

A Bill for an Act Relating to Status of Convicted Persons.

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

SECTION 1. Section 831-3.1, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The following criminal records shall not be used, distributed, or disseminated by the State or any of its political subdivisions or agencies in connection with an application for any said employment, permit, license, registration, or certificate:

- (1) Records of arrest not followed by a valid conviction;
- (2) Convictions which have been annulled or expunged;
- (3) Convictions of a penal offense for which no jail sentence may be imposed;
- (4) Conviction of a misdemeanor in which the period of twenty years has elapsed since date of conviction and during which elapsed time there has not been any subsequent arrest or conviction.

Except as provided in paragraphs (1) to (4), the State or any of its political subdivisions or agencies may consider as a possible justification for the refusal, suspension, or revocation of any employment or of any permit, license, registration, or certificate, any conviction of a penal offense when such offense directly relates (i) to the applicant's possible performance in the job applied for, or (ii) to the employee's possible performance in the job which the employee holds, or (iii) to the applicant's or holder's possible performance in the occupation, trade, vocation, profession, or business for which a permit, license, registration, or certificate is applied for or held.

For the purpose of this subsection, such refusal, suspension, or revocation may occur only when the agency determines, after investigation in accordance with chapter 91, or, in the case of employment in the civil service, after appropriate investigation, notification of results and planned action, and opportunity to meet and rebut the finding, all of which need not be conducted in accordance with chapter 91, that the person so convicted has not been sufficiently rehabilitated to warrant the public trust; provided that discharge from probation or parole supervision, or a period of two years after final discharge or release from any term of imprisonment, without subsequent criminal conviction, [shall be deemed rebuttable prima facie evidence of sufficient] may be considered as one of many factors to determine sufficiency of rehabilitation. A person deemed ineligible for employment in the civil service shall be entitled to appeal any and all adverse decisions to the civil service commission within twenty days after the notice of action has been sent to the person.”

SECTION 2. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved June 7, 1989.)