

JAN 22 2008

---

---

# A BILL FOR AN ACT

RELATING TO JUVENILE COURT RECORDS.

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

1           SECTION 1. The legislature finds that while the State's  
2 policy of confidentiality involving court records of minors  
3 should be protected, a limited exception is needed in cases  
4 involving serious acts of violence committed by minors that  
5 could jeopardize the safety and welfare of Hawaii's citizens.  
6 Even in these selected cases, the dissemination of criminal  
7 records of minors should be as limited as possible and  
8 consistent with the State's policy of supporting the minor in an  
9 appropriate manner while balancing the need to protect  
10 potentially vulnerable school staff and other students.

11           The purpose of this Act is to:

- 12           (1) Allow limited accessibility by public and private  
13           school officials to information contained in court  
14           records of minors who are law violators; and  
15           (2) Require notification from a court to appropriate  
16           school officials under sections 571-84 and 571-84.6,  
17           Hawaii Revised Statutes.



1 SECTION 2. Section 571-84, Hawaii Revised Statutes, is  
2 amended by amending subsections (a) and (b) to read as follows:  
3 "(a) The court shall maintain records of all cases brought  
4 before it. Except as provided in section 571-84.6, in  
5 proceedings under section 571-11 and in paternity proceedings  
6 under chapter 584, the following records shall be withheld from  
7 public inspection: the court docket, petitions, complaints,  
8 motions, and other papers filed in any case; transcripts of  
9 testimony taken by the court; and findings, judgments, orders,  
10 decrees, and other papers other than social records filed in  
11 proceedings before the court. The records other than social  
12 records shall be open to inspection: by the parties and their  
13 attorneys, by an institution or agency to which custody of a  
14 minor has been transferred, and by an individual who has been  
15 appointed guardian; with consent of the judge, by persons having  
16 a legitimate interest in the proceedings from the standpoint of  
17 the welfare of the minor; and, pursuant to order of the court or  
18 the rules of court, by persons conducting pertinent research  
19 studies, and by persons, institutions, and agencies having a  
20 legitimate interest in the protection, welfare, treatment, or  
21 disposition of the minor. For the purposes of this subsection,



1 "persons, institutions, and agencies" includes public and  
2 private school officials.

3 (b) Reports of social and clinical studies or examinations  
4 made pursuant to this chapter shall be withheld from public  
5 inspection, except that information from these reports may be  
6 furnished, in a manner determined by the judge, to persons and  
7 governmental and private agencies and institutions conducting  
8 pertinent research studies or having a legitimate interest in  
9 the protection, welfare, treatment, or disposition of the minor.

10 For the purposes of this subsection, "persons and governmental  
11 and private agencies and institutions" includes public and  
12 private school officials."

13 SECTION 3. Section 571-84.6, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 **"§571-84.6 Minor law violators; proceedings and records**  
16 **~~[not confidential.];~~ disclosure of information.** (a) As used in  
17 this section:

18 "Legal record" means petitions, complaints, motions, and  
19 other papers filed in any case; transcripts of testimony taken  
20 by the court; and findings, judgments, orders, decrees, and  
21 other papers and adjudication data, other than social records,  
22 filed in proceedings before the court.



1 "Social record" means those social and clinical studies,  
2 reports, or examinations prepared in any case pursuant to this  
3 chapter.

4 (b) Notwithstanding any other law to the contrary, in any  
5 proceeding in which a minor age fourteen years of age or older  
6 has been adjudicated by the court under section 571-11(1) for an  
7 act that if committed by an adult would:

8 (1) Be murder in the first degree or second degree or  
9 attempted murder in the first degree;

10 (2) Result in serious bodily injury to or death of a  
11 victim;

12 (3) Be a class A felony; or

13 (4) Be a felony and the minor has more than one prior  
14 adjudication for acts that would constitute felonies  
15 if committed by an adult,

16 all legal records related to the above stated proceeding shall  
17 be open for public inspection, unless the administrative judge  
18 of the family court or the judge's designee finds in writing  
19 that there are significant and compelling circumstances peculiar  
20 to the case of such a nature that public inspection would be  
21 inconsistent with or defeat the express purpose of this section.



