
A BILL FOR AN ACT

RELATING TO JUVENILE JUSTICE.

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

1 SECTION 1. The legislature finds that in August 2013, the
2 governor, chief justice, president of the senate, and speaker of
3 the house of representatives established the Hawaii juvenile
4 justice working group. The working group was composed of
5 stakeholders from the executive, legislative, and judicial
6 branches, as well as representatives from key stakeholder groups
7 including law enforcement, prosecution, public defense, and
8 community service providers. The working group was charged with
9 the development of policies to reduce recidivism and crime by
10 improving outcomes for youth in the juvenile justice system;
11 maximizing the effectiveness of Hawaii's correctional dollars
12 and placement options; and grounding Hawaii's policies in data
13 and research.

14 The working group's analysis revealed that Hawaii has made
15 commendable improvements in its juvenile justice system.
16 Juvenile arrests for serious violent and property offenses fell
17 twenty-eight per cent between 2002 and 2011, and the number of
18 youth annually admitted to the Hawaii youth correctional



1 facility declined forty-one per cent as of 2013. However, the
2 working group also identified several areas needing improvement.

3 Even amidst a decline in commitments to the Hawaii youth
4 correctional facility, the working group sought to determine
5 whether commitments to the facility were effectively targeted to
6 protect public safety. Research reveals that secure facilities
7 are most effective when targeted toward serious juvenile
8 offenders who pose a public safety risk. However, when less
9 serious youth are placed in secure facilities, the risk of
10 repeat offenses increases. Further, mental health and substance
11 abuse treatment are often more efficiently and effectively
12 delivered in a community setting.

13 The legislature also finds that over the last decade, the
14 proportion of youth in Hawaii confined for nonviolent offenses
15 has risen, as has the proportion confined for misdemeanor
16 offenses. In fiscal year 2013, seventy-two and sixty-one per
17 cent of admissions for a new offense were youth committed for a
18 nonviolent or misdemeanor offense, respectively. Between fiscal
19 year 2004 and fiscal year 2013, average lengths of stay in the
20 Hawaii youth correctional facility rose from 2.5 months to 7.2
21 months, and forty-six per cent of the commitments to the



1 correctional facility came from the neighbor islands, which are
2 home to just thirty-one per cent of all youth.

3 The legislature further finds that critical services to
4 reduce delinquency, including mental health and substance abuse
5 treatment, are not sufficiently resourced or accessible to
6 Hawaii's youth.

7 The analysis revealed that each bed in the Hawaii youth
8 correctional facility costs Hawaii taxpayers more than \$199,000
9 per year. Despite this level of investment and the longer
10 lengths of stay, seventy-five per cent of youth released from
11 the facilities between 2005 and 2007 were re-adjudicated in
12 family court or re-convicted in the adult criminal justice
13 system within three years of release.

14 The legislature further finds that the working group also
15 identified opportunities for strengthening juvenile probation.
16 During the last decade, probation terms increased one hundred
17 fifty-five per cent, but probation staff still encounter
18 significant difficulty in accessing resources for youth on
19 probation. Furthermore, inconsistent probation practices across
20 the circuits may lead to disparate treatment of youth.

21 The purpose of this Act is to:



1 (1) Improve and enhance Hawaii's juvenile justice system
2 by concentrating secure bed space on serious juvenile
3 offenders and strengthening disposition, adjustment,
4 diversion, and services available for juvenile
5 offenders to ensure that family court judges, court
6 staff, departmental staff, and service providers have
7 the tools they need to keep youth safely and
8 effectively in their communities; and

9 (2) Increase interagency collaboration and implement a
10 temporary oversight committee to continually improve
11 juvenile justice practices and ensure accountability.

12 SECTION 2. Chapter 352, Hawaii Revised Statutes, is
13 amended by adding a new section to be appropriately designated
14 and to read as follows:

15 "§352- Reentry plans; notification. (a) The director
16 or the director's designee shall develop a comprehensive reentry
17 plan for each person committed to the Hawaii youth correctional
18 facilities who is not serving a concurrent term of probation.
19 The scope of the reentry plan shall address the period of time
20 from admission to the Hawaii youth correctional facilities until
21 parole or final discharge from the department. The reentry plan
22 shall seek to prepare committed persons for transition to the



1 community. The reentry plan required under this section shall
2 be completed within thirty days of a person's commitment to the
3 Hawaii youth correctional facilities and shall include:

4 (1) Programming, treatment, and service needs identified
5 in the most recently conducted risk and needs
6 assessment;

7 (2) Individualized goals to guide successful reentry to
8 the community during parole or following final
9 discharge; and

10 (3) Identification of, and a plan for, coordination with
11 agencies that can provide or contract for existing
12 programs and services relevant or necessary for
13 successful reentry.

14 (b) The director or the director's designee shall consult
15 with a committed person's parent, legal guardian, or custodian
16 in developing the terms of the reentry plan and provide written
17 copies of the plan to the committed person and the committed
18 person's parent, legal guardian, or custodian. If requested,
19 the director or the director's designee shall provide regular
20 updates on the committed person's progress concerning the
21 reentry plan to the committed person's parent, legal guardian,
22 or custodian.



1 (c) The director or the director's designee may
2 collaborate with, and provide information to, the probation
3 officer of a person committed to the Hawaii youth correctional
4 facilities who is serving a concurrent term of probation, upon
5 the probation officer's request, for the probation officer to
6 incorporate the reentry plan into the person's case plan
7 required under section 571-A at the probation officer's
8 discretion.

9 (d) The director or the director's designee shall notify
10 the parent, legal guardian, or custodian, and any relevant
11 agency or service provider that may be involved in the person's
12 transition to the community, at least thirty days prior to
13 discharging a committed person, of the intended discharge of the
14 person.

