

JAN 22 2007

A BILL FOR AN ACT

RELATING TO TRAFFIC INFRACTIONS.

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

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

3 1. By adding three new definitions to be appropriately
4 inserted and to read:

5 "Concurrent trial" means a trial proceeding held in the
6 district or family court in which the defendant shall be tried
7 simultaneously in a civil case for any charged traffic
8 infraction and in a criminal case for any related criminal
9 offense, said trials to be held in one court on the same date
10 and at the same time.

11 "Notice of traffic infraction" includes a notice of parking
12 infraction.

13 "Related criminal offense" means any criminal violation or
14 crime, committed in the same course of conduct as a traffic
15 infraction, for which the defendant is arrested or charged."

16 2. By amending the definitions of "hearing", "traffic
17 infraction", and "trial" to read:



1 ""Hearing" means a proceeding conducted by the district
 2 court pursuant to section 291D-8 at which [~~a driver either~~] the
 3 person to whom a notice of traffic infraction was issued either
 4 admits to the traffic infraction, contests the notice of traffic
 5 infraction, or admits to the traffic infraction but offers an
 6 explanation to mitigate the monetary assessment imposed.

7 "Traffic infraction" means all violations of statutes,
 8 ordinances, or rules relating to traffic movement and control,
 9 including parking, standing, equipment, and pedestrian offenses,
 10 for which the prescribed penalties do not include
 11 imprisonment[~~-~~] and which are not otherwise specifically
 12 excluded from coverage of this chapter.

13 "Trial" means a trial conducted by the district court
 14 pursuant to the [~~Hawaii Rules of Penal Procedure and~~] rules of
 15 the district court[~~-~~] and the Hawaii rules of evidence."

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

18 "**§291D-3 Applicability.** (a) Notwithstanding any other
 19 provision of law to the contrary, all traffic infractions,
 20 including traffic infractions committed by minors, shall be
 21 adjudicated pursuant to this chapter, except as provided in
 22 subsection (b). This chapter shall be applied uniformly



1 throughout the State and in all counties. No penal sanction
2 that includes imprisonment shall apply to a violation of a state
3 statute or rule, or county ordinance or rule, that would
4 constitute a traffic infraction under this chapter. No traffic
5 infraction shall be classified as a criminal offense.

6 (b) ~~[No traffic infraction that involves an accident~~
7 ~~resulting in personal injury or property damage]~~ Where a
8 defendant is charged with a traffic infraction and the
9 infraction is committed in the same course of conduct as a
10 criminal offense for which the offender is arrested or charged,
11 the traffic infraction shall be adjudicated pursuant to this
12 chapter[, but shall be adjudicated by]; provided that the court
13 may schedule any initial appearance, hearing, or trial on the
14 traffic infraction at the same date, time, and place as the
15 arraignment, hearing, or trial on the related criminal offense.

16 Notwithstanding this subsection and subsection (c), the
17 court shall not schedule any initial appearance, hearing, or
18 trial on the traffic infraction at the same date, time, and
19 place as the arraignment, hearing, or trial on the related
20 criminal offense where the related criminal offense is a felony
21 or is a misdemeanor for which the defendant has demanded a jury
22 trial.



1 (c) If the defendant requests a trial pursuant to section
2 291D-13, the trial shall be held in the [appropriate] district
3 [or circuit] court of the circuit in which the traffic
4 infraction was committed[, whichever has jurisdiction pursuant
5 to the applicable statute or rules of court]. If the court
6 schedules a concurrent trial pursuant to paragraph (1), the
7 concurrent trial shall be held in the appropriate district or
8 family court of the circuit in which the traffic infraction was
9 committed, whichever has jurisdiction over the related criminal
10 offense charged pursuant to the applicable statute or rule of
11 court; provided that:

12 (1) The district or family court, for the purpose of
13 trial, may schedule a civil trial on the traffic
14 infraction on the same date and at the same time as a
15 criminal trial on the related criminal offense
16 charged. The court shall enter a civil judgment as to
17 the traffic infraction and a judgment of conviction or
18 acquittal as to the related criminal offense following
19 such concurrent trial; and

20 (2) If trial on the traffic infraction is held separately
21 from and prior to trial on any related criminal
22 offense, the following shall be inadmissible in the



1 prosecution or trial of the related criminal offense,
2 except as expressly provided by the Hawaii rules of
3 evidence:

4 (A) Any written or oral statement made by the
5 defendant in proceedings conducted pursuant to
6 section 291D-7(b); and

7 (B) Any testimony given by the defendant in the trial
8 on the traffic infraction.

