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# A BILL FOR AN ACT

RELATING TO THE PURPOSE OF THE HAWAII YOUTH CORRECTIONAL FACILITY.

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

1           SECTION 1. Section 352-2.1, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:  
3           "(a) This chapter creates within the department of human  
4 services, and to be placed within the office of youth services  
5 under the supervision of the director and such other  
6 subordinates as the director shall designate, the Hawaii youth  
7 correctional facilities, [~~in order~~] to provide for the  
8 [~~incarceration, punishment,~~] custody, rehabilitation, and  
9 institutional care and services to [~~reintegrate~~] prepare for  
10 reentry into their communities and families, [~~children~~] youth  
11 committed by the courts of the State."

12           SECTION 2. Section 571-48, Hawaii Revised Statutes, is  
13 amended to read as follows:

14           "**§571-48 Decree, if informal adjustment or diversion to a**  
15 **private or community agency or program has not been effected.**

16 When a minor is found by the court to come within section 571-  
17 11, the court shall so decree and in its decree shall make a



1 finding of the facts upon which the court exercises its  
2 jurisdiction over the minor. Upon the decree the court, by  
3 order duly entered, shall proceed as follows:

4 (1) As to a child adjudicated under section 571-11(1):

5 (A) The court may place the child on probation:

6 (i) In the child's own home; or

7 (ii) In the custody of a suitable person or  
8 facility elsewhere, upon conditions  
9 determined by the court.

10 When conditions of probation include  
11 [~~incarceration~~] custody in a youth correctional  
12 facility, the [~~incarceration~~] custody shall be  
13 for a term not to exceed one year, after which  
14 time the person shall be allowed to reside in the  
15 community subject to additional conditions as may  
16 be imposed by the court;

17 (B) The court may vest legal custody of the child,  
18 after prior consultation with the agency or  
19 institution, in a Hawaii youth correctional  
20 facility, in a local public agency or  
21 institution, or in any private institution or  
22 agency authorized by the court to care for



1 children; or place the child in a private home.  
2 If legal custody of the child is vested in a  
3 private agency or institution in another state,  
4 the court shall select one that is approved by  
5 the family or juvenile court of the other state  
6 or by that state's department of social services  
7 or other appropriate department; or

8 (C) The court may fine the child for a violation  
9 which would be theft in the third degree by  
10 shoplifting if committed by an adult. The court  
11 may require the child to perform public services  
12 in lieu of the fine;

13 (2) As to a child adjudicated under section 571-11(2):

14 (A) The court may place the child under protective  
15 supervision, as hereinabove defined, in the  
16 child's own home, or in the custody of a suitable  
17 person or agency elsewhere, upon conditions  
18 determined by the court; or

19 (B) The court may vest legal custody of the child,  
20 after prior consultation with the agency or  
21 institution, in a local governmental agency or  
22 institution licensed or approved by the State to



1 care for children, with the exception of an  
2 institution authorized by the court to care for  
3 children. If legal custody of the child is  
4 vested in a private agency or institution in  
5 another state, the court shall select one that is  
6 approved by the family or juvenile court of the  
7 other state or by that state's department of  
8 social services or other appropriate department;  
9 provided that the child may not be committed to a  
10 public or private institution operated solely for  
11 the treatment of law violators;

- 12 (3) An order vesting legal custody of a minor in an  
13 individual, agency, or institution under section 571-  
14 11(2) shall be for an indeterminate period but shall  
15 not remain in force or effect beyond three years from  
16 the date entered, except that the individual,  
17 institution, or agency may file with the court a  
18 petition for renewal of the order and the court may  
19 renew the order if it finds such renewal necessary to  
20 safeguard the welfare of the child or the public  
21 interest. The court, after notice to the parties, may  
22 conduct a hearing on the petition. Renewal may be



1 periodic during minority, but no order shall have any  
2 force or effect beyond the period authorized by  
3 section 571-13. An agency granted legal custody shall  
4 be subject to prior approval of the court in any case  
5 in which the child is to reside without the  
6 territorial jurisdiction of the court and may be  
7 subject to prior approval in other cases. An  
8 individual granted legal custody shall exercise the  
9 rights and responsibilities personally unless  
10 otherwise authorized by the court;

11 (4) Whenever the court commits a child to the care of the  
12 director of human services or executive director of  
13 the office of youth services, or vests legal custody  
14 of a child in an institution or agency, it shall  
15 transmit with the order copies of the clinical  
16 reports, social study, and other information pertinent  
17 to the care and treatment of the child, and the  
18 institution or agency shall give to the court any  
19 information concerning the child that the court may at  
20 any time require. An institution or agency receiving  
21 a child under this paragraph shall inform the court  
22 whenever the status of the child is affected through



1 temporary or permanent release, discharge, or transfer  
2 to other custody. An institution to which a child is  
3 committed under section 571-11(1) or (2) shall not  
4 transfer custody of the child to an institution for  
5 the correction of adult offenders, except as  
6 authorized in this chapter and under chapter 352;

7 (5) The court may order, for any child within its  
8 jurisdiction, whatever care or treatment is authorized  
9 by law;

10 (6) In placing a child under the guardianship or custody  
11 of an individual or of a private agency or private  
12 institution, the court shall give primary  
13 consideration to the welfare of the child;

14 (7) In support of any order or decree under section 571-  
15 11(1) or (2), the court may require the parents or  
16 other persons having custody of the child, or any  
17 other person who has been found by the court to be  
18 encouraging, causing, or contributing to the acts or  
19 conditions which bring the child within the purview of  
20 this chapter and who are parties to the proceeding, to  
21 do or to omit doing any acts required or forbidden by  
22 law, when the judge deems this requirement necessary



1 for the welfare of the child. The court may also make  
2 appropriate orders concerning the parents or other  
3 persons having custody of the child and who are  
4 parties to the proceeding. If such persons fail to  
5 comply with the requirement or with the court order,  
6 the court may proceed against them for contempt of  
7 court;

8 (8) In support of any order or decree for custody or  
9 support, the court may make an order of protection  
10 setting forth reasonable conditions of behavior to be  
11 observed for a specified time, binding upon both  
12 parents or either of them. This order may require  
13 either parent to stay away from the home or from the  
14 other parent or children, may permit the other to  
15 visit the children at stated periods, or may require a  
16 parent to abstain from offensive conduct against the  
17 children or each other;

18 (9) The court may dismiss the petition or otherwise  
19 terminate its jurisdiction at any time;

20 (10) In any other case of which the court has jurisdiction,  
21 the court may make any order or judgment authorized by  
22 law;



1 (11) The court may order any person adjudicated pursuant to  
2 section 571-11(1) to make restitution of money or  
3 services to any victim who suffers loss as a result of  
4 the child's action, or to render community service;

5 (12) The court may order any person adjudicated pursuant to  
6 section 571-11(2) to participate in community service;  
7 and

8 (13) The court may order the parents of an adjudicated  
9 minor to make restitution of money or services to any  
10 victim, person, or party who has incurred a loss or  
11 damages as a result of the child's action."

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

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





**Report Title:**

Hawaii Youth Correctional Facility

**Description:**

Clarifies the purpose of committing youth to the Hawaii Youth Correctional Facility. (SB1444 HD1)

