

JAN 19 2023

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# A BILL FOR AN ACT

RELATING TO NOISE CONTROL.

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

1           SECTION 1. Section 291D-1, Hawaii Revised Statutes, is  
2 amended to read as follows:  
3           "§291D-1 Purpose. (a) Act 222, Session Laws of Hawaii  
4 1978, began the process of decriminalizing certain traffic  
5 offenses, not of a serious nature, to the status of violations.  
6 In response to a request by the legislature, the judiciary  
7 prepared a report in 1987 that recommended, among other things,  
8 further decriminalization of traffic offenses, elimination of  
9 most traffic arraignments, disposition of uncontested violations  
10 by mail, and informal hearings where the violation or the  
11 proposed penalty is questioned. The legislature finds that  
12 further decriminalization of certain traffic offenses and  
13 streamlining of the handling of those traffic cases will achieve  
14 a more expeditious system for the judicial processing of traffic  
15 infractions. The system of processing traffic infractions  
16 established by this chapter will:



- 1           (1) Eliminate the long and tedious arraignment proceeding  
2                   for a majority of traffic matters;
- 3           (2) Facilitate and encourage the resolution of many  
4                   traffic infractions through the payment of a monetary  
5                   assessment;
- 6           (3) Speed the disposition of contested cases through a  
7                   hearing, similar to small claims proceedings, in which  
8                   the rules of evidence will not apply and the court  
9                   will consider as evidence the notice of traffic  
10                  infraction, applicable police reports, or other  
11                  written statements by the police officer who issued  
12                  the notice, any other relevant written material, and  
13                  any evidence or statements by the person contesting  
14                  the notice of traffic infraction;
- 15          (4) Dispense in most cases with the need for witnesses,  
16                  including law enforcement officers, to be present and  
17                  for the participation of the prosecuting attorney;
- 18          (5) Allow judicial, prosecutorial, and law enforcement  
19                  resources to be used more efficiently and effectively;  
20                  and



1           (6) Save the taxpayers money and reduce their frustration  
2           with the judicial system by simplifying the traffic  
3           court process.

4 The legislature further finds that this chapter will not require  
5 expansion of the current traffic division of the district  
6 courts, but will achieve greater efficiency through more  
7 effective use of existing resources of the district courts.

8           (b) The legislature finds that the pandemic related to the  
9 coronavirus disease 2019 necessitated the imposition of  
10 emergency period rules in an attempt to control the spread of  
11 the disease in the State. The thousands of violations of the  
12 emergency period rules caused an examination of the ability to  
13 impose infractions for lesser offenses as an alternative to  
14 using the Penal Code and to allow for more efficient use of the  
15 judicial system. The system of processing traffic infractions  
16 under this chapter was enacted in 1993 and has provided a useful  
17 mechanism for handling offenses deemed as infractions and is  
18 well-suited to certain types of violations of emergency period  
19 rules that are designated infractions by the governor or mayor  
20 under the state's emergency management laws.



1        (c) The legislature finds that excessive noise pollution  
2 is a serious problem in various areas across the State, which  
3 can travel through walls, closed doors and windows at any time  
4 of day or night, and prevent many individuals and families from  
5 the peaceful enjoyment of their homes. While a reasonable  
6 amount of noise should be expected anywhere, and particularly in  
7 those areas that are most densely populated, there must be  
8 reasonable noise limits, and a means for enforcing those limits,  
9 that is fair and predictable for everyone involved. To the  
10 extent that counties wish to enforce these noise limits via  
11 civil infractions, rather than criminal penalties, the system of  
12 processing traffic infractions established under this chapter  
13 provides a suitable mechanism for handling these infractions."

14        SECTION 2. Section 291D-2, Hawaii Revised Statutes, is  
15 amended as follows:

16        1. By adding one new definition to be appropriately  
17 inserted and to read:

18        "Noise control infraction" means all occurrences of  
19 noncompliance with noise-related ordinances adopted by  
20 applicable counties, which are stated and designated in the  
21 ordinances as being a noise control infraction."



1           2. By amending the definition of "concurrent trial" to  
2 read:

3           ""Concurrent trial" means a trial proceeding held in the  
4 district or family court in which the defendant is tried  
5 simultaneously in a civil case for any charged traffic  
6 infraction [~~or~~], emergency period infraction, or noise control  
7 infraction and in a criminal case for any related criminal  
8 offense, with trials to be held in one court on the same date  
9 and at the same time."

10          3. By amending the definition of "hearing" to read:

11          ""Hearing" means a proceeding conducted by the district  
12 court pursuant to section 291D-8 at which the person to whom a  
13 notice of traffic infraction [~~or~~], notice of emergency period  
14 infraction, or notice of noise control infraction was issued  
15 either admits to the infraction, contests the notice of traffic  
16 infraction [~~or~~], notice of emergency period infraction, or  
17 notice of noise control infraction, or admits to the traffic  
18 infraction [~~or~~], emergency period infraction, or noise control  
19 infraction but offers an explanation to mitigate the monetary  
20 assessment imposed."



