

ACT 100

H.B. NO. 181

A Bill for an Act Relating to an Automatic Fingerprint Identification System.

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

SECTION 1. 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 restrictions 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] of

the age of twelve years or older who comes within section 571-11(1) is taken into custody for committing an act which, if committed by an adult would be a felony, or for an act involving theft in excess of \$100 or criminal property damage in excess of \$100, the rules and standards concerning fingerprinting 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 2. Section 571-84, Hawaii Revised Statutes, is amended by amending subsections (d) and (e) to read as follows:

“(d) [Except for immediate use in a criminal case, any] Any photograph or fingerprint taken of any child [shall not] may be used or circulated [for any other purpose and shall be subject to all] only as permitted by the 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 and use only by persons whose official duties are concerned with the provisions of this chapter, except as provided in [subsection] subsections (d) and (f) or as otherwise ordered by the court.”

SECTION 3. Section 846-2.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The attorney general shall select and enforce systems of identification, including fingerprinting, without the necessity of a court order, of all [persons] adults arrested for a criminal offense, [or] children who are twelve years of age or older and who are taken into custody for committing an act which, if committed by an adult would be a felony, or for an act involving theft in excess of \$100 or criminal property damage in excess of \$100, and all persons to whom penal summonses have been issued for a criminal offense and who have been convicted or granted a deferred acceptance of guilty or nolo contendere plea or a conditional discharge, and provide for the collection, recording, and compilation of data and statistics relating to crime[.]; provided that, unless a child’s electronic or physical fingerprint record is otherwise authorized to be entered into the system, and notwithstanding any law to the contrary, the attorney general shall purge any child’s electronic or physical fingerprint record entered into the identification system pursuant to this subsection, upon court order, when the child attains the age of twenty five years, when the child is determined not to be responsible for committing the act for which the fingerprints were taken, or when child is not informally adjusted under section 571-31.4 and a petition is not filed within one year from the date the child is taken into custody. The court shall notify the attorney general when a child is determined not to be responsible for committing the act for which the fingerprints were taken. A child’s fingerprint record shall not be transmitted to any system outside the state.

The several counties shall provide the necessary equipment and the compensation of the persons required to install and carry out the work of the systems of identification and statistics in their respective jurisdictions; provided that those expenses in connection with matters exclusively within the control of the State shall be borne by the State; and provided further that the State shall provide for the management and equipment maintenance of the computerized fingerprint identification system.

The systems shall be uniform throughout the State, shall be continuous in operation, and shall be maintained as far as possible in a manner as shall be in

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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];

- (1) 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] Examination of the records of the operations of those officers and the results thereof.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 5. This Act, upon its approval, shall take effect retroactive to all law violators who have not yet attained the age of twenty years by the date this bill is enacted.

(Approved June 8, 1995.)