15 (e) The director or the director's designee shall review,
16 and update if necessary, reentry plans for each person taken
17 into custody pursuant to section 352-26."

18 SECTION 3. Chapter 571, Hawaii Revised Statutes, is
19 amended by adding four new sections to be appropriately
20 designated and to read as follows:



1 "§571-A Probation supervision requirements. Every child
2 placed on probation pursuant to section 571-48(1)(A) shall be
3 supervised in accordance with the following requirements:

4 (1) Supervision levels, frequency of contacts with
5 probation officers and the court, and referrals to
6 treatment and programs under section 571-31.4(c)(7)
7 shall be established using, among other factors, the
8 results of the risk and needs assessment conducted
9 pursuant to section 571-45;

10 (2) A case plan, as defined in section 571-2, shall be
11 developed for each child and submitted to the court.
12 The case plan shall be developed in consultation with
13 the child and the child's parent, legal guardian, or
14 custodian. The probation officer assigned to each
15 child shall keep the child's parent, legal guardian,
16 or custodian informed regarding development of and
17 progress toward the case plan, the child's conduct,
18 compliance with the conditions of probation, and any
19 other relevant matter in the child's case;

20 (3) A child whose probation term and case plan require
21 in-person visits with a probation officer shall
22 receive at least one home visit; provided that the



1 first visit shall take place within forty-five days of
2 the child's placement on probation; provided further
3 that a home visit shall not be required when the
4 probation officer has reasonable perceptions of risks
5 to the probation officer's safety due to known factors
6 of violent criminal activity or isolation of the
7 child's place of residence. The probation officer
8 shall immediately report any reasonable perceptions of
9 risks to a supervisor and may receive permission to
10 waive the home visit requirement for the child or to
11 conduct the home visit accompanied by another;

12 (4) Probation officers shall have the authority to impose
13 graduated sanctions in response to a violation of the
14 rules and conditions of probation, as an alternative
15 to judicial modification or revocation pursuant to
16 section 571-50, or to award incentives or rewards for
17 positive behavior exhibited by the child. The
18 graduated sanctions and incentives shall be
19 established as follows:

20 (A) The judiciary shall adopt guidelines and
21 procedures for the development and application of
22 a statewide graduated sanctions and incentives



1 system in accordance with this section, and the
2 deputy chief court administrator in each judicial
3 circuit, or the administrator's designee, shall
4 adopt policies or procedures for the
5 implementation of the adopted graduated sanctions
6 and incentives system to guide probation officers
7 in imposing sanctions and awarding incentives;

8 (B) The system shall include a series of presumptive
9 sanctions for the most common types of probation
10 violations but shall allow for a child's risk
11 level and seriousness of violation to be taken
12 into consideration. The system shall also
13 identify incentives that a child may receive as a
14 reward for compliance with the rules and
15 conditions of probation, completion of
16 benchmarks, or positive behavior exceeding
17 expectations, at the discretion of the probation
18 officer;

19 (C) The system shall be developed with the following
20 objectives:



- 1 (i) To respond quickly, consistently, and
- 2 proportionally to violations of the rules
- 3 and conditions of probation;
- 4 (ii) To reduce the time and resources expended by
- 5 the court in responding to violations with
- 6 judicial modification;
- 7 (iii) To reduce the likelihood of a new delinquent
- 8 act; and
- 9 (iv) To encourage positive behavior;
- 10 (D) At a child's first meeting with a probation
- 11 officer after being adjudicated and disposed to a
- 12 probation term, the probation officer shall
- 13 provide written and oral notification to the
- 14 child regarding the graduated sanctions and
- 15 incentives system to ensure the child is aware of
- 16 the sanctions and incentives that may be imposed
- 17 or rewarded;
- 18 (E) When issuing a sanction or incentive, the
- 19 probation officer shall provide written notice to
- 20 the child of the nature and date of the relevant
- 21 behavior, the sanction or incentive imposed or
- 22 rewarded, and, in the case of sanctions, any

1 applicable time period in which the sanction will
2 be in effect or by which corrective behavior must
3 be taken. The probation officer shall provide
4 this information to the court at the next
5 regularly scheduled review hearing and inform the
6 court of the child's response to the sanction or
7 incentive; and

8 (F) Each administrator of the juvenile client
9 services branch in each judicial circuit shall
10 report annually to the board of family court
11 judges and the Hawaii juvenile justice state
12 advisory council, the number and the per cent of
13 children on probation who received a graduated
14 sanction or incentive, the types of sanctions and
15 incentives used, and the child's current
16 probation status.

17 §571-B Earned discharge from probation; reporting
18 requirements. (a) A child placed on probation pursuant to
19 section 571-48(1)(A) shall be eligible to receive earned
20 discharge credits to reduce the length of the probation term.
21 Earned discharge credits shall reduce the term of probation by

1 thirty days for each calendar month of compliance with the rules
2 and conditions of probation.

3 (b) A child is deemed to be compliant with the rules and
4 conditions of probation, and shall be awarded earned discharge
5 credits for the month, if there was no violation of rules and
6 conditions of probation that month at a level that would warrant
7 the filing of a petition or violation report. The court, at the
8 request of the probation officer or on its own motion, may award
9 discharge credits to children who have demonstrated substantial
10 compliance with the rules and conditions of probation.

11 (c) The judiciary shall adopt guidelines and procedures
12 for the awarding of earned credits for discharge from probation.

