

## ACT 20

H.B. NO. 1687

A Bill for an Act Relating to Adult Probation Records.

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

SECTION 1. 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 these records and perform 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 the records, or the content of 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 proceedings<sup>1</sup> or in a deportation proceeding, 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 or parole 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 2. New statutory material is underscored.

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

(Approved April 13, 1993.)

### **Note**

1. Prior to amendment “proceeding” appeared here.