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# A BILL FOR AN ACT

RELATING TO YOUTH FEES AND FINES.

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

1 PART I

2 SECTION 1. The legislature finds that charging fees,  
3 fines, and court costs to youth is a harmful and ineffective  
4 accountability practice. In Hawaii, the consequences of these  
5 costs fall disproportionately on Native Hawaiian and Pacific  
6 Islander minors who are more likely to be arrested, detained,  
7 and unable to afford fees and fines. In a report on the  
8 assessment of fees, fines, court costs, and restitution in cases  
9 against minors, the judiciary confirmed that only seventeen per  
10 cent of fines ordered against minors in the past five years have  
11 been paid.

12 The legislature recognizes that assessing fines in juvenile  
13 justice proceedings is not an evidence-based practice for  
14 rehabilitating, deterring, or even punishing delinquent youth.  
15 The legislature further finds that, although Hawaii law  
16 authorizes courts to charge youth and their families a range of



1 fines, judges across the State rarely impose these costs in  
2 practice.

3 The legislature notes that many states are seeking to  
4 reform or repeal fees and fines against juveniles and their  
5 families. In 2021 and 2022, twenty-seven states introduced  
6 legislation to end the practice of assessing fees and fines in  
7 juvenile justice proceedings. California, Nevada, Oregon, and  
8 numerous counties in other states have prohibited the imposition  
9 of fees and fines in juvenile justice cases. The legislature  
10 believes that Hawaii should make similar efforts and that fees  
11 and fines should not be assessed for mistakes made in a person's  
12 youth, regardless of the age at which or jurisdiction in which  
13 the person is adjudicated or sentenced.

14 Accordingly, the purpose of this Act is to:

- 15 (1) Prohibit the assessment of any fees, fines, or court  
16 costs against a person who is adjudicated for an  
17 offense committed while the person was a minor under  
18 the age of eighteen, or against the person's parent or  
19 guardian;
- 20 (2) Limit court-ordered community service for a minor to  
21 no more than seventy-two hours; and





1           (3) For an offense that occurs within five years of two or  
2           more prior convictions for the same offense, the  
3           person shall be guilty of a class C felony; provided  
4           that the court, as part of the person's sentencing,  
5           may order that the vehicle used by the person in the  
6           commission of the offense be subject to forfeiture  
7           under chapter 712A."

8           2. By amending subsection (c) to read:

9           "(c) Notwithstanding subsections (a) and (b), a minor  
10          under the age of eighteen [~~under the jurisdiction of the family~~  
11          ~~court~~] who is subject to this section [~~shall~~] may either lose  
12          the right to drive a motor vehicle until the age of eighteen or  
13          be [~~subject to a fine of \$500.~~] ordered to perform community  
14          service as determined by the court; provided that no financial  
15          penalty provided for in this section shall be levied against a  
16          person who is adjudicated for an offense committed while the  
17          person was a minor under the age of eighteen, or against the  
18          person's parent or guardian for the person's offense."

19           SECTION 3. Section 286G-3, Hawaii Revised Statutes, is  
20          amended to read as follows:



1           "~~§286G-3~~ **Driver education assessments.** (a) [A] Except as  
2 provided in subsection (e), a driver education assessment of \$7  
3 shall be levied on a finding that a violation of a statute or  
4 county ordinance relating to vehicles or their drivers or owners  
5 occurred, except for~~[+]~~ offenses:

6           (1) [~~Offenses relating~~] Relating to stopping (when  
7 prohibited), standing, or parking;

8           (2) [~~Offenses relating~~] Relating to registration; and

9           (3) [~~Offenses by~~] By pedestrians.

10           (b) [~~Driver~~] Except as provided in subsection (e), driver  
11 education assessments of:

12           (1) \$100 shall be levied on persons convicted under  
13 section 291E-61 or 291E-61.5 to defray costs of  
14 services provided by the driver education and training  
15 program;

16           (2) \$50 shall be levied on persons required to attend a  
17 child passenger restraint system safety class under  
18 section 291-11.5; and

19           (3) \$75 shall be levied on persons convicted under section  
20 291C-105 to defray costs of services provided by the  
21 driver education and training program.