13 (d) Each administrator of the juvenile client services
14 branch in each judicial circuit shall annually provide to the
15 board of family court judges and the Hawaii juvenile justice
16 state advisory council, the number and per cent of youth who
17 received earned discharge credits and the number of credits
18 earned by each youth.

19 §571-C Statewide juvenile justice interdepartmental
20 cluster; local juvenile justice interdepartmental cluster; high-
21 need youth services coordination. (a) There is established a

22 statewide juvenile justice interdepartmental cluster to provide

1 coordinated services, as defined in section 571-2, to certain
2 children under the jurisdiction of the family court, and to
3 provide an avenue for regular collaboration between the
4 judiciary and the child and adolescent mental health division of
5 the department of health.

6 (b) The statewide cluster shall be composed of
7 representatives from the major youth-serving agencies with
8 statewide authority and responsibility. The statewide cluster
9 shall include, in addition to the judiciary, designees from the
10 department of education, the department of health, and the
11 office of youth services. At the discretion of the
12 representatives in the statewide cluster, community service
13 providers may be included as regular members.

14 The judiciary shall staff the statewide cluster and
15 identify a place where development and management of coordinated
16 services may be carried out on a regular basis.

17 The statewide cluster may establish local juvenile justice
18 interdepartmental clusters that shall have the ability to refer
19 individual cases or issues to the statewide cluster for review
20 and recommendation.



1 The statewide cluster shall establish written policies and
2 procedures for itself and any local juvenile justice
3 interdepartmental clusters.

4 (c) Family courts may recommend youth for consideration by
5 the statewide cluster based on the results of a risk and needs
6 assessment conducted pursuant to section 571-45 indicating that
7 a youth is high-need and if the youth is actively involved with
8 two or more youth-serving agencies.

9 (d) Coordinated services for justice system-involved youth
10 shall be identified and carried out using a coordinated service
11 plan, developed during regular meetings of the statewide
12 cluster. The coordinated service plan shall include:

- 13 (1) An assessment of the individual needs of the youth;
14 (2) Identification of services currently being provided;
15 (3) Identification of the necessary coordinated services;
16 (4) Identification of the public or private agencies that
17 can provide the necessary coordinated services to the
18 youth, and a description of how each coordinated
19 service will be funded;
20 (5) If any necessary coordinated service need cannot be
21 met, a specific explanation as to why the service need
22 could not be met, such as a lack of funding or



1 unavailability of service, which shall be reported to
2 the board of family court judges and the Hawaii
3 juvenile justice state advisory council; and
4 (6) Opportunities for participation from the youth's legal
5 parent, guardian, or custodian.

6 (e) The statewide cluster shall annually report the number
7 of cases referred to the cluster, the number of cases in which a
8 coordinated service plan was established, and the outcome of the
9 cases. This report shall be submitted to the board of family
10 court judges and the Hawaii juvenile justice state advisory
11 council.

12 **§571-D Family court; annual report.** Each deputy chief
13 court administrator, or the administrator's designee, shall
14 submit an annual report to the board of family court judges and
15 the Hawaii juvenile justice state advisory council that
16 includes:

- 17 (1) The number and per cent of cases ordered to
18 administrative monitoring status;
19 (2) The number and per cent of cases ordered to
20 administrative monitoring status that were
21 subsequently closed without a protective supervision
22 or probation term;



- 1 (3) The number and per cent of youth disposed to a
- 2 probation term, and the outcome of the probation
- 3 terms;
- 4 (4) The number and per cent of cases committed to a Hawaii
- 5 youth correctional facility; the underlying offense or
- 6 type of probation violation or revocation
- 7 precipitating commitment; and the age, race, and
- 8 gender of the child; and
- 9 (5) The number and per cent of cases returned to court
- 10 supervision on a maintained probation term following a
- 11 release from a Hawaii youth correctional facility."

12 SECTION 4. Section 352-25, Hawaii Revised Statutes, is
 13 amended to read as follows:

14 "**§352-25 Furlough, parole, discharge.** (a) The director,
 15 for good reasons shown to the director's satisfaction, may
 16 furlough or parole any person committed to the director's
 17 custody. The director shall give the court and the prosecutor's
 18 office of the appropriate county a thirty-day notice prior to
 19 discharging a committed person. Prior court approval shall be
 20 obtained when such is specifically required in the commitment
 21 order.



1 No furlough, parole, or discharge shall be granted unless
2 it appears to the director that there is a reasonable
3 probability that the person will not violate the law and that
4 the person's release is not incompatible with the welfare and
5 safety of society.

6 (b) When granting parole, the director shall consider
7 whether:

8 (1) The results of a risk and needs assessment indicate
9 the person is at a lower risk to reoffend;

10 (2) The person has substantially complied with the
11 facility rules and has had no significant misconduct
12 in the prior two months;

13 (3) The person has demonstrated efforts toward
14 rehabilitation;

15 (4) The person is likely to follow the reentry plan
16 established pursuant to section 352- ; and

17 (5) A home visit has been completed and the living
18 situation upon parole is determined to be safe and
19 conducive to rehabilitation.

20 The form of furlough or parole may include return to the
21 person's own home, transfer to another youth correctional
22 facility, a group home or foster home placement, or other



1 appropriate alternative. Nonresidential programs may be made
2 available to selected persons on furlough such that they return
3 to the facility during nontreatment hours.

4 (c) The director shall submit an annual report to the
5 board of family court judges and the Hawaii juvenile justice
6 state advisory council. The report shall include the number of
7 persons committed to the director's custody who are not serving
8 a concurrent term of probation, the number of those persons who
9 were granted parole in the previous year, the length of the
10 parole term for each paroled person, and the number of persons
11 on parole who return to the Hawaii youth correctional facilities
12 for any reason."