9 Such statements or testimony shall not be deemed a
10 waiver of the defendant's privilege against self-
11 incrimination in connection with any related criminal
12 offense.

13 (d) In no event shall section 701-109 preclude prosecution
14 for a related criminal offense where a traffic infraction
15 committed in the same course of conduct has been adjudicated
16 pursuant to this chapter.

17 ~~[(+e)]~~ (e) If the defendant fails to appear [for a traffic
18 ~~infraction which is committed in the same course of conduct as a~~
19 ~~criminal offense for which the offender is arrested or charged,]~~
20 at any scheduled court date prior to the date of trial or
21 concurrent trial:



1 (1) And the defendant's civil liability for the traffic
 2 infraction has not yet been adjudicated pursuant to
 3 section 291D-8, the court shall enter a judgment by
 4 default in favor of the State for the traffic
 5 infraction unless the court determines that good cause
 6 or excusable neglect exists for the defendant's
 7 failure to appear[~~—The~~]; or

8 (2) And the defendant's civil liability for the traffic
 9 infraction has been adjudicated previously pursuant to
 10 section 291D-8, the judgment earlier entered in favor
 11 of the State shall stand unless the court determines
 12 that good cause or excusable neglect exists for the
 13 defendant's failure to appear.

14 (f) If the defendant fails to appear at any scheduled
 15 court date prior to concurrent trial or fails to appear for
 16 concurrent trial scheduled pursuant to subsection (c)(1), the
 17 court shall enter a disposition pursuant to the Hawaii rules of
 18 penal procedure for the criminal offense."

19 SECTION 3. Section 291D-5, Hawaii Revised Statutes, is
 20 amended to read as follows:

21 "**§291D-5 Notice of traffic infraction; form; determination**
 22 **final unless contested.** (a) The notice of traffic infraction



1 for moving violations shall include the [~~complaint and~~] summons
2 for the purposes of this chapter. Whenever a notice of traffic
3 infraction is issued to the driver of a motor vehicle, the
4 driver's signature, driver's license number, and current address
5 shall be [~~affixed to~~] noted on the notice. If the driver
6 refuses to sign the notice[~~7~~] of traffic infraction, the officer
7 shall record this refusal on the notice and issue the notice to
8 the driver. Individuals to whom a notice of traffic infraction
9 is issued under this chapter need not be arraigned before the
10 court, unless required by rule of the supreme court.

11 (b) The form for the notice of traffic infraction shall be
12 prescribed by rules of the district court which shall be uniform
13 throughout the State[~~7. Except in the case of traffic~~
14 ~~infractions involving parking, the~~]; provided that each judicial
15 circuit may include differing statutory, rule, or ordinance
16 provisions on its respective notice of traffic infraction.

17 (c) A notice of traffic infraction that is generated by
18 the use of electronic equipment or that bears the electronically
19 stored image of any person's signature, or both, shall be valid
20 under this chapter.

