

ACT 7

H.B. NO. 1591

A Bill for an Act Relating to Expungement Orders.

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

SECTION 1. Section 831-3.2, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) The attorney general, or the attorney general’s duly authorized representative within the department of the attorney general, upon written application from a person arrested for, or charged with but not convicted of a crime, shall issue an expungement order annulling, canceling, and rescinding the record of arrest; provided that an expungement order shall not [issue] be issued:

- (1) [in] In the case of an arrest for a felony or misdemeanor where conviction has not been obtained because of bail forfeiture;
- (2) [for] For a period of five years after arrest or citation in the case of a petty misdemeanor or violation where conviction has not been obtained because of a bail forfeiture;

## ACT 7

- (3) [in] In the case of an arrest of any person for any offense where conviction has not been obtained because the person has rendered prosecution impossible by absencing oneself from the jurisdiction; [and]
- (4) [in] In the case of a person acquitted by reason of a mental or physical defect under chapter 704[.]; and
- (5) For a period of one year upon discharge of the defendant and dismissal of the charge against the defendant in the case of a deferred acceptance of guilty plea or nolo contendere plea, in accordance with chapter 853.

Any person entitled to an expungement order hereunder may by written application also request return of all fingerprints or photographs taken in connection with the person's arrest. The attorney general or the attorney general's duly authorized representative within the department of the attorney general, within 120 days after receipt of [such] the written application, shall, when so requested, deliver, or cause to be delivered, all [such] fingerprints or photographs of [such] the person, unless [such] the person has a [prior] record of conviction or is a fugitive from justice, in which case the photographs or fingerprints may be retained by the agencies holding such records.

(b) Upon the issuance of the expungement [order,] certificate, the person applying for the order shall be treated as not having been arrested in all respects not otherwise provided for in this section."

SECTION 2. Section 831-3.2, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) The meaning of the following terms as used in this section shall be as indicated:

- (1) “Conviction” means a final determination of guilt whether by plea of the accused in open court, by verdict of the jury or by decision of the court.
- (2) “Arrest record” means [the] any existing photographic and fingerprint cards relating to the arrest.”

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved April 12, 1993.)