
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 [øæ], 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 [øæ], 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 [øæ], notice of emergency period infraction, or
17 notice of noise control infraction, or admits to the traffic
18 infraction [øæ], 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 [~~or~~], 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 [~~or~~], 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 [~~or~~
20 ~~an~~], 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 [œ], 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 [œ], 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 [œ], 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 [øx], 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 [øx], 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 [~~or~~], notice of emergency period
2 infraction[-], or notice of noise control infraction.

3 (c) A notice of traffic infraction [~~or~~], 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 [~~or~~], 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~~] violations bureau
21 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~~], 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~~], 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~~], 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 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 [~~ex~~], notice
6 of emergency period infraction, or notice of noise
7 control infraction, the court shall consider the
8 notice of traffic infraction [~~ex~~], 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 [~~ex~~], 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, notice of noise control infraction, or any
16 count therein with prejudice, shall be entered in the
17 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 [~~ex~~],
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 [~~ex~~], notice
16 of emergency period infraction[+], 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,
 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], 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, noise control infractions,
9 and any additional assessments to be imposed pursuant to
10 subsection (c). The particular assessment to be entered on the
11 notice of traffic infraction [e], notice of emergency period
12 infraction, or notice of noise control infraction pursuant to
13 section 291D-5 shall correspond to the schedule prescribed by
14 the district court. Except after proceedings conducted pursuant
15 to section 291D-8 or a trial conducted pursuant to section 291D-
16 13, monetary assessments assessed pursuant to this chapter shall
17 not vary from the schedule prescribed by the district court
18 having jurisdiction over the traffic infraction [e], emergency
19 period infraction[-], or noise control infraction.

20 (c) In addition to any monetary assessment imposed for a
21 traffic infraction [e], 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^[7] 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.

21 SECTION 16. This Act shall take effect on July 1, 2050.



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. Effective 7/1/2050. (SD2)

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