21 (d) The notice of traffic infraction shall include the
22 following:



- 1 (1) A statement of the specific traffic infraction[~~7~~
2 ~~including a brief statement of facts,~~] for which the
3 notice was issued;
- 4 (2) Except in the case of parking-related traffic
5 infractions, a brief statement of the facts;
- 6 [+2+] (3) A statement of the total amount to be paid for
7 each traffic infraction, which amount shall include
8 any fee, surcharge, or cost required by statute,
9 ordinance, or rule, and any monetary assessment,
10 established for the particular traffic infraction
11 pursuant to section 291D-9, to be paid by the
12 driver[~~7~~] or registered owner of the vehicle, which
13 shall be uniform throughout the State;
- 14 [+3+] (4) A statement of the options provided in section
15 291D-6(b) for answering the notice and the procedures
16 necessary to exercise the options;
- 17 [+4+] (5) A statement that the person to whom the notice is
18 issued must answer, choosing one of the options
19 specified in section 291D-6(b), within twenty-one
20 days[+] of issuance of the notice;
- 21 [+5+] (6) A statement that failure to answer the notice of
22 traffic infraction within twenty-one days of issuance



1 shall result in the entry of judgment by default for
2 the State and may result in the assessment of a late
3 penalty, and, that if the [~~driver~~] person to whom the
4 notice was issued fails to pay the total amount
5 specified in the default judgment within an additional
6 thirty days or to otherwise take action to set aside
7 the default, notice shall be sent to the director of
8 finance of the appropriate county [~~that~~]:

9 (A) That the person to whom the notice of infraction
10 not involving parking was issued shall not be
11 permitted to renew or obtain a driver's license;
12 or [~~where~~]

13 (B) Where the notice was issued to a motor vehicle,
14 that the registered owner shall not be permitted
15 to register, renew the registration of, or
16 transfer title to the motor vehicle until the
17 traffic infraction is finally disposed of
18 pursuant to this chapter [~~+~~], except as provided
19 in section 291D-10(b);

20 [~~+6+~~] (7) A statement that, at a hearing requested to
21 contest the notice of traffic infraction conducted
22 pursuant to section 291D-8 [~~or in consideration of a~~



1 ~~written statement contesting the notice of traffic~~
2 ~~infraction]~~, no officer shall be present unless the
3 driver timely requests the court to have the officer
4 present [~~The~~], and that the standard of proof to be
5 applied by the court is whether a preponderance of the
6 evidence proves that the specified traffic infraction
7 was committed;

8 [+7+] (8) A statement that, at a hearing requested for the
9 purpose of explaining mitigating circumstances
10 surrounding the commission of the infraction or in
11 consideration of a written request for mitigation, the
12 person shall be considered to have committed the
13 traffic infraction;

14 [+8+] (9) A space in which the [~~driver's~~] signature [~~7~~
15 ~~current address, and driver's license number]~~ of the
16 person to whom the notice was issued may be affixed;
17 and

18 [+9+] (10) The date, time, and place at which the [~~driver~~]
19 person to whom the notice was issued must appear in
20 court, if the [~~driver~~] person is required by the
21 notice to [~~go to~~] appear in person at the hearing.



1 [~~e~~] (e) In the case of traffic infractions involving
 2 parking~~ing~~ or equipment, where the motor vehicle is found parked
 3 or stopped without a driver, the notice shall be affixed
 4 conspicuously to the vehicle as provided in section 291C-167 and
 5 shall include the information required by paragraphs (1) and (3)
 6 to [~~8~~] (9) of subsection [~~b~~] (d)."

7 SECTION 4. Section 291D-6, Hawaii Revised Statutes, is
 8 amended by amending subsections (a) and (b) to read as follows:

9 "(a) A person who receives a notice of traffic infraction
 10 shall answer the notice within twenty-one days of the date of
 11 issuance of the notice. There shall be included with the notice
 12 of traffic infraction a preaddressed envelope directed to the
 13 traffic violations bureau of the applicable district court.

14 (b) [~~It~~] Provided that the notice of traffic infraction
 15 does not require an appearance in person at hearing as set forth
 16 in section 291D-5(b)(10), in answering a notice of traffic
 17 infraction, a person shall have the following options:

18 (1) Admit the commission of the infraction in one of the
 19 following ways:

20 (A) By mail or in person, by completing the
 21 appropriate portion of the notice of traffic
 22 infraction or preaddressed envelope and



1 submitting it to the authority specified on the
2 notice together with payment of the total amount
3 stated on the notice of traffic infraction.