1           4. By amending the definition of "related criminal  
2 offense" to read:

3           ""Related criminal offense" means any criminal violation or  
4 crime, committed in the same course of conduct as a traffic  
5 infraction [~~or~~], emergency period infraction, or noise control  
6 infraction, for which the defendant is arrested or charged."

7           SECTION 3. Section 291D-3, Hawaii Revised Statutes, is  
8 amended by amending subsections (a) through (e) to read as  
9 follows:

10           "(a) Notwithstanding any other provision of law to the  
11 contrary, all traffic infractions [~~and~~], emergency period  
12 infractions, or noise control infractions, including infractions  
13 committed by minors, shall be adjudicated pursuant to this  
14 chapter, except as provided in subsection (b). This chapter  
15 shall be applied uniformly throughout the State and in all  
16 counties. No penal sanction that includes imprisonment shall  
17 apply to a violation of a state statute or rule, or county  
18 ordinance or rule, that would constitute a traffic infraction  
19 [~~or an~~], emergency period infraction, or noise control  
20 infraction under this chapter. No traffic infraction [~~or~~],



1 emergency period infraction, or noise control infraction shall  
2 be classified as a criminal offense.

3 (b) Where a defendant is charged with a traffic infraction  
4 [~~or an~~], emergency period infraction, or noise control  
5 infraction and the infraction is committed in the same course of  
6 conduct as a criminal offense for which the offender is arrested  
7 or charged, the traffic infraction [~~or~~], emergency period  
8 infraction, or noise control infraction shall be adjudicated  
9 pursuant to this chapter; provided that the court may schedule  
10 any initial appearance, hearing, or trial on the traffic  
11 infraction [~~or~~], emergency period infraction, or noise control  
12 infraction at the same date, time, and place as the arraignment,  
13 hearing, or trial on the related criminal offense.

14 Notwithstanding this subsection and subsection (c), the  
15 court shall not schedule any initial appearance, hearing, or  
16 trial on the traffic infraction [~~or~~], emergency period  
17 infraction, or noise control infraction at the same date, time,  
18 and place as the arraignment, hearing, or trial on the related  
19 criminal offense where the related criminal offense is a felony  
20 or is a misdemeanor for which the defendant has demanded a jury  
21 trial.



1 (c) If the defendant requests a trial pursuant to section  
2 291D-13, the trial shall be held in the district court of the  
3 circuit in which the traffic infraction [~~or~~], emergency period  
4 infraction, or noise control infraction was committed. If the  
5 court schedules a concurrent trial pursuant to paragraph (1),  
6 the concurrent trial shall be held in the appropriate district  
7 or family court of the circuit in which the traffic infraction  
8 [~~or~~], emergency period infraction, or noise control infraction  
9 was committed, whichever has jurisdiction over the related  
10 criminal offense charged pursuant to the applicable statute or  
11 rule of court; provided that:

12 (1) The district or family court, for the purpose of  
13 trial, may schedule a civil trial on the traffic  
14 infraction [~~or~~], emergency period infraction, or noise  
15 control infraction on the same date and at the same  
16 time as a criminal trial on the related criminal  
17 offense charged. The court shall enter a civil  
18 judgment as to the traffic infraction [~~or~~], emergency  
19 period infraction, or noise control infraction and a  
20 judgment of conviction or acquittal as to the related  
21 criminal offense following such concurrent trial; and





1           (2) If trial on the traffic infraction [~~æ~~], emergency  
2           period infraction, or noise control infraction is held  
3           separately from and before trial on any related  
4           criminal offense, the following shall be inadmissible  
5           in the prosecution or trial of the related criminal  
6           offense, except as expressly provided by the Hawaii  
7           rules of evidence:

8           (A) Any written or oral statement made by the  
9           defendant in proceedings conducted pursuant to  
10          section 291D-7(b); and

11          (B) Any testimony given by the defendant in the trial  
12          on the traffic infraction [~~æ~~], emergency period  
13          infraction, or noise control infraction.

14          Such statements or testimony shall not be deemed a  
15          waiver of the defendant's privilege against  
16          self-incrimination in connection with any related  
17          criminal offense.

18          (d) In no event shall section 701-109 preclude prosecution  
19          for a related criminal offense where a traffic infraction [~~æ~~  
20          æ)], emergency period infraction, or noise control infraction



1 committed in the same course of conduct has been adjudicated  
2 pursuant to this chapter.