13 SECTION 5. Section 352D-4, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "[+]§352D-4[+] **Establishment; purpose.** There is
16 established within the department of human services for
17 administrative purposes only the office of youth services. The
18 office of youth services is established to provide services and
19 programs for youth at risk under one umbrella agency in order to
20 facilitate optimum service delivery, to prevent delinquency, and
21 to reduce the incidence of recidivism among juveniles through
22 the provision of prevention, rehabilitation, and treatment



1 services. The office shall also be responsible for program
2 planning and development, intake/assessment, oversight, as well
3 as consultation, technical assistance, and staff training
4 relating to the delivery of services.

5 The office shall provide a continuum of services as
6 follows:

- 7 (1) An integrated intake/assessment and case management
- 8 system;
- 9 (2) The necessary educational, vocational, social
- 10 counseling and mental health services;
- 11 (3) Community-based shelter and residential facilities;
- 12 (4) Oversight of youth services; and
- 13 (5) Other programs which encourage the development of
- 14 positive self-images and useful skills in such youth.

15 The executive director of the office of youth services
16 shall submit annual reports to the legislature no later than
17 twenty days prior to the convening of each regular session,
18 reporting the services or programs funded pursuant to this
19 section, the number of youth served by each service or program,
20 and the results of the services or programs funded.

21 To this end, on July 1, 1991, this office shall assume the
22 responsibilities for juvenile corrections functions, which were

1 temporarily placed in the department of corrections pursuant to
2 Act 338 of 1987. These functions shall include, but not be
3 limited to, all responsibilities, under chapter 352, for the
4 Hawaii youth correctional facilities."

5 SECTION 6. Section 571-2, Hawaii Revised Statutes, is
6 amended by adding nine new definitions to be appropriately
7 inserted and to read as follows:

8 "Administrative monitoring" means a legal status of a
9 child adjudicated for a status offense or a law violation who is
10 not placed on legal status, but is ordered by the court to
11 complete a discrete, small number of conditions within a short
12 time period, and without regular court appearances.

13 "Case plan" means a plan designed to ensure that a child on
14 probation receives services and programming to achieve
15 rehabilitation, proper care, and case management. The case plan
16 may include rules and conditions of probation, goals related to
17 reducing criminogenic needs, and evidence-based practices,
18 requirements, services, and opportunities to incorporate the
19 family.

20 "Coordinated services" means treatment, education, care,
21 services, and other resources provided by one or more distinct



1 state or local agencies in a coordinated manner for a child who
2 is involved with two or more youth-serving agencies.

3 "Evidence-based practices" means supervision policies,
4 procedures, and practices, as well as treatment and intervention
5 programs, that research demonstrates are likely to reduce
6 delinquency amongst children in the juvenile justice system.

7 "Home visit" means an announced or unannounced visit to a
8 child's place of residence, conducted by the child's probation
9 officer.

10 "Interdepartmental cluster" means the regular coordination
11 of several agencies, directed by the judiciary, to more
12 efficiently provide services for high-need, court-involved
13 children.

14 "Presumptive sanction" means a probation violation sanction
15 determined by a probation officer from a range of graduated
16 sanctions for the most common types of violation, adopted by the
17 judiciary pursuant to section 571-A(4) and based upon
18 consideration of factors including the nature and severity of
19 the violation and the child's risk level.

20 "Risk and needs assessment" means a determination, based on
21 an actuarial tool validated on Hawaii's juvenile justice system-
22 involved population, of specific factors that predict a child's



1 likelihood of recidivating and criminogenic factors that, when
2 properly addressed, can reduce the likelihood of recidivating.

3 "Statewide cluster" means the statewide juvenile justice
4 interdepartmental cluster as established under section 571-C."

5 SECTION 7. Section 571-5, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§571-5 Board of family court judges.** A board of family
8 court judges, which shall consist of all the State's family
9 court judges and district family judges is hereby created. The
10 board shall annually elect from among its members a chairperson
11 who shall preside at meetings of the board. The chairperson
12 shall have no other authority not specifically authorized under
13 this chapter, or any applicable rule of the supreme court, or
14 specifically delegated by a majority of the board. The board
15 shall meet at stated times to be fixed by it but not less often
16 than once every six months, and on call of the chairperson.

17 The board shall discuss and shall attempt to achieve
18 agreement upon general policies for the conduct of the family
19 courts and forms for use in such courts. The board shall
20 recommend, for adoption by the supreme court, rules of court
21 governing procedure and practices in such courts. The board
22 shall provide the guidelines and procedures necessary to



1 implement a single statewide standardized tool to conduct risk
2 and needs assessments and validation of the tool every five
3 years. The board may, within the limitations of the facilities
4 available to the family courts of the State, seek the
5 consolidation of the statistical and other data on the work and
6 services of such courts and research studies that may be made of
7 the problems of families and children dealt with by such courts
8 to the end that the treatment of children and families subject
9 to the jurisdiction of such courts shall achieve the highest
10 possible degree of uniformity throughout the State and to the
11 further end that knowledge of treatment, methods and therapeutic
12 practices be shared among such courts. The board may also
13 formulate recommendations for remedial legislation. All actions
14 by the board shall be subject to the regulatory supervision of
15 the chief justice of the supreme court."