4 Payment by mail shall be in the form of a check,
5 money order, or by an approved credit or debit
6 card. Payment in person shall be in the form of
7 United States currency, check, money order, or by
8 an approved credit or debit card; or

9 (B) Via the Internet or by telephone, by submitting
10 payment of the total amount stated on the notice
11 of traffic infraction. Payment via the Internet
12 or by telephone shall be by an approved credit or
13 debit card;

14 (2) Deny the commission of the infraction and request a
15 hearing to contest the infraction by completing the
16 appropriate portion of the notice of traffic
17 infraction or preaddressed envelope and submitting it,
18 either by mail or in person, to the authority
19 specified on the notice. In lieu of appearing in
20 person at a hearing, the person may submit a written
21 statement of grounds on which the person contests the
22 notice of traffic infraction, which shall be



1 considered by the court as a statement given in court
2 pursuant to section 291D-8(a); or

3 (3) Admit the commission of the infraction and request a
4 hearing to explain circumstances mitigating the
5 infraction by completing the appropriate portion of
6 the notice of traffic infraction or preaddressed
7 envelope and submitting it, either by mail or in
8 person, to the authority specified on the notice. In
9 lieu of appearing in person at a hearing, the person
10 may submit a written explanation of the mitigating
11 circumstances, which shall be considered by the court
12 as a statement given in court pursuant to section
13 291D-8(b)."

14 SECTION 5. Section 291D-7, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§291D-7 Court action after answer or failure to answer.**

17 (a) When an admitting answer is received, the court [~~shall~~
18 ~~review the driver's abstract. The court]~~ shall enter judgment
19 in favor of the State in the total amount specified in the
20 notice of traffic infraction. If the total amount is not
21 submitted with the answer, the court [~~shall~~] may take action as
22 provided in section 291D-10.



1 (b) When a denying answer is received, the court shall
2 proceed as follows:

3 (1) In the case of a traffic infraction [~~that does not~~
4 ~~involve parking~~] where the person requests a hearing
5 at which the person will appear in person to contest
6 the infraction, the court shall notify the person in
7 writing of the date, time, and place of hearing to
8 contest the notice of traffic infraction. The notice
9 of hearing shall be [~~sent~~] mailed to the address
10 stated in the denying answer, or if none is given, to
11 the address stated on the notice of traffic
12 infraction. The notification also shall advise the
13 person that, if the person fails to appear at the
14 hearing, the court shall enter judgment by default in
15 favor of the State, as of the date of the scheduled
16 hearing, that the total amount specified in the
17 default judgment must be paid within thirty days [~~from~~
18 ~~notice~~] of entry of default[7] judgment, and, if it is
19 not paid, that the court shall take action as provided
20 in section 291D-10;

21 [~~(2)~~] ~~In the case of a traffic infraction that involves~~
22 ~~parking, the court shall notify the person or~~



1 ~~registered owner or owners in writing of the date,~~
2 ~~time, and place of hearing to contest the notice of~~
3 ~~traffic infraction. The notice of hearing shall be~~
4 ~~sent to the address stated in the denying answer or,~~
5 ~~if none is given, to the address at which the vehicle~~
6 ~~is registered. The notification also shall advise the~~
7 ~~person that, if the person fails to appear at the~~
8 ~~hearing, the court shall enter judgment by default in~~
9 ~~favor of the State, as of the date of the scheduled~~
10 ~~hearing, that the total amount specified in the~~
11 ~~default judgment shall be paid within thirty days from~~
12 ~~notice of default, and, if it is not paid, that the~~
13 ~~court shall take action as provided in section 291D-~~
14 ~~10.] and~~

15 [+3+] (2) When a denying answer is accompanied by a written
16 statement of the grounds on which the person contests
17 the notice of [the] traffic infraction, the court
18 shall proceed as provided in section 291D-8(a) and
19 shall notify the person of its decision, including the
20 total amount assessed, if any, by mailing [it] the
21 notice of entry of judgment within [thirty] forty-five
22 days of the postmarked date of the answer to the