3 (e) If the defendant fails to appear at any scheduled  
4 court date before the date of trial or concurrent trial and:

5 (1) The defendant's civil liability for the traffic  
6 infraction [e], emergency period infraction, or noise  
7 control infraction has not yet been adjudicated  
8 pursuant to section 291D-8, the court shall enter a  
9 judgment by default in favor of the State for the  
10 traffic infraction [e], emergency period infraction,  
11 or noise control infraction unless the court  
12 determines that good cause or excusable neglect exists  
13 for the defendant's failure to appear; or

14 (2) The defendant's civil liability for the traffic  
15 infraction [e], emergency period infraction, or noise  
16 control infraction has been adjudicated previously  
17 pursuant to section 291D-8, the judgment earlier  
18 entered in favor of the State shall stand unless the  
19 court determines that good cause or excusable neglect  
20 exists for the defendant's failure to appear."



1 SECTION 4. Section 291D-4, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§291D-4 Venue and jurisdiction. (a) All violations of  
4 state law, ordinances, or rules designated as traffic  
5 infractions [~~or~~], emergency period infractions, or noise control  
6 infractions in this chapter shall be adjudicated in the district  
7 and circuit where the alleged infraction occurred, except as  
8 otherwise provided by law.

9 (b) Except as otherwise provided by law, jurisdiction is  
10 in the district court of the circuit where the alleged traffic  
11 infraction [~~or~~], emergency period infraction, or noise control  
12 infraction occurred. Except as otherwise provided in this  
13 chapter, district court judges shall adjudicate traffic  
14 infractions [~~and~~], emergency period infractions [~~-~~], and noise  
15 control infractions."

16 SECTION 5. Section 291D-5, Hawaii Revised Statutes, is  
17 amended by amending subsections (a) through (d) to read as  
18 follows:

19 "(a) The notice of traffic infraction for moving  
20 violations, [~~and the~~] notice of emergency period infraction, and  
21 notice of noise control infraction shall include the summons for



1 the purposes of this chapter. Whenever a notice of traffic  
2 infraction [~~or~~], notice of emergency period infraction, or  
3 notice of noise control infraction is issued, the person's  
4 signature, driver's license number or state identification  
5 number, electronic mail address, and current address shall be  
6 noted on the notice. If the person refuses to sign the notice  
7 of traffic infraction [~~or~~], notice of emergency period  
8 infraction, or notice of noise control infraction, the officer  
9 shall record this refusal on the notice and issue the notice to  
10 the person. Anyone to whom a notice of traffic infraction [~~or~~],  
11 notice of emergency period infraction, or notice of noise  
12 control infraction is issued under this chapter need not be  
13 arraigned before the court, unless required by rule of the  
14 supreme court.

15 (b) The forms for the notice of traffic infraction [~~and~~],  
16 notice of emergency period infraction, and notice of noise  
17 control infraction shall be prescribed by rules of the district  
18 court, which shall be uniform throughout the State; provided  
19 that each judicial circuit may include differing statutory,  
20 rule, or ordinance provisions on its respective notice of



1 traffic infraction [øæ], notice of emergency period  
2 infraction[-], or notice of noise control infraction.

3 (c) A notice of traffic infraction [øæ], notice of  
4 emergency period infraction, or notice of noise control  
5 infraction that is generated by the use of electronic equipment  
6 or that bears the electronically stored image of any person's  
7 signature, or both, shall be valid under this chapter.

8 (d) The notice of traffic infraction [øæ], notice of  
9 emergency period infraction, or notice of noise control  
10 infraction shall include the following:

- 11 (1) A statement of the specific infraction for which the  
12 notice was issued;
- 13 (2) Except in the case of parking-related traffic  
14 infractions, a brief statement of the facts;
- 15 (3) A statement of the total amount to be paid for each  
16 infraction, which amount shall include any fee,  
17 surcharge, or cost required by statute, ordinance, or  
18 rule, and any monetary assessment, established for the  
19 particular infraction pursuant to section 291D-9, to  
20 be paid by the person to whom the notice was issued,  
21 which shall be uniform throughout the State;



- 1           (4) A statement of the options provided in  
2                    section 291D-6(b) for answering the notice and the  
3                    procedures necessary to exercise the options;
- 4           (5) A statement that the person to whom the notice is  
5                    issued shall answer, choosing one of the options  
6                    specified in section 291D-6(b), within twenty-one days  
7                    of issuance of the notice;
- 8           (6) A statement that failure to answer the notice within  
9                    twenty-one days of issuance shall result in the entry  
10                  of judgment by default for the State and may result in  
11                  the assessment of a late penalty;
- 12          (7) A statement that, at a hearing requested to contest  
13                  the notice, pursuant to section 291D-8, no officer  
14                  shall be present unless the person to whom the notice  
15                  was issued timely requests the court to have the  
16                  officer present, and that the standard of proof to be  
17                  applied by the court is whether a preponderance of the  
18                  evidence proves that the specified infraction was  
19                  committed;
- 20          (8) A statement that, at a hearing requested for the  
21                  purpose of explaining mitigating circumstances



1 surrounding the commission of the infraction or in  
2 consideration of a written request for mitigation, the  
3 person shall be considered to have committed the  
4 infraction;

5 (9) A space in which the signature of the person to whom  
6 the notice was issued may be affixed; and

7 (10) The date, time, and place at which the person to whom  
8 the notice was issued shall appear in court, if the  
9 person is required by the notice to appear in person  
10 at the hearing."

