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# 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 is tried  
7 simultaneously in a civil case for any charged traffic  
8 infraction and in a criminal case for any related criminal  
9 offense, with 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 and:



1        (1) 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) 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[~~]~~ 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[~~. 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 [~~+~~] (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[~~—~~  
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~~[-]~~ 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) ~~[(a)]~~ 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[-] 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~~  
14 ~~291D-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[~~7~~] and judgment is entered in  
10 favor of the State, that the person has the right,  
11 within thirty days[~~7~~] 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[~~7~~, ~~or monetary assessments~~], that  
17 if the person does not request a trial[~~7~~] within the  
18 time specified in this paragraph, the total amount  
19 assessed shall be paid within thirty days[~~7~~] 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[~~7~~] 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[~~ing~~] 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[~~-~~]  
13 where the person to whom the notice of traffic infraction was  
14 issued has timely requested a hearing and appears at such  
15 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(d)(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       The 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. The 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,  
19 chapter 571, and the Hawaii family court rules shall not apply  
20 in any proceedings conducted pursuant to this chapter."

21 SECTION 10. Statutory material to be repealed is bracketed  
22 and stricken. New statutory material is underscored.



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



**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. (SD1)

