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



1 The purpose of this Act is to improve and enhance Hawaii's
2 juvenile justice system by concentrating secure bed space on
3 serious juvenile offenders and strengthening disposition,
4 adjustment, diversion, and services available for juvenile
5 offenders to ensure family court judges, court staff,
6 departmental staff, and service providers have the tools they
7 need to keep youth safely and effectively in their communities.
8 Further, the purpose of this measure is to increase interagency
9 collaboration, and implement a temporary oversight committee to
10 continually improve juvenile justice practices and ensure
11 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 571-A at the probation officer's discretion.

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

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

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

19 "§571- Probation supervision requirements. Every child
20 placed on probation pursuant to section 571-48(1)(A) shall be
21 supervised in accordance with the following requirements:



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

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

- 17 (3) A child whose probation term and case plan require
18 in-person visits with a probation officer shall
19 receive at least one home visit; provided that a home
20 visit is not required when the probation officer has
21 reasonable perceptions of risks to safety due to known
22 factors of violent criminal activity or isolation of



1 the child's place of residence. The probation officer
2 shall immediately report any reasonable perceptions of
3 risks to a supervisor, and may receive permission to
4 waive the home visit requirement for the child or to
5 conduct the home visit accompanied by another;

6 (4) Probation officers shall have the authority to impose
7 graduated sanctions and to award incentives in
8 response to a violation of the rules and conditions of
9 probation, as an alternative to judicial modification
10 or revocation pursuant to section 571-50, or as a
11 reward for positive behavior exhibited by the child.

12 The graduated sanctions and incentives shall be
13 established as follows:

14 (A) The judiciary shall adopt guidelines and
15 procedures for the development and application of
16 a statewide graduated sanctions and incentives
17 system in accordance with this section, and the
18 director of the family court in each judicial
19 circuit, or the administrator's designee, shall
20 adopt policies or procedures for the
21 implementation of the adopted graduated sanctions



1 system to guide probation officers in imposing
2 sanctions and awarding incentives;

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

14 (C) The system shall be developed with the following
15 objectives:

16 (i) To respond quickly, consistently, and
17 proportionally to violations of the rules
18 and conditions of probation;

19 (ii) To reduce the time and resources expended by
20 the court in responding to violations with
21 judicial modification;



1 (iii) To reduce the likelihood of a new delinquent
2 act; and

3 (iv) To encourage positive behavior;

4 (D) At a child's first meeting with a probation
5 officer after being adjudicated and disposed to a
6 probation term, the probation officer shall
7 provide written and oral notification to the
8 child regarding the graduated sanctions and
9 incentives system to ensure the child is aware of
10 the sanctions and incentives that may be imposed;

11 (E) When issuing a sanction or incentive, the
12 probation officer shall provide written notice to
13 the child of the nature and date of the relevant
14 behavior, the sanction or incentive imposed, and,
15 in the case of sanctions any applicable time
16 period in which the sanction will be in effect or
17 by which corrective behavior must be taken. The
18 probation officer shall provide this information
19 to the court at the next regularly scheduled
20 review hearing, and inform the court of the
21 child's response to the sanction or incentive;
22 and



1 (F) Each administrator of the juvenile client
2 services branch in each judicial circuit shall
3 report annually to the board of family court
4 judges and the Hawaii juvenile justice state
5 advisory council, the number and the per cent of
6 children on probation who received a graduated
7 sanction or incentive, the types of sanctions and
8 incentives used, and the child's current
9 probation status.

10 §571- Earned discharge from probation; reporting

11 requirements. (a) A child placed on probation pursuant to
12 section 571-48(1)(A) shall be eligible to receive earned
13 discharge credits to reduce the length of the probation term.
14 Earned discharge credits shall reduce the term of probation by
15 thirty days for each calendar month of compliance with the rules
16 and conditions of probation.

17 (b) A child is deemed to be compliant with the rules and
18 conditions of probation, and shall be awarded earned discharge
19 credits for the month, if there was no violation of rules and
20 conditions of probation during the month at the level warranting
21 the filing of a petition or violation report. The court, at the
22 request of the probation officer or on its own motion, may award



1 discharge credits to children who have demonstrated substantial
2 compliance with the rules and conditions of probation.