1 address provided by the person in the denying answer,
2 or if none is given, to the address given when the
3 notice of traffic infraction was issued or, in the
4 case of parking violations, [~~to the address stated in~~
5 ~~the denying answer or, if none is given,~~] to the
6 address at which the vehicle is registered. The
7 [~~decision~~] notice of entry of judgment also shall
8 advise the person, if it is determined that the
9 infraction was committed[~~]~~ and judgment is entered in
10 favor of the State, that the person has the right,
11 within thirty days[~~]~~ of entry of judgment, to request
12 a trial and shall specify the procedures for doing so.
13 The notice of [~~decision~~] entry of judgment shall also
14 notify the person, if an amount is assessed by the
15 court for [~~finer,~~] monetary assessments, fees,
16 surcharges, or costs[~~, or monetary assessments~~], that
17 if the person does not request a trial[~~]~~ within the
18 time specified in this paragraph, the total amount
19 assessed shall be paid within thirty days[~~]~~ of entry
20 of judgment. The notice of entry of judgment shall
21 [~~warn~~] inform the person that if the total amount is



1 not paid within thirty days, the court shall take
2 action as provided in section 291D-10.

3 (c) When an answer admitting commission of the infraction
4 but seeking to explain mitigating circumstances is received, the
5 court shall proceed as follows:

6 (1) In the case of a traffic infraction [~~which does not~~
7 ~~involve parking~~] where the person requests a hearing
8 at which the person will appear in person to explain
9 mitigating circumstances, the court shall notify the
10 person in writing of the date, time, and place of
11 hearing to explain mitigating circumstances. The
12 notice of hearing shall be [~~sent~~] mailed to the
13 address stated in the answer, or if none is given, to
14 the address stated on the notice of traffic
15 infraction. The notification also shall advise the
16 person that, if the person fails to appear at the
17 hearing, the court shall enter judgment by default in
18 favor of the State, as of the date of the scheduled
19 hearing, that the total amount stated in the default
20 judgment [~~shall~~] must be paid within thirty days [~~from~~
21 ~~notice~~] of entry of default[~~r~~] judgment, and, if it is



1 not paid, that the court shall take action as provided
2 in section 291D-10;

3 ~~[(2) In the case of a traffic infraction which involves
4 parking, the court shall notify the person in writing
5 of the date, time, and place of the hearing. The
6 notice shall be sent to the address at which the
7 vehicle is registered. The notice of hearing on
8 mitigating circumstances shall advise the person that
9 the court shall enter judgment for the State and the
10 hearing shall be limited to an explanation of the
11 mitigating circumstances. The notice of hearing also
12 shall state that if the person fails to appear at the
13 hearing, the total amount specified in the default
14 judgment shall be paid within thirty days of the
15 scheduled hearing. The notice of hearing shall warn
16 the person that if the total amount is not paid within
17 thirty days, the court shall take action as provided
18 in section 291D-10,] and~~

19 ~~[(3)]~~ (2) If a written explanation is included with an
20 answer admitting commission of the infraction, the
21 court shall enter judgment for the State and, after
22 reviewing the explanation, determine the total amount



1 of the [~~finer~~] monetary assessments, fees,
 2 surcharges, or costs [~~, or monetary assessments~~] to be
 3 assessed, if any. The court shall then notify the
 4 person of the total amount to be paid for the
 5 infraction, if any. There shall be no appeal from the
 6 [~~order~~] judgment. If the court assesses an amount
 7 for [~~finer~~] monetary assessments, fees, surcharges,
 8 or costs [~~, or monetary assessments~~], the court shall
 9 also notify the person that the total amount shall be
 10 paid within thirty days of [~~the postmarked date of the~~
 11 ~~decision~~] entry of judgment. The notice of entry of
 12 judgment also shall [~~warn~~] inform the person that if
 13 the total amount is not paid within thirty days, the
 14 court shall take action as provided in section
 15 291D-10.