1 (c) The driver education assessments levied by subsections  
2 (a) and (b) shall be paid for each violation in addition to any  
3 fine imposed by the court, and regardless of whether a fine is  
4 suspended; provided that the driver education assessment of \$100  
5 levied on a person convicted under section 291E-61 or 291E-61.5  
6 may be waived by the court if the court determines that the  
7 person is unable to pay the driver education assessment.

8 (d) The amount of each driver education assessment levied  
9 by subsections (a) and (b) shall be transmitted by the clerk of  
10 the court for deposit in the driver education and training fund.

11 (e) No financial penalty provided for in this section  
12 shall be levied against a person who is adjudicated for an  
13 offense committed while the person was a minor under the age of  
14 eighteen, or against the person's parent or guardian for the  
15 person's offense."

16 SECTION 4. Section 291C-12, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "**§291C-12 Collisions involving [~~death or~~] serious bodily**  
19 **injury[~~-~~] or death.** (a) The driver of any vehicle involved in  
20 a collision resulting in serious bodily injury to or death of  
21 any person shall immediately stop the vehicle at the scene of



1 the collision or as close thereto as possible but shall then  
2 forthwith return to and in every event shall remain at the scene  
3 of the collision until the driver has fulfilled the requirements  
4 of section 291C-14. Every stop shall be made without  
5 obstructing traffic more than is necessary.

6 (b) Any person who violates subsection (a) shall be guilty  
7 of a class B felony.

8 (c) The license or permit to drive and any nonresident  
9 operating privilege of the person so convicted shall be revoked.

10 (d) ~~[Fer]~~ Except as provided in subsection (f), for any  
11 violation under this section, a surcharge of \$500 shall be  
12 imposed, in addition to any other penalties, ~~[and]~~ that shall be  
13 deposited into the neurotrauma special fund.

14 (e) ~~[Fer]~~ Except as provided in subsection (f), for any  
15 violation under this section, a surcharge of up to \$500 may be  
16 imposed, in addition to other penalties, ~~[which]~~ that shall be  
17 deposited into the trauma system special fund.

18 (f) No financial penalty provided for in this section  
19 shall be levied against a person who is adjudicated for an  
20 offense committed while the person was a minor under the age of



1 eighteen, or against the person's parent or guardian for the  
2 person's offense."

3 SECTION 5. Section 291C-12.5, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§291C-12.5 Collisions involving substantial bodily**

6 **injury.** (a) The driver of any vehicle involved in a collision

7 resulting in substantial bodily injury to any person shall

8 immediately stop the vehicle at the scene of the collision or as

9 close thereto as possible but shall then forthwith return to and

10 in every event shall remain at the scene of the collision until

11 the driver has fulfilled the requirements of section 291C-14.

12 Every stop shall be made without obstructing traffic more than

13 is necessary.

14 (b) Any person who violates subsection (a) shall be guilty

15 of a class C felony.

16 (c) [~~For~~] Except as provided in subsection (e), for any

17 violation under this section, a surcharge of \$250 shall be

18 imposed, in addition to any other penalties, [~~and~~] that shall be

19 deposited into the neurotrauma special fund.

20 (d) [~~For~~] Except as provided in subsection (e), for any

21 violation under this section, a surcharge of up to \$250 may be





1 imposed, in addition to other penalties, [~~which~~] that shall be  
2 deposited into the trauma system special fund.

3 (e) No financial penalty provided for in this section  
4 shall be levied against a person who is adjudicated for an  
5 offense committed while the person was a minor under the age of  
6 eighteen, or against the person's parent or guardian for the  
7 person's offense."

8 SECTION 6. Section 291C-12.6, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "**§291C-12.6 Collisions involving bodily injury.** (a) The  
11 driver of any vehicle involved in a collision resulting in  
12 bodily injury to any person shall immediately stop the vehicle  
13 at the scene of the collision or as close thereto as possible  
14 but shall then forthwith return to and in every event shall  
15 remain at the scene of the collision until the driver has  
16 fulfilled the requirements of section 291C-14. Every stop shall  
17 be made without obstructing traffic more than is necessary.

