

ACT 36

S.B. NO. 2602

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 by amending subsection (b) to read as follows:

“(b) All adult probation records [~~of the Hawaii state adult probation divisions~~] shall be confidential and shall not be deemed to be public records. 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~~]. 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, upon request, may be provided to [an]:
 - (A) An adult probation officer, court officer, social worker of a Hawaii state adult probation [~~division,~~] unit, or a family court officer who is preparing a report for the courts[;]; or [a]
 - (B) A state or federal criminal justice agency, or state or federal court program that:
 - ~~(A)~~ Is (i) Is providing supervision of a defendant or offender convicted and sentenced by the courts of Hawaii; or
 - ~~(B)~~ Is (ii) Is responsible for the preparation of a report for a court;
- (2) The [~~contents of any adult probation division case record relating to~~] residence address, work address, home telephone number, or work telephone number of a [~~probationer~~] current or former defendant shall be provided only to [a]:
 - (A) A law enforcement officer as defined in section 710-1000(13) to locate the probationer for the purpose of serving a summons or

- bench warrant in a civil, criminal, or deportation hearing, or for the purpose of a criminal investigation; [and] or
- (B) A collection agency or licensed attorney contracted by the judiciary to collect any delinquent court-ordered penalties, fines, restitution, sanctions, and court costs pursuant to section 601-17.5.
- (3) A copy of a presentence report or investigative report shall be provided only to:
- (A) The persons or entities named in section 706-604;
 - (B) The Hawaii paroling authority;
 - (C) Any psychiatrist, psychologist, or other treatment practitioner who is treating the defendant pursuant to a court order or parole order for that treatment;
 - (D) The intake service centers;
 - (E) In accordance with applicable law, persons or entities doing research; and
 - (F) Any Hawaii state adult probation officer or adult probation officer of another state or federal jurisdiction who:
 - (i) Is engaged in the supervision of a defendant or offender convicted and sentenced in the courts of Hawaii; 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[-];
- (4) Access to adult probation records by a victim, as defined in section 706-646 to enforce an order filed pursuant to section 706-647, shall be limited to the name and contact information of the defendant's adult probation officer.
- (5) Notwithstanding subsection (b)(3), upon notice to the defendant, records and information relating to the defendant's risk assessment and need for treatment services or information related to the defendant's past treatment and assessments may be provided to:
- (A) A case management, assessment or treatment service provider assigned by adult probation to service the defendant; provided that such information shall be given only upon the acceptance or admittance of the defendant into a treatment program;
 - (B) Correctional case manager, correctional unit manager, and parole officers involved with the defendant's treatment or supervision; and
 - (C) In accordance with applicable law, persons or entities doing research.
- (6) Any person, agency, or entity receiving records, or contents of records, pursuant to this subsection shall be subject to the same restrictions on disclosure of the records as Hawaii state adult probation offices.
- (7) Any person who uses the information covered by this subsection for purposes inconsistent with the intent of this subsection or outside of the scope of their official duties shall be fined no more than \$500."

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

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

(Became law on April 26, 2006, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)