16 (d) If the person fails to answer within twenty-one days
 17 of issuance of the notice of traffic infraction, the court shall
 18 take action as provided in subsection (e).

19 (e) Whenever judgment by default in favor of the State is
 20 entered, the court shall mail a notice of entry of default
 21 judgment [~~of default~~] to the address provided by the person when
 22 the notice of traffic infraction was issued or, in the case of



1 parking [~~violations,~~] infractions, to the address stated in the
2 answer, if any, or the address at which the vehicle is
3 registered. The notice of entry of default judgment shall
4 advise the person that the total amount specified in the default
5 judgment shall be paid within thirty days of entry of default
6 judgment and shall explain the procedure for setting aside a
7 default judgment. The notice of entry of default judgment shall
8 also [~~warn~~] inform the person that if the total amount is not
9 paid within thirty days, the court shall take action as provided
10 in section 291D-10. Judgment by default for the State entered
11 pursuant to this chapter may be set aside pending final
12 disposition of the traffic infraction upon written application
13 of the person and posting of an appearance bond equal to the
14 amount of the total amount specified in the default judgment and
15 any other assessment imposed pursuant to section 291D-9. The
16 application shall show good cause or excusable neglect for the
17 person's failure to take action necessary to prevent entry of
18 judgment by default. Upon receipt of the application[~~r~~] and
19 required appearance bond, the court shall take action to remove
20 the restriction placed on the person's driver's license or the
21 motor vehicle's registration and title imposed pursuant to
22 section 291D-10. Thereafter, the court shall determine whether



1 good cause or excusable neglect exists for the person's failure
 2 to take action necessary to prevent entry of judgment by
 3 default. If so, the application to set aside default judgment
 4 shall be granted, the default judgment shall be set aside, and
 5 the notice of traffic infraction shall be disposed of pursuant
 6 to this chapter. If not, the application to set aside default
 7 judgment shall be denied, the appearance bond shall be forfeited
 8 and applied to satisfy amounts due under the default judgment,
 9 and the notice of traffic infraction shall be finally disposed.
 10 In either case, the court [~~within thirty days,~~] shall determine
 11 the existence of good cause or excusable neglect and notify the
 12 person of its decision on the application in writing."

13 SECTION 6. Section 291D-8, Hawaii Revised Statutes, is
 14 amended to read as follows:

15 "**§291D-8 Hearings.** (a) In proceedings to contest [~~the~~
 16 ~~issuance of~~] a notice of traffic [~~infractions,~~] infraction where
 17 the person to whom the notice was issued has timely requested a
 18 hearing and appears at such hearing:

- 19 (1) In lieu of the personal appearance by the officer who
- 20 issued the notice of traffic infraction, the court
- 21 shall consider the notice of traffic infraction and
- 22 any other written report made by the officer, if



1 provided to the court by the officer, together with
 2 any oral or written statement by the [~~driver,~~] person
 3 to whom the notice of infraction was issued, or in the
 4 case of traffic infractions involving parking[~~]~~ or
 5 equipment, the operator or registered owner of the
 6 motor vehicle;

7 (2) The court may compel by subpoena the attendance of the
 8 officer who issued the notice of traffic infraction
 9 and other witnesses from whom it may wish to hear;

10 (3) The standard of proof to be applied by the court shall
 11 be whether, by a preponderance of the evidence [~~proves~~
 12 ~~that~~], the court finds that the traffic infraction was
 13 committed; and

14 (4) After due consideration of the evidence and arguments,
 15 if any, the court shall determine whether commission
 16 of the traffic infraction has been established. Where
 17 the commission of the traffic infraction has not been
 18 established, [~~an order~~] judgment in favor of the
 19 defendant, dismissing the notice of traffic infraction
 20 or any count therein with prejudice, shall be entered
 21 in the [~~records-~~] record. Where it has been
 22 established that the traffic infraction was committed,



1 the court shall enter judgment [~~for~~] in favor of the
2 State and [~~may~~] shall assess a monetary assessment
3 pursuant to section 291D-9[+], together with any fees,
4 surcharges, or costs. The court also shall inform the
5 person of the right to request [~~, within thirty days,~~]
6 a trial pursuant to section 291D-13. If the person
7 requests a trial at the time of the hearing, the court
8 shall provide the person with the trial date
9 [~~forthwith. If trial is elected, arraignment and plea~~
10 ~~shall be held at the time of trial.~~] as soon as
11 practicable.