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

5 (d) Each administrator of the juvenile client services
6 branch in each judicial circuit shall annually provide to the
7 board of family court judges and the Hawaii juvenile justice
8 state advisory council, the number and per cent of youth who
9 received earned discharge credits and the number of credits
10 earned by each youth.

11 **§571- Statewide juvenile justice interdepartmental**
12 **cluster; high-need youth services coordination.** (a) There is
13 established a statewide juvenile justice interdepartmental
14 cluster to provide coordinated services, as defined in section
15 571-2, to certain children under the jurisdiction of the family
16 court, and to provide an avenue for regular collaboration
17 between the judiciary and the child and adolescent mental health
18 division of the department of health.

19 (b) The statewide cluster shall be composed of
20 representatives from the major youth-serving agencies with
21 statewide authority and responsibility. The statewide cluster
22 shall include, in addition to the judiciary, the department of



1 education, the department of health, and the office of youth
2 services. At the discretion of the representatives in the
3 cluster, community service providers may be included as regular
4 members.

5 The judiciary shall staff the statewide cluster and provide
6 an identified place where development and management of
7 coordinated services may be carried out on a regular basis.

8 The statewide cluster may establish clusters at the local
9 level. If local juvenile justice interdepartmental clusters are
10 established, the local clusters shall have the ability to refer
11 individual cases or issues to the statewide cluster for review
12 and recommendation.

13 The statewide cluster shall establish written policies and
14 procedures for itself and any local clusters.

15 (c) Family courts may recommend youth for consideration by
16 the statewide cluster based on the results of a risk and needs
17 assessment conducted pursuant to section 571-45 indicating that
18 a youth is high-need and if the youth is actively involved in
19 two or more youth-serving agencies.

20 (d) Coordinated services for justice system-involved youth
21 shall be identified and carried out using a coordinated service



- 1 plan, developed during regular meetings of the statewide
2 cluster. The coordinated service plan shall include:
- 3 (1) An assessment of the individual needs of the youth;
4 (2) Identification of services currently being provided;
5 (3) Identification of the necessary coordinated services;
6 (4) Identification of the public or private agencies that
7 can provide the necessary coordinated services to the
8 youth, and a description of how each coordinated
9 service will be funded;
- 10 (5) If any necessary coordinated service need cannot be
11 met, a specific explanation as to why the service need
12 could not be met, such as a lack of funding or
13 unavailability of service, which shall be reported to
14 the board of family court judges and the Hawaii
15 juvenile justice state advisory council; and
- 16 (6) Opportunities for participation from the youth's legal
17 parent, guardian, or custodian.
- 18 (e) The statewide cluster shall annually report the number
19 of cases referred to the cluster, the number of cases in which a
20 coordinated service plan was established, and the outcome of the
21 cases. This report shall be submitted to the board of family



1 court judges and the Hawaii juvenile justice state advisory
2 council."

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

5 "**§352-25 Furlough, parole, discharge.** (a) The director,
6 for good reasons shown to the director's satisfaction, may
7 furlough or parole any person committed to the director's
8 custody. The director shall give the court and the prosecutor's
9 office of the appropriate county a thirty-day notice prior to
10 discharging a committed person. Prior court approval shall be
11 obtained when such is specifically required in the commitment
12 order.

13 No furlough, parole, or discharge shall be granted unless
14 it appears to the director that there is a reasonable
15 probability that the person will not violate the law and that
16 the person's release is not incompatible with the welfare and
17 safety of society.

18 (b) When granting parole, the director shall consider
19 whether:

20 (1) The results of a risk and needs assessment indicate
21 the person is a lower risk to reoffend;



- 1 (2) The person has substantially complied with the
2 facility rules and has had no significant misconduct
3 in the prior two months;
- 4 (3) The person has demonstrated efforts towards
5 rehabilitation;
- 6 (4) The person is likely to follow the reentry plan
7 established pursuant to section 352- ; and
- 8 (5) A home visit has been completed and the living
9 situation upon parole is determined to be safe and
10 conducive to rehabilitation.

11 The form of furlough or parole may include return to the
12 person's own home, transfer to another youth correctional
13 facility, a group home or foster home placement, or other
14 appropriate alternative. Nonresidential programs may be made
15 available to selected persons on furlough such that they return
16 to the facility during nontreatment hours.