11 SECTION 6. Section 291D-6, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "§291D-6 **Answer required.** (a) A person who receives a  
14 notice of traffic infraction [~~or~~], notice of emergency period  
15 infraction, or notice of noise control infraction shall answer  
16 the notice within twenty-one days of the date of issuance of the  
17 notice. There shall be included with the notice of traffic  
18 infraction [~~or~~], notice of emergency period infraction, or  
19 notice of noise control infraction a preaddressed envelope  
20 directed to the traffic [~~and~~], emergency period, and noise  
21 control violations bureau of the applicable district court.



1 (b) Provided that the notice of traffic infraction [~~or~~],  
2 notice of emergency period infraction, or notice of noise  
3 control infraction does not require an appearance in person at a  
4 hearing as set forth in section 291D-5(d)(10), in answering a  
5 notice of traffic infraction [~~or~~], notice of emergency period  
6 infraction, or notice of noise control infraction, a person  
7 shall have the following options:

8 (1) Admit the commission of the infraction in one of the  
9 following ways:

10 (A) By mail or in person, by completing the  
11 appropriate portion of the notice of traffic  
12 infraction, notice of emergency period  
13 infraction, or notice of noise control  
14 infraction, or preaddressed envelope and  
15 submitting it to the authority specified on the  
16 notice together with payment of the total amount  
17 stated on the notice of traffic infraction [~~or~~],  
18 notice of emergency period infraction[-], or  
19 notice of noise control infraction. Payment by  
20 mail shall be in the form of a check, money  
21 order, or by an approved credit or debit card.





1 Payment in person shall be in the form of United  
2 States currency, check, money order, or by an  
3 approved credit or debit card; or  
4 (B) Via the Internet or by telephone, by submitting  
5 payment of the total amount stated on the notice  
6 of traffic infraction [~~or~~], notice of emergency  
7 period infraction [~~or~~], or notice of noise control  
8 infraction. Payment via the Internet or by  
9 telephone shall be by an approved credit or debit  
10 card;  
11 (2) Deny the commission of the infraction and request a  
12 hearing to contest the infraction by completing the  
13 appropriate portion of the notice of traffic  
14 infraction, notice of emergency period infraction, or  
15 notice of noise control infraction, or preaddressed  
16 envelope and submitting it, either by mail or in  
17 person, to the authority specified on the notice. In  
18 lieu of appearing in person at a hearing, the person  
19 may submit a written statement of grounds on which the  
20 person contests the notice of traffic infraction [~~or~~],  
21 notice of emergency period infraction, or notice of



1           noise control infraction, which shall be considered by  
2           the court as a statement given in court pursuant to  
3           section 291D-8(a); or

4           (3) Admit the commission of the infraction and request a  
5           hearing to explain circumstances mitigating the  
6           infraction by completing the appropriate portion of  
7           the notice of traffic infraction, notice of emergency  
8           period infraction, or notice of noise control  
9           infraction, or preaddressed envelope and submitting  
10          it, either by mail or in person, to the authority  
11          specified on the notice. In lieu of appearing in  
12          person at a hearing, the person may submit a written  
13          explanation of the mitigating circumstances, which  
14          shall be considered by the court as a statement given  
15          in court pursuant to section 291D-8(b).

16          (c) When answering the notice of traffic infraction [~~or~~],  
17          notice of emergency period infraction, or notice of noise  
18          control infraction, the person shall affix the person's  
19          signature to the answer and shall state the address at which the  
20          person will accept future mailings from the court. No other



1 response shall constitute an answer for purposes of this  
2 chapter."

3 SECTION 7. Section 291D-7, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "§291D-7 Court action after answer or failure to answer.

6 (a) When an admitting answer is received, the court shall enter  
7 judgment in favor of the State in the total amount specified in  
8 the notice of traffic infraction [~~or~~], notice of emergency  
9 period infraction[-], or notice of noise control infraction.

10 (b) When a denying answer is received, the court shall  
11 proceed as follows:

12 (1) In the case of a traffic infraction [~~or~~], emergency  
13 period infraction, or noise control infraction where  
14 the person requests a hearing at which the person will  
15 appear in person to contest the infraction, the court  
16 shall notify the person in writing of the date, time,  
17 and place of hearing to contest the notice of traffic  
18 infraction [~~or~~], notice of emergency period  
19 infraction[-], or notice of noise control infraction.