12 (b) In proceedings to explain mitigating circumstances[+] where the person to whom the notice of traffic infraction was
13 issued has timely requested a hearing and appears at such
14 hearing:

16 (1) The procedure [~~shall be informal and~~] shall be limited
17 to the issue of mitigating circumstances. A person
18 who requests to explain the circumstances shall not be
19 permitted to contest the [~~issuance of~~] the notice of
20 traffic infraction; [~~and~~]

21 (2) After the court has received the explanation, the
22 court shall enter judgment [~~for~~] in favor of the State



1 and may assess a monetary assessment[7] pursuant to
2 section 291D-9[7-and], together with any fees,
3 surcharges, or costs;

4 (3) The court, after receiving the explanation, may vacate
5 the admission and [~~dismiss~~] enter judgment in favor of
6 the defendant, dismissing the notice of traffic
7 infraction or any count therein with prejudice, where
8 the explanation establishes that the infraction was
9 not committed; and

10 (4) There shall be no appeal from the [~~order~~] judgment.

11 (c) If a person for whom a hearing has been scheduled, to
12 contest the notice of traffic infraction or [~~a hearing~~] to
13 explain mitigating circumstances, fails to appear at the
14 hearing, the court shall enter judgment by default for the State
15 and take action as provided in section 291D-7(e). If the total
16 amount of the monetary assessment, fees, surcharges, or costs is
17 not paid within thirty days[7] of entry of default judgment, the
18 court shall take action as provided in section 291D-10."

19 SECTION 7. Section 291D-12, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**§291D-12 Powers of the district court judge sitting in**
22 **the traffic division.** A district court judge sitting in the



1 traffic division and hearing cases pursuant to this chapter
2 shall have all the powers of a district court judge under
3 chapter 604, including the following powers:

4 (1) To conduct traffic infraction hearings and to impose
5 monetary assessments;

6 (2) To permit deferral of monetary assessment or impose
7 community service in lieu thereof;

8 (3) To dismiss a notice of traffic infraction, with or
9 without prejudice, or to set aside a judgment for the
10 State;

11 (4) To order temporary driver's license suspension or
12 driver's license reinstatement;

13 (5) To order the director of finance not to issue or renew
14 the driver's license, or to register, renew the
15 registration of, or issue title to a motor vehicle, of
16 any person who has not paid a monetary assessment
17 [~~or~~], has not performed community service in lieu
18 thereof[~~+~~], or has not otherwise satisfied a judgment
19 for the State entered pursuant to this chapter;

20 (6) To approve the issuance or renewal of a driver's
21 license or instruction permit pursuant to section
22 286-109(c);



1 (7) To issue penal summonses and bench warrants and
2 initiate contempt of court proceedings in proceedings
3 conducted pursuant to section 291D-13; ~~and~~

4 (8) To issue penal summonses and bench warrants and
5 initiate failure to appear proceedings in proceedings
6 conducted pursuant to section 291D-5(b)(10); and

7 ~~[(8)]~~ (9) To exercise other powers the court finds
8 necessary and appropriate to carry out the purposes of
9 this chapter."