16 SECTION 8. Section 571-6, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "§571-6 **Appointment and duties of employees.** (a) For
19 each family court, the judge, or the senior judge when there is
20 more than one judge, shall appoint a chief administrative and
21 executive officer who shall have the title of director of the



1 family court. Under the general supervision of the senior judge
2 or the judge, the director shall:

- 3 (1) Prepare an annual budget for the court;
- 4 (2) Formulate procedures governing the routine
5 administration of court services;
- 6 (3) Make recommendations to the court for improvement in
7 court services;
- 8 (4) Make recommendations to the senior judge or the judge
9 for the appointment of administrative, supervisory,
10 consultant, and necessary professional and clerical
11 and other personnel to perform the duties assigned to
12 the court and the director;
- 13 (5) Provide supervision and consultation to the
14 administrative and supervisory staff regarding the
15 administration of court services, recruitment of
16 personnel, in-service training, and fiscal and office
17 management; and
- 18 (6) Perform other duties as the senior judge or the judge
19 shall specify.

20 (b) For each family court the judge or senior judge where
21 there is more than one shall appoint necessary probation
22 officers, social workers, and marital counselors and may

1 appoint, or make arrangements for the services of physicians,
2 psychologists, psychiatrists, and other professionally competent
3 persons, to carry on the work of the court.

4 (c) Pursuant to subsection (a)(5), the deputy chief court
5 administrator shall require each probation officer to complete
6 training annually on juvenile justice or probation supervision
7 best practices; provided that funding is available. The form
8 and length of the training shall be determined by the deputy
9 chief court administrator, or a designee, and at the discretion
10 of the several deputy chief court administrators, training may
11 be conducted jointly between judicial circuits, as defined in
12 section 603-1."

13 SECTION 9. Section 571-31.2, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "§571-31.2 **Juvenile intake and diagnostic services.** (a)

16 The court or other designated agency shall:

17 (1) Notify the child's parent, guardian or legal custodian
18 or take reasonable action to ensure that such notice
19 has been given;

20 (2) Require the child, the child's parent, the child's
21 guardian or legal custodian, or both, to appear at the
22 court or other designated agency as soon as



1 practicable for a family counseling session to attempt
2 a quick resolution of their problem;

3 (3) Investigate, evaluate, make necessary determination,
4 and take appropriate actions regarding:

5 (A) Diversion from justice system processing, formal
6 or informal, and closure of the case;

7 ~~(A)~~ (B) Release of a child to the care of the
8 child's parent or other responsible adult;

9 ~~(B)~~ (C) Extending to or making arrangement for the
10 securing of suitable informal adjustment under
11 section 571-31.4, 571-31.5 or 571-31.6;

12 ~~(C)~~ (D) Initiation of the filing of a complaint or
13 petition;

14 ~~(D)~~ (E) Detention of a child, utilizing the standard
15 set out in section 571-31.1 or temporary shelter
16 in a nonsecure shelter; and

17 ~~(E)~~ (F) Making such other informal disposition as
18 may be suitable.

19 (b) If the intake officer believes it desirable, such
20 officer may take action to obtain the child or the written
21 promise of a parent, guardian, or legal custodian to take the
22 child to the court or other designated agency as in section



1 571-31(c). The failure of a parent, guardian, or other legal
2 custodian to produce the child in court or at the other
3 designated agency as required by an authorized notice may be
4 pursued as provided in section 571-31(d).

5 (c) For cases diverted under subsection (a)(3)(A), intake
6 officers shall compile reports at least monthly enumerating the
7 aggregate number of cases diverted and the types of alleged
8 offenses precipitating the referral of the child to the court.
9 These reports shall be submitted to the administrator of the
10 juvenile client services branch in each judicial circuit, who
11 shall compile the reports into an annual report for each
12 judicial circuit, to be submitted to the board of family court
13 judges and the Hawaii juvenile justice state advisory council."

14 SECTION 10. Section 571-31.4, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§571-31.4 Informal adjustment, law violators.** (a) When
17 a child reasonably believed to come within section 571-11(1) is
18 referred to the court or other designated agency, and is not
19 diverted from processing, informal adjustment may be provided to
20 the child by an intake officer duly authorized by the family
21 court only where the facts reasonably appear to establish prima
22 facie jurisdiction and are admitted and where a consent is



1 obtained from the child's parent, guardian, or legal custodian,
2 and the child, if of sufficient age and understanding.

3 (b) The deputy chief court administrators of each circuit
4 shall together establish a framework that includes the criteria
5 probation officers shall use to guide the exercise of discretion
6 in providing informal adjustment.

7 [~~b~~] (c) Informal adjustment under this section may
8 include, among other suitable methods, programs, and procedures,
9 the following:

- 10 (1) Participation in restitution projects to obtain
11 appropriate victim satisfaction;
- 12 (2) Participation in community service projects so as to
13 establish the child's self value in the community;
- 14 (3) Participation in community-based programs which work
15 with the child and family to maintain and strengthen
16 the family unit so that the child may be retained in
17 the child's own home;
- 18 (4) Submission to neighborhood courts or panels upon
19 procedures to be established by the court. As used in
20 this paragraph "neighborhood courts or panels" are
21 community organizations designed to settle minor



- 1 disputes between parties on a voluntary basis using
2 mediation or nonbinding arbitration;
- 3 (5) Participation in programs to support, counsel, or
4 provide work and recreational opportunities to help
5 prevent delinquency;
- 6 (6) Participation in educational programs or supportive
7 services designed to help delinquents and to encourage
8 other youths to remain in elementary and secondary
9 schools or in alternative learning situations;
- 10 (7) Participation in youth-initiated programs and outreach
11 programs designed to assist youth and families;
- 12 (8) Appropriate physical and medical examinations,
13 vocational and aptitude testing, examinations for
14 learning disabilities or emotional dysfunctions, and
15 suitable counseling and therapy;
- 16 (9) Placement with nonsecure or secure shelter facilities;
- 17 (10) Restitution providing for monetary payment by the
18 parents of the child; or
- 19 (11) Participation in a restorative justice program where
20 the child and the child's parents or guardian, and
21 other supporters of the child, may meet with the



1 victim harmed by the child's law violation and the
2 victim's supporters.

