

ACT 196

S.B. NO. 65

A Bill for an Act Relating to Criminal Procedure.

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

SECTION 1. The purpose of this Act is to clarify the statutory language relating to the identification processing for penal summons cases under section 846-2.5, Hawaii Revised Statutes. Section 846-2.5 was amended by Act 119, Session Laws of Hawaii (SLH) 1985, for penal summons cases, and again in 1995 by Act 100, SLH 1995, for the purpose of including fingerprints of juvenile law violators in the State’s Automated Fingerprint Identification System (AFIS). The resulting statutory language requires clarification to avoid any misinterpretation of the intent of these two legislative acts.

SECTION 2. Section 846-2.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) The attorney general shall select and enforce systems of identification, including fingerprinting, ~~[without the necessity of a court order;]~~ of: all adults arrested for a criminal offense[;]; all persons to whom penal summonses have been issued for a criminal offense and who have been convicted or granted a deferred acceptance of guilty or nolo contendere plea or a conditional discharge; and without the necessity of a court order, children who are twelve years of age or older who come within section 571-11(1) and who are taken into custody for committing an act ~~[which,]~~ that, if committed by an adult, would be a felony, a misdemeanor, or a petty misdemeanor;¹ ~~[and all persons to whom penal summonses have been issued for a criminal offense and who have been convicted or granted a deferred acceptance of guilty or nolo contendere plea or a conditional discharge, and].~~ The attorney general shall provide for the collection, recording, and compilation of data and statistics relating to crime[; provided that, unless]. Unless a child’s physical fingerprint record is otherwise authorized to be entered into the system, and notwithstanding any law to the contrary, the attorney general shall purge any child’s electronic fingerprint record entered into the identification system pursuant to this subsection[;] either, upon court order[;] or when: the child attains the age of twenty-five years[, when]; the child is determined not to be responsible for committing the act for which the fingerprints were taken[;]; or [when] the child is not informally adjusted under section 571-31.4 and a petition is not filed within one year from the date the child is

taken into custody. The court shall notify the attorney general when a child is determined not to be responsible for committing the act for which the fingerprints were taken. A child's fingerprint record shall not be transmitted to any system outside the State.

Notwithstanding any law to the contrary, upon the conviction of a person to whom a penal summons complaint has been issued for a criminal offense, or upon the granting of a deferred acceptance of a guilty or nolo contendere plea or a conditional discharge to such person, the court shall order the person to report, within seven days, to the appropriate police department, sheriff's office, or other governmental agency for identification processing, including fingerprinting and photographing, as provided under this subsection. Failure to comply with a court order for identification processing under this subsection will constitute criminal contempt of court in violation of section 710-1077.

The several counties shall provide the necessary equipment and the compensation of the persons required to install and carry out the work of the systems of identification and statistics in their respective jurisdictions; provided that those expenses in connection with matters exclusively within the control of the State shall be borne by the State; and provided further that the State shall provide for the management and equipment maintenance of the computerized fingerprint identification system.

The systems shall be uniform throughout the State, shall be continuous in operation, and shall be maintained as far as possible in a manner as shall be in keeping with the most approved and modern methods of identification and of the collection and compilation of the statistics.

The attorney general shall keep a uniform record of the work of the courts, prosecuting officers, the police, and other agencies or officers for the prevention or detection of crime and the enforcement of law in a form suitable for the:

- (1) Study of the cause and prevention of crime and delinquency and of the efforts made and efficacy thereof to detect or prevent crime and to apprehend and punish violators of law; and
- (2) Examination of the records of the operations of those officers and the results thereof."

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

SECTION 4. This Act shall take effect upon its approval.

(Approved May 31, 2001.)

Note

1. So in original.