10 SECTION 8. Section 291D-13, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§291D-13 Trial~~[-]~~ and concurrent trial. (a) There shall
13 be no right to trial unless the defendant contests the notice of
14 traffic infraction pursuant to section 291D-8. If, after
15 proceedings to contest the notice of traffic infraction, a
16 determination is made that ~~[a person]~~ the defendant committed
17 the traffic infraction, ~~[the person]~~ judgment shall enter in
18 favor of the State. The defendant may request~~[, within thirty~~
19 days of the determination, a trial pursuant to the ~~[rules of~~
20 ~~penal procedure]~~ Hawaii rules of evidence and the rules of the
21 district court~~[, provided that arraignment and plea for such~~
22 trial shall be held at the time of trial.]; provided that any



1 request for trial shall be made within thirty days of entry of
2 judgment. If, after appearing in person at a hearing to contest
3 the notice of traffic infraction, the person requests a trial at
4 the conclusion of the [~~proceedings to contest the notice of~~
5 ~~traffic infraction,~~] hearing, the court shall provide the person
6 with the trial date [~~forthwith. A notice of traffic infraction~~
7 ~~shall not be adjudicated pursuant to this section until~~
8 ~~proceedings pursuant to section 291D-8 have been completed.~~] as
9 soon as practicable.

10 (b) [~~The result of the final determination or any~~
11 ~~admission made pursuant to section 291D-6 shall not be~~
12 ~~admissible in any trial conducted pursuant to section 291D-13.]~~
13 At the time of trial, the State shall be represented by a
14 prosecuting attorney of the county in which the infraction
15 occurred. The prosecuting attorney shall orally recite the
16 charged civil traffic infraction in court prior to commencement
17 of the trial. Proof of the defendant's commission of the
18 traffic infraction shall be by a preponderance of the evidence.

19 (c) If trial on the traffic infraction is held prior to
20 trial on any related criminal offense, the following shall be
21 inadmissible in the subsequent prosecution or trial of the
22 related criminal offense:



- 1 (1) Any written or oral statement made by the defendant in
- 2 proceedings conducted pursuant to section 291D-7(b);
- 3 and
- 4 (2) Any testimony given by the defendant in the traffic
- 5 infraction trial.

6 Such statement or testimony, or both, shall not be deemed a
 7 waiver of the defendant's privilege against self-incrimination
 8 in connection with any related criminal offense.

9 (d) In any concurrent trial, the State shall be
 10 represented by a prosecuting attorney of the county in which the
 11 infraction and related crime occurred. Proof of the defendant's
 12 commission of the infraction shall be by a preponderance of the
 13 evidence, and proof of the related criminal offense shall be by
 14 proof beyond a reasonable doubt. Concurrent trial shall be
 15 conducted pursuant to the rules of the appropriate court, the
 16 Hawaii rules of evidence, and the Hawaii rules of penal
 17 procedure."

18 SECTION 9. Section 291D-14, Hawaii Revised Statutes, is
 19 amended to read as follows:

20 "[+]§291D-14[+] **Rules.** (a) The supreme court may adopt
 21 rules of procedure for the conduct of all proceedings pursuant
 22 to this chapter.



1 (b) Chapter 626 shall not apply in proceedings conducted
2 pursuant to this chapter, except for the rules governing
3 privileged communications, and proceedings conducted under
4 section 291D-13.

5 (c) Notwithstanding section 604-17, while the court is
6 sitting in any matter pursuant to this chapter, the court shall
7 not be required to preserve the testimony or proceedings, except
8 proceedings conducted pursuant to section 291D-13[+] and
9 proceedings in which the traffic infraction is heard on the same
10 date and time as any related criminal offense.

11 (d) The prosecuting attorney shall not participate in
12 traffic infraction proceedings conducted pursuant to this
13 chapter, except proceedings pursuant to section 291D-13[+] and
14 proceedings in which a related criminal offense is scheduled for
15 arraignment, hearing, or concurrent trial.

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

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



1 SECTION 10. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 11. This Act shall take effect on January 1, 2008.

4

INTRODUCED BY:

~~_____~~ *APR*



Report Title:

Traffic Infractions; Concurrent Trial; Citation Form

Description:

Expands scope of traffic infractions law to include infractions committed by minors. Permits concurrent trials and clarifies requirements. Clarifies citation form requirements. Authorizes use of electronic citations.