20 The notice of hearing shall be mailed to the address  
21 stated in the denying answer, or if none is given, to



1 the address stated on the notice of traffic infraction  
 2 [~~or~~], notice of emergency period infraction[-], or  
 3 notice of noise control infraction. An electronic  
 4 copy of the notice of hearing may be sent to the  
 5 electronic mail address stated on the notice of  
 6 infraction. The notification also shall advise the  
 7 person that, if the person fails to appear at the  
 8 hearing, the court shall enter judgment by default in  
 9 favor of the State, as of the date of the scheduled  
 10 hearing, that the total amount specified in the  
 11 default judgment shall be paid within thirty days of  
 12 entry of default judgment; and

13 (2) When a denying answer is accompanied by a written  
 14 statement of the grounds on which the person contests  
 15 the notice of traffic infraction [~~or~~], notice of  
 16 emergency period infraction, or notice of noise  
 17 control infraction, the court shall proceed as  
 18 provided in section 291D-8(a) and shall notify the  
 19 person of its decision, including the total amount  
 20 assessed, if any, by mailing the notice of entry of  
 21 judgment within forty-five days of the postmarked date



1 of the answer to the address provided by the person in  
2 the denying answer, or if none is given, to the  
3 address given when the notice of traffic infraction  
4 [~~or~~], notice of emergency period infraction, or notice  
5 of noise control infraction was issued or, in the case  
6 of parking violations, to the address at which the  
7 vehicle is registered. An electronic copy of the  
8 notice of entry of judgment may be sent to the  
9 electronic mail address stated on the notice of  
10 infraction. The notice of entry of judgment also  
11 shall advise the person, if it is determined that the  
12 infraction was committed and judgment is entered in  
13 favor of the State, that the person has the right,  
14 within thirty days of entry of judgment, to request a  
15 trial and shall specify the procedures for doing so.  
16 The notice of entry of judgment shall also notify the  
17 person, if an amount is assessed by the court for  
18 monetary assessments, fees, surcharges, or costs, that  
19 if the person does not request a trial within the time  
20 specified in this paragraph, the total amount assessed  
21 shall be paid within thirty days of entry of judgment.



1 (c) When an answer admitting commission of the infraction  
2 but seeking to explain mitigating circumstances is received, the  
3 court shall proceed as follows:

4 (1) In the case of a traffic infraction [~~or~~], emergency  
5 period infraction, or noise control infraction where  
6 the person requests a hearing at which the person will  
7 appear in person to explain mitigating circumstances,  
8 the court shall notify the person in writing of the  
9 date, time, and place of hearing to explain mitigating  
10 circumstances. The notice of hearing shall be mailed  
11 to the address stated in the answer, or if none is  
12 given, to the address stated on the notice of traffic  
13 infraction [~~or~~], notice of emergency period  
14 infraction[or], or noise control infraction.

15 An electronic copy of the notice of hearing may be  
16 sent to the electronic mail address stated on the  
17 notice of infraction. The notification also shall  
18 advise the person that, if the person fails to appear  
19 at the hearing, the court shall enter judgment by  
20 default in favor of the State, as of the date of the  
21 scheduled hearing, and that the total amount stated in



1           the default judgment shall be paid within thirty days  
2           of entry of default judgment; and

3           (2) If a written explanation is included with an answer  
4           admitting commission of the infraction, the court  
5           shall enter judgment for the State and, after  
6           reviewing the explanation, determine the total amount  
7           of the monetary assessments, fees, surcharges, or  
8           costs to be assessed, if any. The court shall then  
9           notify the person of the total amount to be paid for  
10          the infraction, if any. There shall be no appeal from  
11          the judgment. If the court assesses an amount for  
12          monetary assessments, fees, surcharges, or costs, the  
13          court shall also notify the person that the total  
14          amount shall be paid within thirty days of entry of  
15          judgment.

16          (d) If the person fails to answer within twenty-one days  
17          of issuance of the notice of traffic infraction [~~ex~~], notice of  
18          emergency period infraction, or notice of noise control  
19          infraction, the court shall take action as provided in  
20          subsection (e).