17 (c) The director shall submit an annual report to the
18 board of family court judges and the Hawaii juvenile justice
19 state advisory council. The report shall include the number of
20 persons committed to the director's custody who are not serving
21 a concurrent term of probation, the number of those persons who
22 were granted parole in the previous year, the length of the



1 parole term for each paroled person, and the number of persons
2 on parole who return to the Hawaii youth correctional facilities
3 for any reason."

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

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

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

19 "Coordinated services" means treatment, education, care,
20 services, and other resources provided by one or more distinct
21 state or local agencies in a coordinated manner for a child who
22 is involved in two or more youth-serving agencies.



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

5 "Home visit" means an announced or unannounced visit to a
6 child's place of residence, conducted by the child's probation
7 officer, within forty-five days of the child's placement on
8 probation.

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

13 "Risk and needs assessment" means a determination, based on
14 an actuarial tool validated on Hawaii's juvenile justice system-
15 involved population, of specific factors that predict a child's
16 likelihood of recidivating and criminogenic factors that, when
17 properly addressed, can reduce the likelihood of recidivating."

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

20 **"§571-5 Board of family court judges.** A board of family
21 court judges, which shall consist of all the State's family
22 court judges and district family judges is hereby created. The



1 board shall annually elect from among its members a chairperson
2 who shall preside at meetings of the board. The chairperson
3 shall have no other authority not specifically authorized under
4 this chapter, or any applicable rule of the supreme court, or
5 specifically delegated by a majority of the board. The board
6 shall meet at stated times to be fixed by it but not less often
7 than once every six months, and on call of the chairperson.

8 The board shall discuss and shall attempt to achieve
9 agreement upon general policies for the conduct of the family
10 courts and forms for use in such courts. The board shall
11 recommend, for adoption by the supreme court, rules of court
12 governing procedure and practices in such courts. The board
13 shall provide the guidelines and procedures necessary to
14 implement a single statewide standardized tool to conduct risk
15 and needs assessments, as defined by section 571-2, and
16 validation of the tool every five years. The board may, within
17 the limitations of the facilities available to the family courts
18 of the State, seek the consolidation of the statistical and
19 other data on the work and services of such courts and research
20 studies that may be made of the problems of families and
21 children dealt with by such courts to the end that the treatment
22 of children and families subject to the jurisdiction of such



1 courts shall achieve the highest possible degree of uniformity
2 throughout the State and to the further end that knowledge of
3 treatment, methods and therapeutic practices be shared among
4 such courts. The board may also formulate recommendations for
5 remedial legislation. All actions by the board shall be subject
6 to the regulatory supervision of the chief justice of the
7 supreme court."

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

10 "**§571-6 Appointment and duties of employees.** (a) For
11 each family court, the judge, or the senior judge when there is
12 more than one judge, shall appoint a chief administrative and
13 executive officer who shall have the title of director of the
14 family court. Under the general supervision of the senior judge
15 or the judge, the director shall:

- 16 (1) Prepare an annual budget for the court;
- 17 (2) Formulate procedures governing the routine
18 administration of court services;
- 19 (3) Make recommendations to the court for improvement in
20 court services;
- 21 (4) Make recommendations to the senior judge or the judge
22 for the appointment of administrative, supervisory,



1 consultant, and necessary professional and clerical
2 and other personnel to perform the duties assigned to
3 the court and the director;

4 (5) Provide supervision and consultation to the
5 administrative and supervisory staff regarding the
6 administration of court services, recruitment of
7 personnel, in-service training, and fiscal and office
8 management; and

9 (6) Perform other duties as the senior judge or the judge
10 shall specify.

11 (b) For each family court the judge or senior judge where
12 there is more than one shall appoint necessary probation
13 officers, social workers, and marital counselors and may
14 appoint, or make arrangements for the services of physicians,
15 psychologists, psychiatrists, and other professionally competent
16 persons, to carry on the work of the court.

17 (c) Pursuant to subsection (a) (5), each probation officer
18 shall complete training annually on juvenile justice or
19 probation supervision best practices; provided that funding is
20 available. The form and length of the training shall be
21 determined by the director of the family court, or their



1 designee, and at their discretion, training may be conducted
2 jointly between judicial circuits, as defined in section 603-1."

