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# A BILL FOR AN ACT

RELATING TO ADJUDICATION OF TRAFFIC INFRACTIONS COMMITTED BY  
MINORS.

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

1           SECTION 1. Section 291D-3, Hawaii Revised Statutes, is  
2 amended by amending subsections (a) and (b) to read as follows:  
3           "(a) Notwithstanding any other provision of law to the  
4 contrary, all traffic infractions, including those committed by  
5 minors, shall be adjudicated pursuant to this chapter, except as  
6 provided in subsection (b). This chapter shall be applied  
7 uniformly throughout the State and in all counties. No penal  
8 sanction that includes imprisonment shall apply to a violation  
9 of a state statute or rule, or county ordinance or rule, that  
10 would constitute a traffic infraction under this chapter. No  
11 traffic infraction shall be classified as a criminal offense.  
12           (b) No traffic infraction that involves an accident  
13 resulting in personal injury or property damage and is committed  
14 in the same course of conduct as a criminal offense for which  
15 the offender is arrested or charged shall be adjudicated  
16 pursuant to this chapter, but shall be adjudicated by the  
17 appropriate district, family, or circuit court of the circuit in



1 which the traffic infraction was committed, whichever has  
2 jurisdiction pursuant to the applicable statute or rules of  
3 court. In no event shall section 701-109 preclude prosecution  
4 for a criminal offense where a traffic infraction committed in  
5 the same course of conduct has been adjudicated pursuant to this  
6 chapter."

7 SECTION 2. Section 291D-4, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "[+]§291D-4[+] **Venue and jurisdiction.** (a) All  
10 violations of state law, ordinances, or rules designated as  
11 traffic infractions in this chapter shall be adjudicated in the  
12 district and circuit where the alleged infraction occurred,  
13 except as otherwise provided by law.

14 (b) Except as otherwise provided by law, jurisdiction is  
15 in the district court of the circuit where the alleged traffic  
16 infraction occurred. Except as otherwise provided in this  
17 chapter, district court judges shall adjudicate traffic  
18 infractions.

19 (c) Chapter 571 notwithstanding, district courts shall  
20 have exclusive jurisdiction to adjudicate traffic infractions  
21 committed by minors, except as provided by section 291D-3(b)."



1 SECTION 3. Section 291D-14, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "~~§~~291D-14~~§~~ **Rules.** (a) The supreme court may adopt  
4 rules of procedure for the conduct of all proceedings pursuant  
5 to this chapter.

6 (b) Chapter 626 shall not apply in proceedings conducted  
7 pursuant to this chapter, except for the rules governing  
8 privileged communications, and proceedings conducted under  
9 section 291D-13.

10 (c) Notwithstanding section 604-17, while the court is  
11 sitting in any matter pursuant to this chapter, the court shall  
12 not preserve the testimony or proceedings, except proceedings  
13 conducted pursuant to section 291D-13.

14 (d) The prosecuting attorney shall not participate in  
15 proceedings conducted pursuant to this chapter, except  
16 proceedings pursuant to section 291D-13.

17 (e) Chapter 91 shall not apply in proceedings before the  
18 court.

19 (f) Except as otherwise provided in section 291D-3(b),  
20 chapter 571 and the Hawaii Family Court Rules shall not apply in  
21 any proceedings conducted pursuant to this chapter."



1 SECTION 4. Section 571-11, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§571-11 Jurisdiction; children.** Except as otherwise  
4 provided in this chapter, the court shall have exclusive  
5 original jurisdiction in proceedings:

6 (1) Concerning any person who is alleged to have committed  
7 an act prior to achieving eighteen years of age which  
8 would constitute a violation or attempted violation of  
9 any federal, state, or local law or municipal  
10 ordinance[-]; provided that the district courts shall  
11 have exclusive jurisdiction to adjudicate traffic  
12 infractions pursuant to chapter 291D, except as  
13 provided in section 291D-3(b). Regardless of where  
14 the violation occurred, jurisdiction may be taken by  
15 the court of the circuit where the person resides, is  
16 living, or is found, or in which the offense is  
17 alleged to have occurred.

18 (2) Concerning any child living or found within the  
19 circuit:

20 (A) Who is neglected as to or deprived of educational  
21 services because of the failure of any person or



- 1 agency to exercise that degree of care for which  
2 it is legally responsible;
- 3 (B) Who is beyond the control of the child's parent  
4 or other custodian or whose behavior is injurious  
5 to the child's own or others' welfare;
- 6 (C) Who is neither attending school nor receiving  
7 educational services required by law whether  
8 through the child's own misbehavior or  
9 nonattendance or otherwise; or
- 10 (D) Who is in violation of curfew.
- 11 (3) To determine the custody of any child or appoint a  
12 guardian of any child.
- 13 (4) For the adoption of a person under chapter 578.
- 14 (5) For the termination of parental rights under sections  
15 571-61 to 571-63.
- 16 (6) For judicial consent to the marriage, employment, or  
17 enlistment of a child, when such consent is required  
18 by law.
- 19 (7) For the treatment or commitment of a mentally  
20 defective, mentally retarded, or mentally ill child.
- 21 (8) Under the Interstate Compact on Juveniles under  
22 chapter 582.