1           (e) Whenever judgment by default in favor of the State is  
2 entered, the court shall mail a notice of entry of default  
3 judgment to the address provided by the person when the notice  
4 of traffic infraction [~~or~~], notice of emergency period  
5 infraction, or notice of noise control infraction was issued or,  
6 in the case of parking infractions, to the address stated in the  
7 answer, if any, or the address at which the vehicle is  
8 registered. An electronic copy of the notice of entry of  
9 default judgment may be sent to the electronic mail address  
10 stated on the notice of infraction. The notice of entry of  
11 default judgment shall advise the person that the total amount  
12 specified in the default judgment shall be paid within thirty  
13 days of entry of default judgment and shall explain the  
14 procedure for setting aside a default judgment. Judgment by  
15 default for the State entered pursuant to this chapter may be  
16 set aside pending final disposition of the traffic infraction  
17 [~~or~~], emergency period infraction, or noise control infraction  
18 upon written application of the person and posting of an  
19 appearance bond equal to the amount of the total amount  
20 specified in the default judgment and any other assessment  
21 imposed pursuant to section 291D-9. The application shall show





1 good cause or excusable neglect for the person's failure to take  
2 action necessary to prevent entry of judgment by default.  
3 Thereafter, the court shall determine whether good cause or  
4 excusable neglect exists for the person's failure to take action  
5 necessary to prevent entry of judgment by default. If so, the  
6 application to set aside default judgment shall be granted, the  
7 default judgment shall be set aside, and the notice of traffic  
8 infraction [~~or~~], notice of emergency period infraction, or  
9 notice of noise control infraction shall be disposed of pursuant  
10 to this chapter. If not, the application to set aside default  
11 judgment shall be denied, the appearance bond shall be forfeited  
12 and applied to satisfy amounts due under the default judgment,  
13 and the notice of traffic infraction [~~or~~], notice of emergency  
14 period infraction, or notice of noise control infraction shall  
15 be finally disposed. In either case, the court shall determine  
16 the existence of good cause or excusable neglect and notify the  
17 person of its decision on the application in writing."

18 SECTION 8. Section 291D-8, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "§291D-8 Hearings. (a) In proceedings to contest a  
21 notice of traffic infraction [~~or~~], notice of emergency period



1 infraction, or notice of noise control infraction where the  
2 person to whom the notice was issued has timely requested a  
3 hearing and appears at such hearing:

4 (1) In lieu of the personal appearance by the officer who  
5 issued the notice of traffic infraction [~~e~~], notice  
6 of emergency period infraction, or notice of noise  
7 control infraction, the court shall consider the  
8 notice of traffic infraction [~~e~~], notice of emergency  
9 period infraction, or notice of noise control  
10 infraction, and any other written report made by the  
11 officer, if provided to the court by the officer,  
12 together with any oral or written statement by the  
13 person to whom the notice of infraction was issued, or  
14 in the case of traffic infractions involving parking  
15 or equipment, the operator or registered owner of the  
16 motor vehicle;

17 (2) The court may compel by subpoena the attendance of the  
18 officer who issued the notice of traffic infraction  
19 [~~e~~], notice of emergency period infraction, or notice  
20 of noise control infraction, and other witnesses from  
21 whom it may wish to hear;



- 1           (3) The standard of proof to be applied by the court shall  
2           be whether, by a preponderance of the evidence, the  
3           court finds that the traffic infraction [~~or~~],  
4           emergency period infraction, or noise control  
5           infraction was committed; and
- 6           (4) After due consideration of the evidence and arguments,  
7           if any, the court shall determine whether commission  
8           of the traffic infraction [~~or~~], emergency period  
9           infraction, or noise control infraction has been  
10          established. Where the commission of the traffic  
11          infraction [~~or~~], emergency period infraction, or noise  
12          control infraction has not been established, judgment  
13          in favor of the defendant, dismissing the notice of  
14          traffic infraction [~~or~~], notice of emergency period  
15          infraction, or notice of noise control infraction or  
16          any count therein with prejudice, shall be entered in  
17          the record. Where it has been established that the  
18          traffic infraction [~~or~~], emergency period infraction,  
19          or noise control infraction was committed, the court  
20          shall enter judgment in favor of the State and shall  
21          assess a monetary assessment pursuant to section



1           291D-9, together with any fees, surcharges, or costs.  
2           The court also shall inform the person of the right to  
3           request a trial pursuant to section 291D-13. If the  
4           person requests a trial at the time of the hearing,  
5           the court shall provide the person with the trial date  
6           as soon as practicable.

7           (b) In proceedings to explain mitigating circumstances  
8           where the person to whom the notice of traffic infraction [~~or~~],  
9           notice of emergency period infraction, or notice of noise  
10          control infraction was issued has timely requested a hearing and  
11          appears at such hearing:

12           (1) The procedure shall be limited to the issue of  
13           mitigating circumstances. A person who requests to  
14           explain the circumstances shall not be permitted to  
15           contest the notice of traffic infraction [~~or~~], notice  
16           of emergency period infraction[~~or~~], or notice of noise  
17           control infraction;

18           (2) After the court has received the explanation, the  
19           court shall enter judgment in favor of the State and  
20           may assess a monetary assessment pursuant to section  
21           291D-9, together with any fees, surcharges, or costs;



1           (3) The court, after receiving the explanation, may vacate  
2           the admission and enter judgment in favor of the  
3           defendant, dismissing the notice of traffic  
4           infraction, notice of emergency period infraction, or  
5           notice of noise control infraction, or any count  
6           therein with prejudice, where the explanation  
7           establishes that the infraction was not committed; and  
8           (4) There shall be no appeal from the judgment.

