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## A BILL FOR AN ACT

RELATING TO THE PAYMENT OF RESTITUTION BY MINORS.

**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 adjudicated under section 571-11(1):

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

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

13           (ii) In the custody of a suitable person or

14           facility elsewhere, upon conditions

15           determined by the court.

16           When conditions of probation include custody in a

17           youth correctional facility, the custody shall be

18           for a term not to exceed one year, after which



1           time the person shall be allowed to reside in the  
2           community subject to additional conditions as may  
3           be imposed by the court;

4           (B) The court may vest legal custody of the child,  
5           after prior consultation with the agency or  
6           institution, in a Hawaii youth correctional  
7           facility, in a local public agency or  
8           institution, or in any private institution or  
9           agency authorized by the court to care for  
10          children; or place the child in a private home.  
11          If legal custody of the child is vested in a  
12          private agency or institution in another state,  
13          the court shall select one that is approved by  
14          the family or juvenile court of the other state  
15          or by that state's department of social services  
16          or other appropriate department; or

17          (C) The court may fine the child for a violation  
18          which would be theft in the third degree by  
19          shoplifting if committed by an adult. The court  
20          may require the child to perform public services  
21          in lieu of the fine;

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



1           (A) The court may place the child under protective  
2 supervision, as hereinabove defined, in the  
3 child's own home, or in the custody of a suitable  
4 person or agency elsewhere, upon conditions  
5 determined by the court; or

6           (B) The court may vest legal custody of the child,  
7 after prior consultation with the agency or  
8 institution, in a local governmental agency or  
9 institution licensed or approved by the State to  
10 care for children, with the exception of an  
11 institution authorized by the court to care for  
12 children. If legal custody of the child is  
13 vested in a private agency or institution in  
14 another state, the court shall select one that is  
15 approved by the family or juvenile court of the  
16 other state or by that state's department of  
17 social services or other appropriate department;  
18 provided that the child may not be committed to a  
19 public or private institution operated solely for  
20 the treatment of law violators;

21           (3) An order vesting legal custody of a minor in an  
22 individual, agency, or institution under section

1           571-11(2) shall be for an indeterminate period but  
2           shall not remain in force or effect beyond three years  
3           from the date entered, except that the individual,  
4           institution, or agency may file with the court a  
5           petition for renewal of the order and the court may  
6           renew the order if it finds such renewal necessary to  
7           safeguard the welfare of the child or the public  
8           interest. The court, after notice to the parties, may  
9           conduct a hearing on the petition. Renewal may be  
10          periodic during minority, but no order shall have any  
11          force or effect beyond the period authorized by  
12          section 571-13. An agency granted legal custody shall  
13          be subject to prior approval of the court in any case  
14          in which the child is to reside without the  
15          territorial jurisdiction of the court and may be  
16          subject to prior approval in other cases. An  
17          individual granted legal custody shall exercise the  
18          rights and responsibilities personally unless  
19          otherwise authorized by the court;

20          (4) Whenever the court commits a child to the care of the  
21          director of human services or executive director of  
22          the office of youth services, or vests legal custody



1 of a child in an institution or agency, it shall  
2 transmit with the order copies of the clinical  
3 reports, social study, and other information pertinent  
4 to the care and treatment of the child, and the  
5 institution or agency shall give to the court any  
6 information concerning the child that the court may at  
7 any time require. An institution or agency receiving  
8 a child under this paragraph shall inform the court  
9 whenever the status of the child is affected through  
10 temporary or permanent release, discharge, or transfer  
11 to other custody. An institution to which a child is  
12 committed under section 571-11(1) or (2) shall not  
13 transfer custody of the child to an institution for  
14 the correction of adult offenders, except as  
15 authorized in this chapter and under chapter 352;

16 (5) The court may order, for any child within its  
17 jurisdiction, whatever care or treatment is authorized  
18 by law;

19 (6) In placing a child under the guardianship or custody  
20 of an individual or of a private agency or private  
21 institution, the court shall give primary  
22 consideration to the welfare of the child;



1           (7) In support of any order or decree under section  
2           571-11(1) or (2), the court may require the parents or  
3           other persons having custody of the child, or any  
4           other person who has been found by the court to be  
5           encouraging, causing, or contributing to the acts or  
6           conditions which bring the child within the purview of  
7           this chapter and who are parties to the proceeding, to  
8           do or to omit doing any acts required or forbidden by  
9           law, when the judge deems this requirement necessary  
10          for the welfare of the child. The court may also make  
11          appropriate orders concerning the parents or other  
12          persons having custody of the child and who are  
13          parties to the proceeding. If such persons fail to  
14          comply with the requirement or with the court order,  
15          the court may proceed against them for contempt of  
16          court;

17          (8) In support of any order or decree for custody or  
18          support, the court may make an order of protection  
19          setting forth reasonable conditions of behavior to be  
20          observed for a specified time, binding upon both  
21          parents or either of them. This order may require  
22          either parent to stay away from the home or from the



1 other parent or children, may permit the other to  
2 visit the children at stated periods, or may require a  
3 parent to abstain from offensive conduct against the  
4 children or each other;

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

7 (10) In any other case of which the court has jurisdiction,  
8 the court may make any order or judgment authorized by  
9 law;

10 (11) [The] When requested by the victim, the court [may]  
11 shall order [any person adjudicated pursuant to  
12 section 571-11(1) to make] restitution of money or  
13 services to any victim who suffers loss as a result of  
14 [the child's action, or] actions taken by a minor  
15 adjudicated pursuant to section 571-11(1), to be paid  
16 in whole or part by the minor, even when the minor  
17 becomes an adult; if in part, the court shall order  
18 the parents of the adjudicated minor to pay the  
19 remainder of the restitution. The court may further  
20 any minor adjudicated pursuant to section 571-11(1) to  
21 render community service; and



1 (12) The court may order any person adjudicated pursuant to  
2 section 571-11(2) to participate in community  
3 service [~~and~~

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

8 SECTION 2. This Act does not affect rights and duties that  
9 matured, penalties that were incurred, and proceedings that were  
10 begun before its effective date.

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

13 SECTION 4. This Act shall take effect on July 1, 2013.

14

INTRODUCED BY:



JAN 17 2013

**By Request**





# H.B. NO. 239

**Report Title:**

Honolulu Prosecutor's Package; Restitution; Minors

**Description:**

Requires the family court, when requested by the victim, to order the adjudicated minor to make restitution to the victim. Requires the family court to order the parents of the adjudicated minor to pay the remainder of the restitution, if any.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

