
A BILL FOR AN ACT

RELATING TO CONVICTION DATA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that an important part of
2 the State's obligation to protect its citizens and promote the
3 public safety is to ensure vigorous enforcement of its criminal
4 laws and to monitor offenders through a comprehensive criminal
5 justice database. It is likewise important to permit citizens
6 to participate in this process by granting access to parts of
7 that database that will empower them to take any additional
8 action necessary to protect themselves and their families. To
9 this end, the State has created an internet-accessible database
10 of sex offenders and offenders against minors that can be
11 queried by data relating to the offender or to a geographic
12 location. An internet-accessible database of all convictions
13 can be queried by offender name and related data.

14 The legislature also finds that an important part of the
15 criminal justice process is giving the convicted offender an
16 opportunity to complete the offender's sentence, to
17 rehabilitate, and to resume a law-abiding lifestyle as a member
18 of the community. While conviction data is public information,



1 and should remain so, making an offender's every mistake, even
2 minor ones, instantly accessible and visible may undermine
3 efforts at rehabilitation. Although a convicted person has
4 diminished privacy rights, article I, section 6 of the Hawaii
5 constitution still recognizes that the "right of the people to
6 privacy is recognized and shall not be infringed without the
7 showing of a compelling state interest" and requires the
8 legislature to take affirmative steps to implement this right.

9 The legislature further finds that there is a compelling
10 state interest in making felony conviction data as widely
11 available as possible and that this interest warrants an
12 infringement on the offender's right to privacy. However, there
13 is not a similar interest in making so widely available
14 conviction data pertaining to misdemeanors and petty
15 misdemeanors. While this information should remain public and
16 available at the Hawaii criminal justice data center and the
17 county police departments, it should not be posted on the
18 Internet. The legislature previously made this determination
19 with regard to sex offenses and offenses against minors by
20 excluding from the registry of those offenders all offenses of a
21 misdemeanor or lower grade.



1 The purpose of this Act is to balance the need to promote
2 public safety, on the one hand, and rehabilitation of offenders,
3 on the other, by limiting dissemination of conviction
4 information regarding minor offenses.

5 SECTION 2. Section 846-9, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§846-9 Limitations on dissemination.** (a) Dissemination
8 of nonconviction data shall be limited, whether directly or
9 through any intermediary, only to:

- 10 (1) Criminal justice agencies, for purposes of the
11 administration of criminal justice and criminal
12 justice agency employment;
- 13 (2) Individuals and agencies specified in section 846-10;
- 14 (3) Individuals and agencies pursuant to a specific
15 agreement with a criminal justice agency to provide
16 services required for the administration of criminal
17 justice pursuant to that agreement; provided that such
18 agreement shall specifically authorize access to data,
19 limit the use of data to purposes for which given, and
20 insure the security and confidentiality of the data
21 consistent with the provisions of this chapter;



- 1 (4) Individuals and agencies for the express purpose of
2 research, evaluative, or statistical activities
3 pursuant to an agreement with a criminal justice
4 agency; provided that such agreement shall
5 specifically authorize access to data, limit the use
6 of data to research, evaluative, or statistical
7 purposes, and insure the confidentiality and security
8 of the data consistent with the purposes of this
9 chapter;
- 10 (5) Individuals and agencies for any purpose authorized by
11 statute, ordinance, executive order, or court rule,
12 decision, or order, as construed by appropriate state
13 or local officials or agencies; and
- 14 (6) Agencies of state or federal government which are
15 authorized by statute or executive order to conduct
16 investigations determining employment suitability or
17 eligibility for security clearances allowing access to
18 classified information.

19 These dissemination limitations do not apply to conviction data.
20 These dissemination limitations also do not apply to data
21 relating to cases in which the defendant is acquitted, or

1 charges are dismissed, by reason of physical or mental disease,
2 disorder, or defect under chapter 704.

3 Criminal history record information disseminated to
4 noncriminal justice agencies shall be used only for the purposes
5 for which it was given.

6 No agency or individual shall confirm the existence or
7 nonexistence of criminal history record information to any
8 person or agency that would not be eligible to receive the
9 information itself.

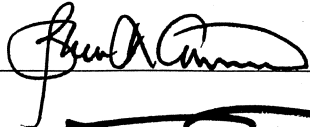

10 (b) Conviction data shall be disseminated to the public
11 and accessible at the data center and the county police
12 departments. Conviction data relating to felonies, but not
13 offenses of a misdemeanor or lower grade, may be made available
14 at a website accessed via the Internet."

15 SECTION 2. New statutory material is underscored.

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

17

INTRODUCED BY:

JAN 20 2006



HB/984

Report Title:

Criminal History; Conviction Data

Description:

Prohibits the attorney general from posting non-felony convictions on any website accessed via the Internet.