3 SECTION 8. Section 571-31.2, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§571-31.2 Juvenile intake and diagnostic services.** (a)

6 The court or other designated agency shall:

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

10 (2) Require the child, the child's parent, the child's
11 guardian or legal custodian, or both, to appear at the
12 court or other designated agency as soon as
13 practicable for a family counseling session to attempt
14 a quick resolution of their problem;

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

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

19 [~~(A)~~] (B) Release of a child to the care of the
20 child's parent or other responsible adult;



- 1 ~~[(B)]~~ (C) Extending to or making arrangement for the
- 2 securing of suitable informal adjustment under
- 3 section 571-31.4, 571-31.5 or 571-31.6;
- 4 ~~[(C)]~~ (D) Initiation of the filing of a complaint or
- 5 petition;
- 6 ~~[(D)]~~ (E) Detention of a child, utilizing the standard
- 7 set out in section 571-31.1 or temporary shelter
- 8 in a nonsecure shelter; and
- 9 ~~[(E)]~~ (F) Making such other informal disposition as
- 10 may be suitable.

11 (b) If the intake officer believes it desirable, such
12 officer may take action to obtain the child or the written
13 promise of a parent, guardian, or legal custodian to take the
14 child to the court or other designated agency as in section
15 571-31(c). The failure of a parent, guardian, or other legal
16 custodian to produce the child in court or at the other
17 designated agency as required by an authorized notice may be
18 pursued as provided in section 571-31(d).

19 (c) For cases diverted under subsection (a)(3)(A), intake
20 officers shall compile reports at least monthly enumerating the
21 aggregate number of cases diverted and the types of alleged
22 offenses precipitating the referral of the child to the court.



1 These reports shall be submitted to the administrator of the
 2 juvenile client services branch in each judicial circuit, who
 3 shall compile the reports into an annual report for each
 4 judicial circuit, to be submitted to the board of family court
 5 judges and the Hawaii juvenile justice state advisory council."

6 SECTION 9. Section 571-31.4, Hawaii Revised Statutes, is
 7 amended to read as follows:

8 "§571-31.4 **Informal adjustment, law violators.** (a) When
 9 a child reasonably believed to come within section 571-11(1) is
 10 referred to the court or other designated agency, and is not
 11 diverted from processing, informal adjustment may be provided to
 12 the child by an intake officer duly authorized by the family
 13 court only where the facts reasonably appear to establish prima
 14 facie jurisdiction and are admitted and where a consent is
 15 obtained from the child's parent, guardian, or legal custodian,
 16 and the child, if of sufficient age and understanding.

17 (b) The directors of the family courts of each circuit
 18 shall together establish a framework that includes the criteria
 19 probation officers shall use to guide the exercise of discretion
 20 in providing informal adjustment.



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

- 4 (1) Participation in restitution projects to obtain
5 appropriate victim satisfaction;
- 6 (2) Participation in community service projects so as to
7 establish the child's self value in the community;
- 8 (3) Participation in community-based programs which work
9 with the child and family to maintain and strengthen
10 the family unit so that the child may be retained in
11 the child's own home;
- 12 (4) Submission to neighborhood courts or panels upon
13 procedures to be established by the court. As used in
14 this paragraph "neighborhood courts or panels" are
15 community organizations designed to settle minor
16 disputes between parties on a voluntary basis using
17 mediation or nonbinding arbitration;
- 18 (5) Participation in programs to support, counsel, or
19 provide work and recreational opportunities to help
20 prevent delinquency;
- 21 (6) Participation in educational programs or supportive
22 services designed to help delinquents and to encourage



- 1 other youths to remain in elementary and secondary
2 schools or in alternative learning situations;
- 3 (7) Participation in youth-initiated programs and outreach
4 programs designed to assist youth and families;
- 5 (8) Appropriate physical and medical examinations,
6 vocational and aptitude testing, examinations for
7 learning disabilities or emotional dysfunctions, and
8 suitable counseling and therapy;
- 9 (9) Placement with nonsecure or secure shelter facilities;
- 10 (10) Restitution providing for monetary payment by the
11 parents of the child; or
- 12 (11) Participation in a restorative justice program where
13 the child and the child's parents or guardian, and
14 other supporters of the child, may meet with the
15 victim harmed by the child's law violation and the
16 victim's supporters.