1 All social records shall be kept confidential except as provided  
2 in section 571-84.

3 (c) Notwithstanding any other law to the contrary, in any  
4 case in which a minor age sixteen years of age or older comes  
5 within section 571-11(1) is taken into custody for an act that  
6 if committed by an adult would:

7 (1) Be murder in the first degree or second degree or  
8 attempted murder in the first degree;

9 (2) Result in serious bodily injury to or death of a  
10 victim;

11 (3) Be a class A felony and the minor has one or more  
12 prior adjudications for an act that would constitute a  
13 felony if committed by an adult; or

14 (4) Be a class B or C felony and the minor has more than  
15 one prior adjudication for acts that would constitute  
16 felonies if committed by an adult,

17 all legal proceedings related to the above stated case shall be  
18 open to the public unless the administrative judge of the family  
19 court or the judge's designee finds in writing that there are  
20 significant and compelling circumstances peculiar to the case of  
21 such a nature that an open proceeding would be inconsistent with  
22 or defeat the express purpose of this section.



1        (d) Notwithstanding any other law to the contrary, in any  
2 case or proceeding in which a minor age fourteen years of age or  
3 older has been adjudicated by the court under section 571-11(1)  
4 and for which the records have been opened under this section,  
5 the appropriate family court, within seven days of the  
6 adjudication, shall notify the public or private school official  
7 of the school at which the minor was last or is presently  
8 enrolled of such adjudication.

9        (e) Notwithstanding any other law to the contrary, in any  
10 case or proceeding in which a minor has been placed under the  
11 court's jurisdiction pursuant to section 571-11(1) for an act  
12 that if committed by an adult would constitute an offense under  
13 parts II, III, IV, or V of chapter 707 or part IV of chapter  
14 712, the appropriate family court, within seven days of the  
15 filing of the petition, shall notify the public or private  
16 school official of the school at which the minor was last or is  
17 presently enrolled. The court's notification shall include the  
18 minor's name, the nature of the offense, whether the minor is in  
19 protective custody and the period of that custody, and whether  
20 the alleged victim is a student of the school at which the minor  
21 was last or is presently enrolled. Upon final disposition of  
22 the petition or adjudication of the minor's case, the



1 appropriate family court, within seven days of the disposition  
2 or adjudication, shall notify the public or private school  
3 official of the school at which the minor was last or is  
4 presently enrolled of such disposition or adjudication and  
5 whether the minor shall remain under the court's jurisdiction  
6 and the period of such jurisdiction.

7 (f) No public or private school official may receive court  
8 records pursuant to this section unless the official has  
9 registered with the court as a liaison representing a public or  
10 private school; provided that no public or private school may  
11 have more than one registered liaison at any one time for the  
12 purposes of receiving information by that public or private  
13 school. All information or court records received by a public  
14 or private school official under this section are deemed  
15 confidential, shall be maintained by that public or private  
16 official, and shall be protected from disclosure to persons  
17 other than the minor's parent or guardian, the principal and one  
18 individual teacher or counselor designated by the principal from  
19 the school at which the minor is presently enrolled, or if a  
20 minor transfers to another school within the State to the duly  
21 registered public or private school official of that school.  
22 Upon a minor's graduation from a public or private school, the



1 public or private official maintaining the confidential  
2 information or records shall destroy the information.

3 (g) Any public or private school official, principal, or  
4 designated teacher or counselor who possesses information from a  
5 court record released pursuant to this section shall be released  
6 from personal and professional liability."

7 SECTION 4. Statutory material to be repealed is bracketed  
8 and stricken. New statutory material is underscored.

9 SECTION 5. This Act shall take effect upon its approval.

10

11

INTRODUCED BY:

Will Enger





**Report Title:**

Juvenile Court Records; Information Sharing; School Personnel

**Description:**

Allows limited disclosure of information from family court records on minors under family court jurisdiction pursuant to section 571(1); requires family court to notify public or private school officials registered with court of adjudication of minors for offenses for which court records become public; requires family court to notify public or private school officials of petitions filed with the court for minors accused of offenses that would be serious crimes under penal code; requires that disclosed information remain confidential.