9           (c) If a person for whom a hearing has been scheduled, to  
10          contest the notice of traffic infraction [~~or~~], notice of  
11          emergency period infraction, or notice of noise control  
12          infraction, or to explain mitigating circumstances, fails to  
13          appear at the hearing, the court shall enter judgment by default  
14          for the State and take action as provided in section 291D-7(e)."

15          SECTION 9. Section 291D-9, Hawaii Revised Statutes, is  
16          amended by amending subsections (a) through (c) to read as  
17          follows:

18          "(a) A person found to have committed a traffic infraction  
19          [~~or~~], emergency period infraction, or noise control infraction  
20          shall be assessed a monetary assessment not to exceed the  
21          maximum fine specified in the law or rule defining the traffic



1 infraction [e~~x~~], emergency period infraction[~~-~~], or noise  
2 control infraction. The court shall consider a person's  
3 financial circumstances, if disclosed, in determining the  
4 monetary assessment.

5 (b) Notwithstanding section 291C-161 or any other law to  
6 the contrary, the district court of each circuit shall prescribe  
7 a schedule of monetary assessments for all traffic infractions  
8 and emergency period infractions, and any additional assessments  
9 to be imposed pursuant to subsection (c). The particular  
10 assessment to be entered on the notice of traffic infraction  
11 [e~~x~~], notice of emergency period infraction, or notice of noise  
12 control infraction pursuant to section 291D-5 shall correspond  
13 to the schedule prescribed by the district court. Except after  
14 proceedings conducted pursuant to section 291D-8 or a trial  
15 conducted pursuant to section 291D-13, monetary assessments  
16 assessed pursuant to this chapter shall not vary from the  
17 schedule prescribed by the district court having jurisdiction  
18 over the traffic infraction [e~~x~~], emergency period  
19 infraction[~~-~~], or noise control infraction.

20 (c) In addition to any monetary assessment imposed for a  
21 traffic infraction [e~~x~~-an], emergency period infraction, or



1 noise control infraction, the court may impose additional  
2 assessments for:

3 (1) Failure to pay a monetary assessment by the scheduled  
4 date of payment; or

5 (2) The cost of service of a penal summons issued pursuant  
6 to this chapter."

7 SECTION 10. Section 291D-12, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§291D-12 Powers of the district court judge sitting in  
10 the traffic [~~and~~], emergency period, and noise control division.

11 (a) A district court judge sitting in the traffic [~~and~~],  
12 emergency period, and noise control division and hearing cases  
13 pursuant to this chapter shall have all the powers of a district  
14 court judge under chapter 604, including the following powers:

15 (1) To conduct traffic infraction [~~and~~], emergency period  
16 infraction, and noise control infraction hearings and  
17 to impose monetary assessments;

18 (2) To permit deferral of monetary assessment or impose  
19 community service in lieu thereof;

20 (3) To dismiss a notice of traffic infraction [~~or~~], notice  
21 of emergency period infraction, or notice of noise



- 1           control infraction, with or without prejudice, or to  
2           set aside a judgment for the State;
- 3           (4) To order temporary driver's license suspension or  
4           driver's license reinstatement;
- 5           (5) To approve the issuance or renewal of a driver's  
6           license or instruction permit pursuant to section  
7           286-109(c);
- 8           (6) To issue penal summonses and bench warrants and  
9           initiate contempt of court proceedings in proceedings  
10          conducted pursuant to section 291D-13;
- 11          (7) To issue penal summonses and bench warrants and  
12          initiate failure to appear proceedings in proceedings  
13          conducted pursuant to section 291D-5(d)(10); and
- 14          (8) To exercise other powers the court finds necessary and  
15          appropriate to carry out the purposes of this chapter.
- 16          (b) A district court judge sitting in the traffic [~~and~~],  
17          emergency period, and noise control division and hearing cases  
18          pursuant to this chapter shall not order the director of finance  
19          to withhold issuing or renewing the driver's license, or  
20          registering, renewing the registration of, or issuing the title  
21          to a motor vehicle, of any person who has not paid a monetary





1 assessment, has not performed community service in lieu thereof,  
2 or has not otherwise satisfied a judgment for the State entered  
3 pursuant to this chapter."

