
A BILL FOR AN ACT

RELATING TO FAMILY COURTS.

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

1 SECTION 1. Section 571-48, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§571-48 Decree, if informal adjustment or diversion to a**
4 **private or community agency or program has not been effected.**

5 When a minor is found by the court to come within section
6 571-11, the court shall so decree and in its decree shall make a
7 finding of the facts upon which the court exercises its
8 jurisdiction over the minor. Upon the decree the court, by
9 order duly entered, shall proceed as follows:

10 (1) As to a [~~child~~] minor adjudicated under section 571-
11 11(1):

12 (A) The court may place the [~~child~~] minor on
13 probation:

14 (i) In the [~~child's~~] minor's own home; or

15 (ii) In the custody of a suitable person or
16 facility elsewhere, upon conditions
17 determined by the court.



1 When conditions of probation include custody in a
2 youth correctional facility, the custody shall be
3 for a term not to exceed one year, after which
4 time the [~~person~~] minor shall be allowed to
5 reside in the community subject to additional
6 conditions as may be imposed by the court;
7 (B) The court may vest legal custody of the [~~child,~~]
8 minor, after prior consultation with the agency
9 or institution, in a Hawaii youth correctional
10 facility, in a local public agency or
11 institution, or in any private institution or
12 agency authorized by the court to care for
13 children; or place the [~~child~~] minor in a private
14 home. If legal custody of the [~~child~~] minor is
15 vested in a private agency or institution in
16 another state, the court shall select one that is
17 approved by the family or juvenile court of the
18 other state or by that state's department of
19 social services or other appropriate department;
20 or
21



1 (C) The court may fine the [~~child~~] minor for a
2 violation [~~which~~] that would be theft in the
3 third degree by shoplifting if committed by an
4 adult. The court may require the [~~child~~] minor
5 to perform public services in lieu of the fine;
6 or

7 (D) If the minor is adjudicated to have committed an
8 act that would constitute the offense of
9 promoting a dangerous, harmful, or detrimental
10 drug, or of any other controlled substance, under
11 chapter 712, part IV, or a violation of section
12 712-1240.7, 712-1240.8 or 712-1249.6, the minor
13 shall choose to either:

14 (i) Be detained in a youth correctional facility
15 for no fewer than _____ days but not more
16 than _____ days detention, of which at least
17 _____ hours shall be served consecutively,
18 without possibility of probation or
19 suspension of sentence; or

20 (ii) Attend a substance abuse education and
21 counseling program or other comparable
22 family education and counseling program of



1 not less than hours that is deemed
2 appropriate by the court, accompanied by the
3 minor's parents, guardians, or legal
4 custodians;

5 (2) As to a [child] minor adjudicated under section 571-
6 11(2):

7 (A) The court may place the [child] minor under
8 protective supervision, as hereinabove defined,
9 in the [child's] minor's own home, or in the
10 custody of a suitable person or agency elsewhere,
11 upon conditions determined by the court; or

12 (B) The court may vest legal custody of the [child,]
13 minor, after prior consultation with the agency
14 or institution, in a local governmental agency or
15 institution licensed or approved by the State to
16 care for children, with the exception of an
17 institution authorized by the court to care for
18 children. If legal custody of the [child] minor
19 is vested in a private agency or institution in
20 another state, the court shall select one that is
21 approved by the family or juvenile court of the
22 other state or by that state's department of



1 social services or other appropriate department;
2 provided that the [~~child~~] minor may not be
3 committed to a public or private institution
4 operated solely for the treatment of law
5 violators;

- 6 (3) An order vesting legal custody of a minor in an
7 individual, agency, or institution under section
8 571-11(2) shall be for an indeterminate period but
9 shall not remain in force or effect beyond three years
10 from the date entered, except that the individual,
11 institution, or agency may file with the court a
12 petition for renewal of the order and the court may
13 renew the order if it finds [~~such~~] a renewal necessary
14 to safeguard the welfare of the [~~child~~] minor or the
15 public interest. The court, after notice to the
16 parties, may conduct a hearing on the petition.
17 Renewal may be periodic during minority, but no order
18 shall have any force or effect beyond the period
19 authorized by section 571-13. An agency granted legal
20 custody shall be subject to prior approval of the
21 court in any case in which the [~~child~~] minor is to
22 reside without the territorial jurisdiction of the



1 court and may be subject to prior approval in other
2 cases. An individual granted legal custody shall
3 exercise the rights and responsibilities personally
4 unless otherwise authorized by the court;

- 5 (4) Whenever the court commits a [child] minor to the care
6 of the director of human services or executive
7 director of the office of youth services, or vests
8 legal custody of a [child] minor in an institution or
9 agency, it shall transmit with the order copies of the
10 clinical reports, social study, and other information
11 pertinent to the care and treatment of the [child],
12 minor, and the institution or agency shall give to the
13 court any information concerning the [child] minor
14 that the court may at any time require. An
15 institution or agency receiving a [child] minor under
16 this paragraph shall inform the court whenever the
17 status of the [child] minor is affected through
18 temporary or permanent release, discharge, or transfer
19 to other custody. An institution to which a [child]
20 minor is committed under section 571-11(1) or (2)
21 shall not transfer custody of the [child] minor to an
22 institution for the correction of adult offenders,



1 except as authorized in this chapter and under chapter
2 352;

3 (5) The court may order, for any [~~child~~] minor within its
4 jurisdiction, whatever care or treatment is authorized
5 by law;

6 (6) In placing a [~~child~~] minor under the guardianship or
7 custody of an individual or of a private agency or
8 private institution, the court shall give primary
9 consideration to the welfare of the [~~child,~~] minor;

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



1 proceeding. If [~~sueh~~] these persons fail to comply
2 with the requirement or with the court order, the
3 court may proceed against them for contempt of court;

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

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

16 (10) In any other case of which the court has jurisdiction,
17 the court may make any order or judgment authorized by
18 law;

19 (11) The court may order any person adjudicated pursuant to
20 section 571-11(1) to make restitution of money or
21 services to any victim who suffers loss as a result of



1 the [child's] minor's action, or to render community
2 service;

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

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

10 SECTION 2. There is appropriated out of the general
11 revenues of the State of Hawaii the sum of \$ or so
12 much thereof as may be necessary for fiscal year 2009-2010 and
13 the same sum or so much thereof as may be necessary for fiscal
14 year 2010-2011 for the purposes of this Act.

15 The sums appropriated shall be expended by the judiciary
16 for the purposes of this Act.

17 SECTION 3. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun, before its effective date.

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

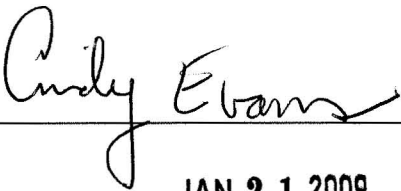


H.B. NO. 50

1 SECTION 5. This Act shall take effect upon its approval;
2 provided that section 2 of this Act shall take effect on July 1,
3 2009.

4

INTRODUCED BY:



JAN 21 2009



Report Title:

Minors; Controlled Substances; Detention or Counseling

Description:

Requires a minor adjudicated of actions that would constitute promoting a controlled substance to choose either detention in youth correctional facility or substance abuse counseling program with parents or legal guardians.