18 (b) Any person who violates subsection (a) shall be guilty  
19 of a misdemeanor.

20 (c) [~~For~~] Except as provided in subsection (e), for any  
21 violation under this section, a surcharge of \$100 shall be



1 imposed, in addition to any other penalties, [~~and~~] that shall be  
2 deposited into the neurotrauma special fund.

3 (d) [~~For~~] Except as provided in subsection (e), for any  
4 violation under this section, a surcharge of up to \$100 may be  
5 imposed, in addition to other penalties, [~~which~~] that shall be  
6 deposited into the trauma system special fund.

7 (e) No financial penalty provided for in this section  
8 shall be levied against a person who is adjudicated for an  
9 offense committed while the person was a minor under the age of  
10 eighteen, or against the person's parent or guardian for the  
11 person's offense."

12 SECTION 7. Section 291C-14, Hawaii Revised Statutes, is  
13 amended by amending subsection (c) to read as follows:

14 "(c) For any violation under this section, a surcharge of  
15 up to \$100 may be imposed, in addition to other penalties,  
16 [~~which~~] that shall be deposited into the trauma system special  
17 fund[~~-~~]; provided that no financial penalty provided for in this  
18 section shall be levied against a person who is adjudicated for  
19 an offense committed while the person was a minor under the age  
20 of eighteen, or against the person's parent or guardian for the  
21 person's offense."



1 SECTION 8. Section 291C-15, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§291C-15 Duty upon striking unattended vehicle or other**  
4 **property.** (a) The driver of any vehicle [~~which~~] that collides  
5 with or is involved in a collision with any vehicle or other  
6 property that is unattended resulting in any damage to the other  
7 vehicle or property shall immediately stop and shall then and  
8 there either locate and notify the operator or owner of the  
9 vehicle or other property of the driver's name[~~]~~ and address[~~]~~  
10 and the registration number of the vehicle the driver is driving  
11 or shall attach securely in a conspicuous place in or on the  
12 vehicle or other property a written notice giving the driver's  
13 name[~~]~~ and address[~~]~~ and the registration number of the  
14 vehicle the driver is driving and shall without unnecessary  
15 delay notify the nearest police officer. Every stop shall be  
16 made without obstructing traffic more than is necessary.

17 (b) For any violation under this section, a surcharge of  
18 up to \$100 may be imposed, in addition to other penalties,  
19 [~~which~~] that shall be deposited into the trauma system special  
20 fund[~~]~~; provided that no financial penalty provided for in this  
21 section shall be levied against a person who is adjudicated for



1 an offense committed while the person was a minor under the age  
2 of eighteen, or against the person's parent or guardian for the  
3 person's offense."

4 SECTION 9. Section 291E-7, Hawaii Revised Statutes, is  
5 amended by amending subsections (a) and (b) to read as follows:

6 "(a) [~~In~~] Except as provided in subsection (b), in  
7 addition to any other civil penalties ordered by the court, a  
8 person who violates any offense under this part may be ordered  
9 to pay a trauma system surcharge[~~r~~]; provided that[+] the  
10 maximum of which may be:

11 (1) [~~The maximum of which may be~~] \$10 if the violator is  
12 not already required to pay a trauma system surcharge  
13 pursuant to the violation of the offense;

14 (2) [~~The maximum of which may be~~] \$25 if the violation is  
15 an offense under section 291E-61(a) (1),  
16 [~~291E-61(a)~~] (3), or [~~291E-61(a)~~] (4); and

17 (3) [~~The maximum of which may be~~] \$50 if the violation is  
18 an offense under section 291E-61(a) (2) or 291E-61.5 or  
19 if the offense under section 291E-61(a) (3) or  
20 [~~291E-61(a)~~] (4) is a second or subsequent offense that  
21 occurred within five years of the first offense.