17 [~~e~~] (d) Informal adjustment projects, programs, and
18 services may be provided through public agencies or private
19 agencies.

20 [~~d~~] (e) In the event resources and services for informal
21 adjustment are not available, have failed, are reasonably
22 believed to fail if attempted, or are unable to respond to the



1 needs of the child or family, the intake officer shall proceed
2 with formal action, or take such action as is otherwise allowed
3 under this chapter.

4 (f) Intake officers shall compile annual reports that
5 include the number and per cent of referrals informally
6 adjusted, and the number and per cent of children informally
7 adjusted who avoided further system processing. The
8 administrator of the juvenile client services branch in each
9 judicial circuit shall compile the annual reports from the
10 probation intake sections into a single annual report for each
11 judicial circuit and shall submit the final report to the board
12 of family court judges and the Hawaii juvenile justice state
13 advisory council."

14 SECTION 10. Section 571-31.5, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) When a child reasonably believed to come within
17 section 571-11(2) is referred to the court or other designated
18 agency, informal adjustment [~~may~~] shall be provided to the child
19 by an intake officer duly authorized by the family court only
20 where the facts reasonably appear to establish prima facie
21 jurisdiction and are admitted and where a consent is obtained
22 from the child's parent, guardian, or legal custodian, and the



1 child, if of sufficient age and understanding. Informal
2 adjustment under this section may include, among other suitable
3 methods, programs, and procedures, listed in section
4 ~~[571-31.4(b),]~~ 571-31.4(c), except section ~~[571-31.4(b)(1),]~~
5 571-31.4(c)(1), and provided that placement with shelter
6 facilities under section ~~[571-31.4(b)(9)]~~ 571-31.4(c)(9) shall
7 be on a nonsecure basis unless the child is processed under
8 subsection (b) ~~[of this section].~~"

9 SECTION 11. Section 571-31.6, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§571-31.6 Informal adjustment, minor who may be both law**
12 **violin and status offender.** When a child is reasonably
13 believed to come within section 571-11(1) and (2), the intake
14 officer may exercise discretion to process informal adjustment
15 under section 571-31.4 ~~[or 571-31.5]~~. In making that
16 determination, the officer shall be guided by the criteria set
17 out in section 571-31.1(c)(1) to (5) ~~[7]~~ and the criteria in the
18 framework established pursuant to section 571-31.4(b), taking
19 into account the availability of suitable method, program, or
20 procedure for the child."

21 SECTION 12. Section 571-41, Hawaii Revised Statutes, is
22 amended by amending subsection (d) to read as follows:



1 "(d) In the disposition part of the hearing any relevant
2 and material information, including that contained in a written
3 report, study, or examination, including the results of a risk
4 and needs assessment of the child conducted pursuant to section
5 571-45, shall be admissible, and may be relied upon to the
6 extent of its probative value; provided that the maker of the
7 written report, study, or examination shall be subject to both
8 direct and cross-examination upon demand and when the maker is
9 reasonably available. The disposition shall be based only upon
10 the admitted evidence, and findings adverse to the child as to
11 disputed issues of fact shall be based upon a preponderance of
12 such evidence."

13 SECTION 13. Section 571-45, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§571-45** ~~[Investigation]~~ **Assessment and investigation**
16 **prior to disposition.** Prior to disposition, the court shall
17 conduct a risk and needs assessment, using the tool procured and
18 validated pursuant to section 571-5, for each child concerning
19 whom a petition has been filed pursuant to section 571-11(1) and
20 (2).

21 ~~[Except where the requirement is waived by the judge]~~ In
22 addition to the risk and needs assessment, a social study and a



1 report in writing shall be made in the case of a [~~minor~~] child
2 concerning whom a petition has been filed under section
3 571-11(1) and (2) [~~-~~], except where the judge waives the
4 requirement to make a social study and a report in writing. The
5 study shall be initiated upon the filing of a petition except in
6 petitions filed under section 571-11(1) when it is ascertained
7 that the [~~minor~~] child denies the allegations set forth in the
8 petition. In such case the study shall proceed only after the
9 court after hearing has made a finding as to the allegations of
10 the petition.