1 (9) For the protection of any child under chapter 587.

2 (10) For a change of name as provided in section 574-  
3 5(a)(2)(C)."

4 SECTION 5. Section 571-41, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "**§571-41 Procedure in children's cases.** (a) Cases of  
7 children in proceedings under section 571-11(1) and (2) shall be  
8 heard by the court separate from hearings of adult cases and  
9 without a jury. Stenographic notes or mechanical recordings  
10 shall be required as in other civil cases in the circuit courts,  
11 unless the parties waive the right of such record or the court  
12 so orders. The hearings may be conducted in an informal manner  
13 and may be adjourned from time to time.

14 (b) Except as provided in section 571-84.6, the general  
15 public shall be excluded and only such persons admitted whose  
16 presence is requested by the parent or guardian or as the judge  
17 or district family judge finds to have a direct interest in the  
18 case, from the standpoint of the best interests of the child  
19 involved, or in the work of the court; provided that:

20 (1) Upon request by a party, hearings initiated pursuant  
21 to chapter 587 may be opened to the public if a judge

1 determines that doing so would be in the best  
2 interests of the child;

3 (2) Parties involved in hearings initiated pursuant to  
4 chapter 587 shall be allowed to be accompanied by an  
5 adult advocate to provide support, unless the court  
6 finds that the presence of the advocate would not be  
7 in the best interests of the child. The advocate need  
8 not be a licensed attorney. The State shall not be  
9 required to pay, directly or through reimbursement,  
10 for any fees, costs, or expenses related to the  
11 advocate. No person shall act as an advocate who has  
12 an interest in the matter beyond the protection of the  
13 child and the healing and rehabilitation of the  
14 family; and

15 (3) The victim of the alleged violation and all other  
16 witnesses who are younger than eighteen years of age  
17 shall be entitled to have parents, guardians, or one  
18 other adult and may have an attorney present while  
19 testifying at or otherwise attending a hearing  
20 initiated pursuant to section 571-11(1) or 571-11(2).

21 Prior to the start of a hearing, the parents, guardian, or legal  
22 custodian, and, when appropriate, the child, the child victim,



1 or witness shall be notified of the right to be represented by  
2 counsel and the right to remain silent.

3 (c) Findings of fact by the judge or district family judge  
4 of the validity of the allegations in the petition shall be  
5 based upon a preponderance of evidence admissible in the trial  
6 of civil cases except for petitions alleging the court's  
7 jurisdiction under section 571-11(1) which shall require proof  
8 beyond a reasonable doubt in accordance with rules of evidence  
9 applicable to criminal cases; provided that no child who is  
10 before the court under section 571-11(1) shall have admitted  
11 against the child any evidence in violation of the child's  
12 rights secured under the constitution of the United States or  
13 the State of Hawaii. In the discretion of the judge or district  
14 family judge the child may be excluded from the hearing at any  
15 time. When more than one child is alleged to have been involved  
16 in the same act, the hearing may be held jointly for the purpose  
17 of making a finding as to the allegations in the petition and  
18 then shall be heard separately for the purpose of disposition  
19 except in cases where the children involved have one common  
20 parent.

21 (d) In the disposition part of the hearing any relevant  
22 and material information, including that contained in a written





1 report, study, or examination, shall be admissible, and may be  
2 relied upon to the extent of its probative value; provided that  
3 the maker of the written report, study, or examination shall be  
4 subject to both direct and cross-examination upon demand and  
5 when the maker is reasonably available. The disposition shall  
6 be based only upon the admitted evidence, and findings adverse  
7 to the child as to disputed issues of fact shall be based upon a  
8 preponderance of such evidence.

9 (e) Upon a final adverse disposition, if the parent or  
10 guardian is without counsel the court shall inform the parent or  
11 guardian of the parent's or guardian's right to appeal as  
12 provided for in section 571-54.

13 ~~[(f) The judge, or the senior judge if there is more than~~  
14 ~~one, may by order confer concurrent jurisdiction on a district~~  
15 ~~court created under chapter 604 to hear and dispose of cases of~~  
16 ~~violation of traffic laws or ordinances by children, provision~~  
17 ~~to the contrary in section 571-11 or elsewhere notwithstanding.~~  
18 ~~The exercise of jurisdiction over children by district courts~~  
19 ~~shall, nevertheless, be considered noncriminal in procedure and~~  
20 ~~result in the same manner as though the matter had been~~  
21 ~~adjudicated and disposed of by a family court.]"~~



1 SECTION 6. 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 7. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 8. This Act shall take effect on July 1, 2006.

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INTRODUCED BY:  \_\_\_\_\_

By Request



**SB. NO. 2595**

**Report Title:**

Traffic Infractions; Minors

**Description:**

Gives district court jurisdiction over traffic infractions committed by minors.

