

ACT 102

H.B. NO. 2975

A Bill for an Act Relating to Adult Probation Records.

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

SECTION 1. Section 806-73, Hawaii Revised Statutes, is amended to read as follows:

**“§806-73 Duties and powers of probation officers; adult probation records.** (a) A probation officer shall investigate any case referred to the probation officer for investigation by the court in which the probation officer is serving and report thereon to the court. The probation officer shall instruct each defendant placed on probation under the probation officer’s supervision [regarding] of the terms and conditions of the defendant’s probation. The probation officer shall keep informed concerning the conduct and condition of the defendant and [shall] report thereon to the court, and shall use all suitable methods to aid the defendant and [to] bring about an improvement in the defendant’s conduct and condition. The probation officer shall keep these records and perform other duties as the court may direct.

(b) All records of the Hawaii state adult probation divisions [are] shall be confidential and [are] shall not be deemed to be public records[, including]. As used in this section, the term “records” includes but is not limited to[, all records made by any adult probation officer in the course of performing the probation officer’s official duties; provided that the records, or the content of the records, shall be divulged only as follows:

- (1) A copy of any adult probation division case record or of a portion of it, or the case record itself, [may] upon request, may be provided [only] to an adult probation officer of a Hawaii state adult probation division; provided that a written summary of the record may be provided upon request to any, a family court officer who is preparing a report for the courts, or a state or federal criminal justice agency [which is] that:
  - (A) Is providing supervision of a defendant or offender convicted and sentenced by the courts of Hawaii[, or which is]; or
  - (B) Is responsible for the preparation of a report for a court[.];
- (2) The contents of any adult probation division case record relevant for the purpose of serving a summons or bench warrant in a civil or criminal proceeding or [in] a deportation proceeding, may be released only to a state or federal law enforcement agency[.]; and
- (3) A copy of a presentence report or investigative report shall be provided only to [the];

- (A) The persons or entities named in section 706-604; [to the]
  - (B) The Hawaii paroling authority; [to any]
  - (C) Any psychiatrist, psychologist, or other [mental health] treatment practitioner who is treating the defendant pursuant to a court order or parole order<sup>1</sup> for [mental health care; to the] that treatment;
  - (D) The intake service centers; [in]
  - (E) In accordance with applicable law [to], persons or entities doing research; [to any] and
  - (F) Any Hawaii state adult probation officer or [to an] adult probation officer of another state or federal jurisdiction who [is];
    - (i) Is engaged in the supervision of a defendant or offender convicted and sentenced in the courts of Hawaii[, or which is]; or
    - (ii) Is engaged in the preparation of a report for a court regarding a defendant or offender convicted and sentenced in the courts of Hawaii.
- (c) Every probation officer [shall], within the scope of the probation officer's duties, shall have the powers of a police officer."

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 8, 1994.)

**Note**

- 1. Should not be underscored.