11 Except where the requirement is waived by the judge, social
12 studies shall also be made in proceedings to decide disputed or
13 undetermined legal custody and in custody disputes arising out
14 of a divorce action. In all other awards of custody arising out
15 of a divorce action, including those where an agreement with
16 respect to custody has been made by the parties, and in any
17 other case or class of cases, the judge may order a social study
18 when the judge has reason to believe such action is necessary to
19 assure adequate protection of the [~~minor~~] child or of any other
20 person involved in the case. By special order of the judge or
21 by rule of court a social study may be required in support cases
22 covering financial ability and other matters pertinent to making



1 an order of support. The use of such studies in custody and
2 support hearings shall be subject to the applicable provisions
3 of section 571-41.

4 [Social] The results of the risk and needs assessment and
5 any social studies required by this section shall be presented
6 to and considered by the judge prior to making disposition[-]
7 pursuant to section 571-41(d).

8 The judge may order and use a presentence investigation
9 with respect to any criminal action under the jurisdiction of
10 the court in accordance with the existing provisions of the law
11 with respect to the making and use of such studies.

12 If the results of the risk and needs assessment indicate a
13 substance abuse or mental health need, the probation officer
14 shall immediately refer the child to the department of health
15 for an eligibility determination.

16 The court, upon the motion of the child or on its own
17 motion, may order the suspension of the delinquency proceedings,
18 prior to adjudication, for a period of up to one year to obtain
19 substance abuse or mental health treatment if the court finds:

20 (1) The child presently needs and is likely to benefit
21 from treatment; and



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

3 No later than one month before the end of the period of
4 suspension of the delinquency proceedings, the treatment
5 provider shall submit a report on whether the child has
6 completed the treatment program.

7 If the court, on the motion of the child or on its own
8 motion, finds that the child has successfully completed the
9 treatment program, the court may dismiss the suspended
10 delinquency proceedings. If the court does not find that the
11 child has satisfactorily completed treatment, the court may
12 terminate the suspension and proceed with the case.

13 A probation officer referring a child to the department of
14 health under this section shall report any subsequent denial of
15 services to the administrator of the juvenile client services
16 branch in each judicial circuit. The administrators of the
17 juvenile client services branch shall submit an annual report
18 compiling all such denials to the board of family court judges
19 and the Hawaii juvenile justice state advisory council."

20 SECTION 14. Section 571-48, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§571-48 Decree, if informal adjustment or diversion to a
2 private or community agency or program has not been effected.

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

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

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

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

11 (ii) In the custody of a suitable person or
12 facility elsewhere, upon conditions
13 determined by the court.

14 An order by the court placing a child on
15 probation under subparagraph (A) shall include a
16 definite term of probation stated in months or
17 years, subject to extension or modification by
18 the court pursuant to section 571-50. When
19 conditions of probation include custody in a
20 youth correctional facility, the custody shall be
21 for a term not to exceed one year, after which
22 time the [~~person~~] child shall be allowed to



1 reside in the community subject to additional
2 conditions as may be imposed by the court;

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

6 (i) In a Hawaii youth correctional facility~~[,~~
7 in] if the child has been adjudicated for a
8 felony-level offense or a violation or
9 revocation of probation, or is committed to
10 the facility from juvenile drug court or
11 girls court on a court order. For a child
12 eligible for placement in a Hawaii youth
13 correctional facility, the court shall enter
14 a finding of fact in the record stating the
15 reasons the child is a public safety risk
16 warranting placement in the correctional
17 facility. No such finding of fact shall be
18 required if the child is adjudicated for a
19 felony against a person or a sex offense;

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



1 child to probation status under paragraph (1) (A);

2 or

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

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

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

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



1 approved by the family or juvenile court of the
2 other state or by that state's department of
3 social services or other appropriate department;
4 provided that the child may not be committed to a
5 public or private institution operated solely for
6 the treatment of law violators;

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



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

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



1 the child to an institution for the correction of
2 adult offenders, except as authorized in this chapter
3 and under chapter 352;

