that the agreement shall specifically authorize access to data, limit the use of data to purposes for which given, and insure the security and confidentiality of the data consistent with the purpose of this chapter;
- (3) Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a juvenile justice agency; provided that the agreement shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and insure the confidentiality and security of the data consistent with the purpose of this chapter;
- (4) The minor, the minor's parents or guardians, and the minor's attorney and guardian ad litem for the purpose of examining records pertaining to the minor; or
- (5) Persons who have been injured or damaged, their subrogees, and legal representatives; provided that the information is limited only to that information that may be disclosed as provided under section 571-84(f) and (g).

§ -5 **Responsibility of agencies.** Any agency that has access to information available through the juvenile justice information system shall:

- (1) Select and supervise all persons authorized to have direct access to the information or any terminals or stations by which the information is transmitted;
- (2) Place responsibility on the persons permitted direct access for the physical security of juvenile justice data which the agency has received or can receive to protect against unauthorized access, disclosure, or dissemination;

- (3) Provide security training for all persons given direct access to information in the juvenile justice information system which shall include the substance and intent of this chapter and of rules adopted thereunder; and
- (4) Maintain procedures to protect data terminals or stations from unauthorized access, theft, sabotage, fire, or other natural or human caused disasters.

§ -6 **Additional dissemination.** Information from the juvenile justice information system may be disseminated to:

- (1) The governor in accordance with the governor's constitutional duty to ensure that the laws will be faithfully executed;
- (2) The courts in accordance with their adjudicative responsibility;
- (3) The attorney general in accordance with the attorney general's statutory authority and duties in the administration and enforcement of this chapter; and
- (4) Other individuals and agencies who are provided for in this chapter or by rule adopted thereunder.

§ -7 **Penalty.** Any person who knowingly permits the dissemination of information in violation of this chapter, or any person who gains unauthorized access to information in the juvenile justice information system, shall be guilty of a misdemeanor."

SECTION 3. Section 352-7, Hawaii Revised Statutes, is amended to read as follows:

"**§352-7 Records.** The director shall establish a record of all facts relating to the admission, discharge, escape, death, medical history, programs, and significant occurrences concerning a committed person. An exact account shall also be kept of all moneys received for work performed by the committed persons and from authorized sources for the use of any committed person, as well as of the expenditure of such moneys as shall be authorized from time to time by the director. The director shall report any information collected except psychiatric reports to the juvenile justice information system. The date of preparation, the preparer, and the existence of a psychiatric report may be included in the juvenile justice information system."

SECTION 4. Section 571-74, Hawaii Revised Statutes, is amended to read as follows:

"**§571-74 Rules and standards; investigation and questioning; fingerprinting and photographing.** The judges of the family courts shall make such rules and set up such standards of investigation and questioning as they consider necessary to guide and control the police, within their respective jurisdictions, in the handling of cases involving minors coming within the provisions of this chapter. The rules and standards may include limitations and restriction concerning the fingerprinting and photographing of any child in police custody, provided that when any child commits an act which, if committed by an adult, would be a felony, such rules and standards shall not apply. The police shall report all police designated fields of information collected on juvenile offenders to the juvenile justice information system. The rules shall be enforceable as orders of the court."

SECTION 5. Section 571-84, Hawaii Revised Statutes, is amended to read as follows:

**“§571-84 Records.** (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, treatment, or disposition of the minor.

(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] the 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, treatment, or disposition of the minor.

(c) No information obtained or social records prepared in the discharge of official duty by an employee of the court shall be disclosed directly or indirectly to anyone other than the judge or others entitled under this chapter to receive [such] the information, unless and until otherwise ordered by the judge.

(d) Except for [the] immediate use in a criminal case, any photograph or fingerprint taken of any child shall not be used or circulated for any other purpose and shall be subject to all rules and standards provided for in section 571-74.

(e) The records of any police department, and of any juvenile crime prevention bureau thereof, relating to any proceedings authorized under section 571-11 shall be confidential and shall be open to inspection only by persons whose official duties are concerned with the provisions of this chapter, except as provided in subsection (f) [herein] or as otherwise ordered by the court.

(f) Any [such] police records concerning traffic accidents in which a child or minor coming within 571-11(1) is involved [shall], after the termination of any proceeding under 571-11(1) arising out of any such accident, or in any event after six months from the date of the accident, shall be available for inspection by the parties directly concerned in the accident, or their duly licensed attorneys acting under written authority signed by either party. Any person who may sue because of death resulting from any such accident shall be deemed a party concerned.

(g) In all proceedings concerning violations other than traffic violations, in which a minor coming within section 571-11(1) is involved and after the termination of any proceeding under section 571-11(1) arising out of any such violation, the court may disclose to a party directly concerned the disposition of a case involving an offense against a person or property. This disclosure shall be made only upon written request of the party directly concerned. If the minor has been adjudicated a law violator, the name and address of the minor, and, when practicable, the name of the parent or guardian shall be disclosed pursuant to the order of the court or the Hawaii Family Court Rules, to the parties directly concerned with the alleged violation, or their duly licensed attorneys acting under written authority signed by either party. For the purpose of this section “parties directly

concerned” means any person who may sue because of death, injury, or damage resulting from any violation other than a traffic violation in which a minor coming within section 571-11(1) is involved.

The minor, and, when practicable, the minor’s parents or custodian, and the attorney of the minor shall be notified when the minor’s name and address have been released.

(h) Evidence given in proceedings under section 571-11(1) or (2) shall not in any civil, criminal, or other cause be lawful or proper evidence against the child or minor therein involved for any purpose whatever, except in subsequent proceedings involving the same child under section 571-11(1) or (2).

(i) All information in the records except reports of social studies and clinical studies or examinations shall be recorded in the juvenile justice information system. Information about the dates, length, preparer, and subject of social studies may be included in the juvenile justice information system.”

SECTION 6. There is appropriated out of the general revenues of the State of Hawaii the sum of \$88,710, or so much thereof as may be necessary for fiscal year 1991-1992, for the purposes of this Act, including the hiring of necessary staff, as follows:

Personnel:		\$70,992.00
Project Coordinator	\$48,312.00	
Clerk-Typist	22,680.00	
Operating Cost:		\$17,718.00
Rent	\$14,958.00	
Telephone	2,760.00	
TOTAL		\$88,710.00

The sum appropriated shall be expended by the department of the attorney general.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect on July 1, 1991.

(Approved June 26, 1991.)