3 ~~[(e)]~~ (d) Informal adjustment projects, programs, and
4 services may be provided through public agencies or private
5 agencies.

6 ~~[(d)]~~ (e) In the event resources and services for informal
7 adjustment are not available, have failed, are reasonably
8 believed to fail if attempted, or are unable to respond to the
9 needs of the child or family, the intake officer shall proceed
10 with formal action, or take such action as is otherwise allowed
11 under this chapter.

12 (f) Intake officers shall compile annual reports that
13 include the number and per cent of referrals informally
14 adjusted, and the number and per cent of children informally
15 adjusted who avoided further system processing. The
16 administrator of the juvenile client services branch in each
17 judicial circuit shall compile the annual reports from the
18 probation intake sections into a single annual report for each
19 judicial circuit and shall submit the final report to the board
20 of family court judges and the Hawaii juvenile justice state
21 advisory council."



1 SECTION 11. Section 571-31.5, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) When a child reasonably believed to come within
4 section 571-11(2) is referred to the court or other designated
5 agency, informal adjustment [~~may~~] shall be provided to the child
6 by an intake officer duly authorized by the family court only
7 where the facts reasonably appear to establish prima facie
8 jurisdiction and are admitted and where a consent is obtained
9 from the child's parent, guardian, or legal custodian, and the
10 child, if of sufficient age and understanding. Informal
11 adjustment under this section may include, among other suitable
12 methods, programs, and procedures, listed in section
13 [~~571-31.4(b),~~] 571-31.4(c), except section [~~571-31.4(b)(1),~~]
14 571-31.4(c)(1), and provided that placement with shelter
15 facilities under section [~~571-31.4(b)(9)~~] 571-31.4(c)(9) shall
16 be on a nonsecure basis unless the child is processed under
17 subsection (b) [~~of this section~~]."

18 SECTION 12. Section 571-31.6, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "**§571-31.6 Informal adjustment, minor who may be both law**
21 **violator and status offender.** When a child is reasonably
22 believed to come within section 571-11(1) and (2), the intake



1 officer may exercise discretion to process informal adjustment
2 under section 571-31.4 [~~or 571-31.5~~]. In making that
3 determination, the officer shall be guided by the criteria set
4 out in section 571-31.1(c) (1) to (5) [~~7~~] and the criteria in the
5 framework established pursuant to section 571-31.4(b), taking
6 into account the availability of suitable method, program, or
7 procedure for the child."

8 SECTION 13. Section 571-41, Hawaii Revised Statutes, is
9 amended by amending subsection (d) to read as follows:

10 "(d) In the disposition part of the hearing any relevant
11 and material information, including [~~that~~] information contained
12 in a written report, study, or examination, and the results of a
13 risk and needs assessment of the child conducted pursuant to
14 section 571-45, shall be admissible, and may be relied upon to
15 the extent of its probative value; provided that the maker of
16 the written report, study, or examination shall be subject to
17 both direct and cross-examination upon demand and when the maker
18 is reasonably available. The disposition shall be based only
19 upon the admitted evidence, and findings adverse to the child as
20 to disputed issues of fact shall be based upon a preponderance
21 of such evidence."



1 SECTION 14. Section 571-45, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§571-45 [Investigation] Assessment and investigation
4 prior to disposition[-]; suspension of delinquency proceedings;
5 denial of services reporting. (a) Prior to disposition, the
6 court shall conduct a risk and needs assessment, using the tool
7 procured and validated pursuant to section 571-5, for each child
8 concerning whom a petition has been filed pursuant to section
9 571-11(1) and (2).

10 (b) ~~[Except where the requirement is waived by the judge]~~
11 In addition to the risk and needs assessment, a social study and
12 a report in writing shall be made in the case of a [minor] child
13 concerning whom a petition has been filed under section
14 571-11(1) and (2) [-], except where the judge waives the
15 requirement to make a social study and a report in writing. The
16 study shall be initiated upon the filing of a petition except in
17 petitions filed under section 571-11(1) when it is ascertained
18 that the [minor] child denies the allegations set forth in the
19 petition. In such case the study shall proceed only after the
20 court after hearing has made a finding as to the allegations of
21 the petition.



1 Except where the requirement is waived by the judge, social
2 studies shall also be made in proceedings to decide disputed or
3 undetermined legal custody and in custody disputes arising out
4 of a divorce action. In all other awards of custody arising out
5 of a divorce action, including those where an agreement with
6 respect to custody has been made by the parties, and in any
7 other case or class of cases, the judge may order a social study
8 when the judge has reason to believe such action is necessary to
9 assure adequate protection of the ~~minor~~ child or of any other
10 person involved in the case. By special order of the judge or
11 by rule of court a social study may be required in support cases
12 covering financial ability and other matters pertinent to making
13 an order of support. The use of such studies in custody and
14 support hearings shall be subject to the applicable provisions
15 of section 571-41.

16 (c) ~~[Social]~~ The results of the risk and needs assessment
17 and any social studies required by this section shall be
18 presented to and considered by the judge prior to making
19 disposition~~[-]~~ pursuant to section 571-41(d).

20 The judge may order and use a presentence investigation
21 with respect to any criminal action under the jurisdiction of



1 the court in accordance with the existing provisions of the law
2 with respect to the making and use of such studies.

3 (d) If the results of the risk and needs assessment
4 indicate a substance abuse or mental health need, the probation
5 officer shall immediately refer the child to the department of
6 health for an eligibility determination.