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

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

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



1 parties to the proceeding. If such persons fail to
2 comply with the requirement or with the court order,
3 the court may proceed against them for contempt of
4 court;

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

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

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

20 (11) The court may order any person adjudicated pursuant to
21 section 571-11(1) to make restitution of money or



1 services to any victim who suffers loss as a result of
2 the child's action, or to render community 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~~] child to make restitution of money or services
8 to any victim, person, or party who has incurred a
9 loss or damages as a result of the child's action[+];
10 and

11 (14) Each director of the family court, or the director's
12 designee, shall submit annual reports to the board of
13 family court judges and the Hawaii juvenile justice
14 state advisory council that includes:

15 (A) The number and per cent of cases ordered to
16 administrative monitoring status;

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

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

13 SECTION 15. Chapter 321D, Hawaii Revised Statutes, is
14 repealed.

15 SECTION 16. There is established a juvenile justice
16 oversight advisory council, deemed to be temporary and for a
17 special purpose. The purpose of the advisory council is to
18 oversee implementation and issue necessary reports to carry out
19 the juvenile justice reforms in this Act.

20 The duties of the advisory council are as follows:



- 1 (1) To review, evaluate, and make recommendations
2 regarding the implementation of the reforms in this
3 Act;
- 4 (2) To develop a uniform process for establishing and
5 reviewing performance and outcome standards for the
6 office of youth services and the family court division
7 of the judiciary, as well as other interrelated
8 agencies. The uniform process shall include the
9 performance and outcome measures for each agency that
10 shall be reviewed annually, the deadlines and format
11 for the submission of the performance and outcome
12 measures, and the entity to which the measures shall
13 be reported;
- 14 (3) To review data and information submitted to the
15 advisory council and submit annual reports to the
16 executive, legislative, and judicial branches for the
17 term the advisory council is in existence, evaluating
18 implementation of the reforms in this Act and juvenile
19 justice system effectiveness; and
- 20 (4) To review current eligibility requirements for mental
21 health services for youth, with a focus on expanding
22 access to services to ensure that youth determined to



1 be at-risk and with a need for mental health services
2 receive those services in a more comprehensive and
3 timely manner, through the department of health or its
4 contracted mental health providers, collaborating and
5 consulting with any relevant agency, and submit a
6 report no later than twenty days prior to the
7 convening of the 2016 regular session to the
8 executive, legislative, and judicial branches,
9 including the current eligibility requirements, recent
10 changes to eligibility requirements, and
11 recommendations for further changes to the eligibility
12 requirements.

13 The advisory council shall be composed of sixteen members
14 to be selected as follows, without regard to section 26-34,
15 Hawaii Revised Statutes:

- 16 (1) One member from the executive branch, appointed by the
17 governor;
- 18 (2) One member from the house of representatives,
19 appointed by the speaker of the house of
20 representatives, or designee;
- 21 (3) One member from the senate, appointed by the president
22 of the senate, or designee;



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



1 (11) One juvenile crime victim advocate, selected from a
2 list submitted by the victim-witness coordinators, and
3 appointed by the governor; and

4 (12) One member from a law enforcement agency or a county
5 prosecutor's office, appointed by the governor.

6 The advisory council shall receive copies of all data,
7 reports, performance measures, and other evaluative materials
8 submitted to any agency or branch of government under this Act,
9 and may request further data analysis or information from youth-
10 serving agencies to carry out its duties. The advisory council
11 may also request recidivism data from the attorney general.

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



1 The judiciary shall provide staff support to the advisory
2 council, at the request of the advisory council. The members
3 shall serve without compensation.

4 The advisory council shall cease to exist on the last day
5 of the regular session of 2016, unless extended by concurrent
6 resolution of the legislature.

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

11 SECTION 17. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 18. This Act shall take effect on July 1, 2014,
14 and apply to delinquent behavior committed on or after that
15 date; provided that section 14 shall take effect on September 1,
16 2014, and apply to delinquent behavior committed on or after
17 that date; provided that sections 3 and 13 shall take effect on
18 January 1, 2015, and apply to delinquent behavior committed on
19 or after that date.



Report Title:

Juvenile Justice; Juvenile Probation; Juvenile Justice Oversight
Advisory Council

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. Effective July 1, 2014. (HB2490 HD1)

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