4 SECTION 11. Section 291D-13, Hawaii Revised Statutes, is  
5 amended by amending subsections (a) through (c) to read as  
6 follows:

7 "(a) There shall be no right to trial unless the defendant  
8 contests the notice of traffic infraction [~~or~~], notice of  
9 emergency period infraction, or notice of noise control  
10 infraction pursuant to section 291D-8. If, after proceedings to  
11 contest the notice of traffic infraction [~~or~~], notice of  
12 emergency period infraction, or notice of noise control  
13 infraction, a determination is made that the defendant committed  
14 the traffic infraction [~~or~~], emergency period infraction, or  
15 noise control infraction, judgment shall enter in favor of the  
16 State. The defendant may request a trial pursuant to the Hawaii  
17 rules of evidence and the rules of the district court; provided  
18 that any request for trial shall be made within thirty days of  
19 entry of judgment. If, after appearing in person at a hearing  
20 to contest the notice of traffic infraction [~~or~~], notice of  
21 emergency period infraction, or notice of noise control



1 infraction, the person requests a trial at the conclusion of the  
2 hearing, the court shall provide the person with the trial date  
3 as soon as practicable.

4 (b) At the time of trial, the State shall be represented  
5 by a prosecuting attorney of the county in which the infraction  
6 occurred. The prosecuting attorney shall orally recite the  
7 charged civil traffic infraction [~~or~~], emergency period  
8 infraction, or noise control infraction in court before  
9 commencement of the trial. Proof of the defendant's commission  
10 of the traffic infraction [~~or~~], emergency period infraction, or  
11 noise control infraction shall be by a preponderance of the  
12 evidence.

13 (c) If trial on the traffic infraction [~~or~~], emergency  
14 period infraction, or noise control infraction is held before  
15 trial on any related criminal offense, the following shall be  
16 inadmissible in the subsequent prosecution or trial of the  
17 related criminal offense:

18 (1) Any written or oral statement made by the defendant in  
19 proceedings conducted pursuant to section 291D-7(b);  
20 and



1           (2) Any testimony given by the defendant in the traffic  
 2            infraction [~~or~~], emergency period infraction, or noise  
 3            control infraction trial.

4 The statement or testimony, or both, shall not be deemed a  
 5 waiver of the defendant's privilege against self-incrimination  
 6 in connection with any related criminal offense."

7           SECTION 12. Section 291D-14, Hawaii Revised Statutes, is  
 8 amended by amending subsections (c) and (d) to read as follows:

9           "(c) Notwithstanding section 604-17, while the court is  
 10 sitting in any matter pursuant to this chapter, the court shall  
 11 not be required to preserve the testimony or proceedings, except  
 12 proceedings conducted pursuant to section 291D-13 and  
 13 proceedings in which the traffic infraction [~~or~~], emergency  
 14 period infraction, or noise control infraction is heard on the  
 15 same date and time as any related criminal offense.

16           (d) The prosecuting attorney shall not participate in  
 17 traffic infraction [~~or~~], emergency period infraction, or noise  
 18 control infraction proceedings conducted pursuant to this  
 19 chapter, except proceedings pursuant to section 291D-13 and  
 20 proceedings in which a related criminal offense is scheduled for  
 21 arraignment, hearing, or concurrent trial."



1 SECTION 13. Section 571-41, Hawaii Revised Statutes, is  
2 amended by amending subsection (f) to read as follows:

3 "(f) The judge, or the senior judge if there is more than  
4 one, may by order confer concurrent jurisdiction on a district  
5 court created under chapter 604 to hear and dispose of cases of  
6 violation of traffic laws<sup>[7]</sup> or ordinances, noise control  
7 ordinances, or emergency period rules by children, provision to  
8 the contrary in section 571-11 or elsewhere notwithstanding.  
9 The exercise of jurisdiction over children by district courts  
10 shall, nevertheless, be considered noncriminal in procedure and  
11 result in the same manner as though the matter had been  
12 adjudicated and disposed of by a family court."

13 SECTION 14. Sections 286-109, 286-245, 287-3, 291C-225,  
14 and 431:10C-117, Hawaii Revised Statutes, are amended by  
15 substituting the phrase "traffic, emergency period, and noise  
16 control violations bureau", or similar phrase, wherever the  
17 phrase "traffic and emergency period violations bureau", or  
18 similar phrase, appears, as the context requires.

19 SECTION 15. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.



# S.B. NO. 224

1 SECTION 16. This Act shall take effect upon its approval.

2

INTRODUCED BY:                     *Mike N. Gill*                      
By Request



# S.B. NO. 224

**Report Title:**

Honolulu Prosecuting Attorney Package; Noise Pollution; County Ordinances; Civil Penalties

**Description:**

Allows for noise control infractions to be processed under the traffic and emergency period infractions adjudication process. Grants the district court concurrent jurisdiction over noise control infractions committed by minors.

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