7 (e) The court, upon the motion of the child or on its own
8 motion, may order the suspension of the delinquency proceedings,
9 prior to adjudication, for a period of up to one year to obtain
10 substance abuse or mental health treatment if the court finds:

11 (1) The child presently needs and is likely to benefit
12 from treatment; and

13 (2) The suspension of the delinquency proceedings will
14 advance the interests of justice.

15 No later than one month before the end of the period of
16 suspension of the delinquency proceedings, the treatment
17 provider shall submit a report on whether the child has
18 completed the treatment program.

19 If the court, on the motion of the child or on its own
20 motion, finds that the child has successfully completed the
21 treatment program, the court may dismiss the suspended
22 delinquency proceedings. If the court does not find that the



1 child has satisfactorily completed treatment, the court may
2 terminate the suspension and proceed with the case.

3 (f) A probation officer referring a child to the
4 department of health under this section shall report any
5 subsequent denial of services to the administrator of the
6 juvenile client services branch in each judicial circuit. The
7 administrators of the juvenile client services branch shall
8 submit an annual report compiling all such denials to the board
9 of family court judges and the Hawaii juvenile justice state
10 advisory council."

11 SECTION 15. Section 571-48, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§571-48 Decree, if informal adjustment or diversion to a
14 private or community agency or program has not been effected.

15 When a [~~minor~~] child is found by the court to come within
16 section 571-11, the court shall so decree and in its decree
17 shall make a finding of the facts upon which the court exercises
18 its jurisdiction over the [~~minor~~] child. Upon the decree the
19 court, by order duly entered, shall proceed as follows:

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

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

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



1 (ii) In the custody of a suitable person or
2 facility elsewhere, upon conditions
3 determined by the court.

4 An order by the court placing a child on
5 probation under this subparagraph shall include a
6 definite term of probation stated in months or
7 years, subject to extension or modification by
8 the court pursuant to section 571-50. When
9 conditions of probation include custody in a
10 youth correctional facility, the custody shall be
11 for a term not to exceed one year, after which
12 time the ~~[person]~~ child shall be allowed to
13 reside in the community subject to additional
14 conditions as may be imposed by the court;

15 (B) The court may vest legal custody of the child,
16 after prior consultation with the agency or
17 institution~~[, in]~~ :

18 (i) In a Hawaii youth correctional facility~~[,~~
19 in] if the child has been adjudicated for a
20 felony-level offense or a violation or
21 revocation of probation, or is committed to
22 the facility from juvenile drug court or

1 girls court on a court order. For a child
2 eligible for placement in a Hawaii youth
3 correctional facility, the court shall enter
4 a finding of fact in the record stating the
5 reasons the child is a public safety risk
6 warranting placement in the correctional
7 facility. No such finding of fact shall be
8 required if the child is adjudicated for a
9 felony against a person or a sex offense;

10 (ii) In a local public agency or institution~~[, or~~
11 ~~in];~~

12 (iii) In any private institution or agency
13 authorized by the court to care for
14 children; or [place the child in]

15 (iv) In a private home.

16 If legal custody of the child is vested in a
17 private agency or institution in another state,
18 the court shall select one that is approved by
19 the family or juvenile court of the other state
20 or by that state's department of social services
21 or other appropriate department; ~~[or]~~



1 (C) The court may place a child on administrative
2 monitoring, as defined in section 571-2, pending
3 completion of conditions as may be imposed by the
4 court, to preempt the need for disposition to a
5 full probation term, and to afford the child the
6 opportunity to demonstrate behavior adjustments.
7 Upon completion of the court-ordered conditions,
8 the court shall discharge the child pursuant to
9 section 571-50. If a child fails to complete the
10 court-ordered conditions, the court may extend or
11 modify the order pursuant to section 571-50, or
12 dispose the child to probation status under
13 paragraph (1) (A); or

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

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

20 (A) The court may place the child under protective
21 supervision, as hereinabove defined, in the
22 child's own home, or in the custody of a suitable



1 person or agency elsewhere, upon conditions
2 determined by the court; or

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

18 (3) An order vesting legal custody of a minor in an
19 individual, agency, or institution under section
20 571-11(2) shall be for an indeterminate period but
21 shall not remain in force or effect beyond three years
22 from the date entered, except that the individual,



1 institution, or agency may file with the court a
2 petition for renewal of the order and the court may
3 renew the order if it finds such renewal necessary to
4 safeguard the welfare of the child or the public
5 interest. The court, after notice to the parties, may
6 conduct a hearing on the petition. Renewal may be
7 periodic during minority, but no order shall have any
8 force or effect beyond the period authorized by
9 section 571-13. An agency granted legal custody shall
10 be subject to prior approval of the court in any case
11 in which the child is to reside without the
12 territorial jurisdiction of the court and may be
13 subject to prior approval in other cases. An
14 individual granted legal custody shall exercise the
15 rights and responsibilities personally unless
16 otherwise authorized by the court;

- 17 (4) Whenever the court commits a child to the care of the
18 director of human services or executive director of
19 the office of youth services, or vests legal custody
20 of a child in an institution or agency, it shall
21 transmit with the order copies of the clinical
22 reports, social study, results of the risk and needs



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

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

18 (6) In placing a child under the guardianship or custody
19 of an individual or of a private agency or private
20 institution, the court shall give primary
21 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 court may order any person adjudicated pursuant to
11 section 571-11(1) to make restitution of money or
12 services to any victim who suffers loss as a result of
13 the child's action, or to render community service;

14 (12) The court may order any person adjudicated pursuant to
15 section 571-11(2) to participate in community service;
16 and

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

21 SECTION 16. (a) There is established a juvenile justice
22 oversight advisory council, deemed to be temporary and for a



1 special purpose. The purpose of the advisory council is to
2 oversee implementation and issue necessary reports to carry out
3 the juvenile justice reforms in this Act.

