
A BILL FOR AN ACT

RELATING TO ADULT PROBATION RECORDS.

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

1 SECTION 1. Section 806-73, Hawaii Revised Statutes, is
2 amended by amending subsections (a) and (b) to read as follows:
3 "(a) A probation officer shall investigate any case
4 referred to the probation officer for investigation by the court
5 in which the probation officer is serving and report thereon to
6 the court. The probation officer shall instruct each defendant
7 placed on probation under the probation officer's supervision of
8 the terms and conditions of the defendant's probation. The
9 probation officer shall keep informed concerning the conduct and
10 condition of the defendant and report thereon to the court, and
11 shall use all suitable methods to aid the defendant and bring
12 about an improvement in the defendant's conduct and condition.
13 The probation officer shall keep these records and perform other
14 duties as the court may direct. [~~Upon written request, the~~
15 ~~victim, or the parent or guardian of a minor victim or~~
16 ~~incapacitated victim, of a defendant who has been placed on~~
17 ~~probation for an offense under sections 580-10(d)(1), [586-~~
18 ~~4(e)], 586-11(a), or 709-906, may be notified by the defendant's~~



1 ~~probation officer when the probation officer has any information~~
2 ~~relating to the safety and welfare of the victim.]~~ No probation
3 officer shall be subject to civil liability or criminal
4 culpability for any disclosure or non-disclosure, under this
5 section, if the probation officer acts in good faith and upon
6 reasonable belief.

7 (b) All adult probation records shall be confidential and
8 shall not be deemed to be public records. As used in this
9 section, the term "records" includes, but is not limited to, all
10 records made by any adult probation officer in the course of
11 performing the probation officer's official duties. The
12 records, or the content of the records, shall be divulged only
13 as follows:

14 (1) A copy of any adult probation case record or of a
15 portion of it, or the case record itself, upon
16 request, may be provided to:

17 (A) An adult probation officer, court officer, social
18 worker of a Hawaii state adult probation unit, or
19 a family court officer who is preparing a report
20 for the courts; or

21 (B) A state or federal criminal justice agency, or
22 state or federal court program that:



1 (i) Is providing supervision of a defendant or
2 offender convicted and sentenced by the
3 courts of Hawaii; or

4 (ii) Is responsible for the preparation of a
5 report for a court;

6 (2) The residence address, work address, home telephone
7 number, or work telephone number of a current or
8 former defendant shall be provided only to:

9 (A) A law enforcement officer as defined in section
10 710-1000(13) to locate the probationer for the
11 purpose of serving a summons or bench warrant in
12 a civil, criminal, or deportation hearing, or for
13 the purpose of a criminal investigation; or

14 (B) A collection agency or licensed attorney
15 contracted by the judiciary to collect any
16 delinquent court-ordered penalties, fines,
17 restitution, sanctions, and court costs pursuant
18 to section 601-17.5[-];

19 (3) A copy of a presentence report or investigative report
20 shall be provided only to:

21 (A) The persons or entities named in section 706-604;

22 (B) The Hawaii paroling authority;



- 1 (C) Any psychiatrist, psychologist, or other
2 treatment practitioner who is treating the
3 defendant pursuant to a court order or parole
4 order for that treatment;
- 5 (D) The intake service centers;
- 6 (E) In accordance with applicable law, persons or
7 entities doing research; and
- 8 (F) Any Hawaii state adult probation officer or adult
9 probation officer of another state or federal
10 jurisdiction who:
- 11 (i) Is engaged in the supervision of a defendant
12 or offender convicted and sentenced in the
13 courts of Hawaii; or
- 14 (ii) Is engaged in the preparation of a report
15 for a court regarding a defendant or
16 offender convicted and sentenced in the
17 courts of Hawaii;
- 18 (4) Access to adult probation records by a victim, as
19 defined in section 706-646 to enforce an order filed
20 pursuant to section 706-647, shall be limited to the
21 name and contact information of the defendant's adult
22 probation officer[-];



1 (5) Upon written request, the victim, or the parent or
2 guardian of a minor victim or incapacitated victim, of
3 a defendant who has been placed on probation for an
4 offense under section 580-10(d)(1), 586-4(e), 586-
5 11(a), or 709-906 may be notified by the defendant's
6 probation officer when the probation officer has any
7 information relating to the safety and welfare of the
8 victim;

9 [+5] (6) Notwithstanding [subsection (b)(3),] paragraph
10 (3) and upon notice to the defendant, records and
11 information relating to the defendant's risk
12 assessment and need for treatment services [ø];
13 information related to the defendant's past treatment
14 and assessments, with prior written consent for
15 information coming from a treatment service provider;
16 and information that has therapeutic or rehabilitative
17 benefit may be provided to:

18 (A) A case management, assessment or treatment
19 service provider assigned by adult probation to
20 service the defendant; provided that such
21 information shall be given only upon the



1 acceptance or admittance of the defendant into a
2 treatment program;

3 (B) Correctional case manager, correctional unit
4 manager, and parole officers involved with the
5 defendant's treatment or supervision; and

6 (C) In accordance with applicable law, persons or
7 entities doing research[-];

8 (7) Probation drug test results may be released to the
9 defendant's treating physician when there is an
10 indication that test results indicate substance use,
11 which may be compromising the defendant's medical care
12 or treatment;

13 [+6+] (8) Any person, agency, or entity receiving records,
14 or contents of records, pursuant to this subsection
15 shall be subject to the same restrictions on
16 disclosure of the records as Hawaii state adult
17 probation offices[-]; and

18 [+7+] (9) Any person who uses the information covered by
19 this subsection for purposes inconsistent with the
20 intent of this subsection or outside of the scope of
21 [their] the person's official duties shall be fined no
22 more than \$500."



1 SECTION 2. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 3. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 4. This Act shall take effect on July 1, 2050.

7



Report Title:

Adult Probation Records; Disclosure

Description:

Authorizes disclosure of probation drug test results to defendant's doctor when the results indicate substance abuse that may compromise medical care or treatment. Effective 7/1/50. (SD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