4 (b) The duties of the advisory council are as follows:

5 (1) To review, evaluate, and make recommendations
6 regarding the implementation of the reforms in this
7 Act;

8 (2) To develop a uniform process for establishing and
9 reviewing performance and outcome standards for the
10 office of youth services and the family court division
11 of the judiciary, as well as other interrelated
12 agencies. The uniform process shall include the
13 performance and outcome measures for each agency that
14 shall be reviewed annually, the deadlines and format
15 for the submission of the performance and outcome
16 measures, and the entity to which the measures shall
17 be reported;

18 (3) To review data and information submitted to the
19 advisory council and submit annual reports to the
20 executive, legislative, and judicial branches for the
21 term the advisory council is in existence, evaluating



1 implementation of the reforms in this Act and juvenile
2 justice system effectiveness; and

3 (4) To review current eligibility requirements for mental
4 health services for youth, with a focus on expanding
5 access to services to ensure that youth determined to
6 be at-risk and with a need for mental health services
7 receive those services in a more comprehensive and
8 timely manner, through the department of health or its
9 contracted mental health providers, collaborating and
10 consulting with any relevant agency, and submit a
11 report no later than twenty days prior to the
12 convening of the 2016 regular session to the
13 executive, legislative, and judicial branches,
14 including the current eligibility requirements, recent
15 changes to eligibility requirements, and
16 recommendations for further changes to the eligibility
17 requirements.

18 (c) The advisory council shall be composed of seventeen
19 members to be selected as follows, without regard to section
20 26-34, Hawaii Revised Statutes:

21 (1) One member from the executive branch, appointed by the
22 governor;



- 1 (2) One member from the house of representatives,
2 appointed by the speaker of the house of
3 representatives, or designee;
- 4 (3) One member from the senate, appointed by the president
5 of the senate, or designee;
- 6 (4) One member from the judiciary, appointed by the chief
7 justice of the supreme court, or designee;
- 8 (5) Four members to represent each of the four judicial
9 circuits defined in section 603-1, Hawaii Revised
10 Statutes, appointed by the chief justice of the
11 supreme court, or designee;
- 12 (6) The executive director of the office of youth
13 services;
- 14 (7) Two members from the child and adolescent mental
15 health division of the department of health, appointed
16 by the director of health;
- 17 (8) Two members from the department of education,
18 appointed by the superintendent of education;
- 19 (9) One member from the department of human services,
20 appointed by the director of human services;



- 1 (10) One juvenile justice stakeholder from the advocacy
2 community, appointed by the executive director of the
3 office of youth services;
- 4 (11) One juvenile crime victim advocate, selected from a
5 list submitted by the victim-witness coordinators, and
6 appointed by the governor; and
- 7 (12) One member from a law enforcement agency or a county
8 prosecutor's office, appointed by the governor.

9 The advisory council shall meet within ninety days after
10 appointment and organize itself by electing one of its members
11 as chair and such other officers as the advisory council may
12 consider necessary. Thereafter, the advisory council shall meet
13 at least quarterly and at the call of the chair or by a majority
14 of the members. The advisory council shall provide
15 teleconferencing or videoconferencing capabilities for members
16 to attend meetings remotely. A quorum shall consist of eight
17 members.

18 (d) The advisory council shall receive copies of all data,
19 reports, performance measures, and other evaluative materials
20 submitted to any agency or branch of government under this Act
21 and may request further data analysis or information from youth-



1 serving agencies to carry out its duties. The advisory council
2 may also request recidivism data from the attorney general.

3 (e) The judiciary shall provide staff support to the
4 advisory council, at the request of the advisory council. The
5 members shall serve without compensation.

6 (f) The advisory council shall cease to exist on the last
7 day of the regular session of 2016, unless the advisory council
8 is extended by concurrent resolution of the legislature.

9 SECTION 17. There is appropriated out of the general
10 revenues of the State of Hawaii the sum of \$1,260,500 or so much
11 thereof as may be necessary for fiscal year 2014-2015 for the
12 necessary costs and expenses incurred in carrying out the
13 purposes of this Act.

14 The sum appropriated shall be expended by the office of
15 youth services for the purposes of this Act.

16 SECTION 18. This Act shall not be applied so as to impair
17 any contract existing as of the effective date of this Act in a
18 manner violative of either the Hawaii State Constitution or
19 Article I, section 10, of the United States Constitution.

20 SECTION 19. In codifying the new sections added by section
21 3 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating
2 the new sections in this Act.

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

5 SECTION 21. This Act shall take effect on July 1, 2014,
6 and apply to delinquent behavior committed on or after that
7 date; provided that:

8 (1) Section 15 shall take effect on October 1, 2014, and
9 apply to delinquent behavior committed on or after
10 that date; and

11 (2) Sections 3 and 14 shall take effect on November 1,
12 2014, and apply to delinquent behavior committed on or
13 after that date.



Report Title:

Juvenile Justice; Juvenile Probation; Juvenile Justice Oversight Advisory Council; Appropriation

Description:

Enhances the juvenile justice system by concentrating secure bed space on serious juvenile offenders. Strengthens disposition, adjustment, diversion, and services available for juvenile offenders to ensure family court judges, court staff, departmental staff, and service providers have the tools needed to keep youth safely and effectively in their communities. Increases interagency collaboration. Establishes a temporary Juvenile Justice Oversight Advisory Council. Makes an appropriation. (HB2490 CD2)

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