- 1 (b) The surcharge shall not be ordered [~~when~~]:
- 2 (1) When the court determines that the defendant is unable
- 3 to pay the surcharge[+]; or
- 4 (2) Against a person who is adjudicated for an offense
- 5 committed while the person was a minor under the age
- 6 of eighteen, or against the person's parent or
- 7 guardian for the person's offense."

8 SECTION 10. Section 291E-11, Hawaii Revised Statutes, is

9 amended to read as follows:

10 **"§291E-11 Implied consent of operator of vehicle to submit**

11 **to testing to determine alcohol concentration and drug content.**

12 (a) Any person who operates a vehicle upon a public way,

13 street, road, or highway or on or in the waters of the State

14 shall be deemed to have given consent, subject to this part, to

15 a test or tests approved by the director of health of the

16 person's breath, blood, or urine for the purpose of determining

17 alcohol concentration or drug content of the person's breath,

18 blood, or urine, as applicable.

19 (b) The test or tests shall be administered at the request

20 of a law enforcement officer having probable cause to believe

21 the person operating a vehicle upon a public way, street, road,



1 or highway or on or in the waters of the State is under the  
2 influence of an intoxicant or is under the age of twenty-one and  
3 has consumed a measurable amount of alcohol, only after:

4 (1) A lawful arrest; and

5 (2) The person has been informed by a law enforcement  
6 officer that the person may refuse to submit to  
7 testing under this chapter.

8 (c) If there is probable cause to believe that a person is  
9 in violation of section 291E-64, as a result of being under the  
10 age of twenty-one and having consumed a measurable amount of  
11 alcohol, or section 291E-61 or 291E-61.5, as a result of having  
12 consumed alcohol, then the person shall elect to take a breath  
13 or blood test, or both, for the purpose of determining the  
14 alcohol concentration.

15 (d) If there is probable cause to believe that a person is  
16 in violation of section 291E-61 or 291E-61.5, as a result of  
17 having consumed any drug, then the person shall elect to take a  
18 blood or urine test, or both, for the purpose of determining the  
19 drug content. Drug content shall be measured by the presence of  
20 any drug or its metabolic products, or both.



1 (e) A person who chooses to submit to a breath test under  
2 subsection (c) also may be requested to submit to a blood or  
3 urine test, if the law enforcement officer has probable cause to  
4 believe that the person was operating a vehicle while under the  
5 influence of any drug under section 291E-61 or 291E-61.5 and the  
6 officer has probable cause to believe that a blood or urine test  
7 will reveal evidence of the person being under the influence of  
8 any drug. The law enforcement officer shall state in the  
9 officer's report the facts upon which that belief is based. The  
10 person shall elect to take a blood or urine test, or both, for  
11 the purpose of determining the person's drug content. Results  
12 of a blood or urine test conducted to determine drug content  
13 also shall be admissible for the purpose of determining the  
14 person's alcohol concentration. Submission to testing for drugs  
15 under subsection (d) or this subsection shall not be a  
16 substitute for alcohol tests requested under subsection (c).

17 (f) The use of a preliminary alcohol screening device by a  
18 law enforcement officer shall not replace a breath, blood, or  
19 urine test required under this section. The analysis from the  
20 use of a preliminary alcohol screening device shall only be used  
21 in determining probable cause for the arrest.



1 (g) ~~[Any]~~ Except as provided in subsection (h), any person  
2 tested pursuant to this section who is convicted or has the  
3 person's license or privilege suspended or revoked pursuant to  
4 this chapter may be ordered to reimburse the county for the cost  
5 of any blood or urine tests, or both, conducted pursuant to this  
6 section. If reimbursement is so ordered, the court or the  
7 director, as applicable, shall order the person to make  
8 restitution in a lump sum, or in a series of prorated  
9 installments, to the police department or other agency incurring  
10 the expense of the blood or urine test, or both.

11 (h) A minor under the age of eighteen or the minor's  
12 parent or guardian shall not be ordered to reimburse the county  
13 for the cost of any blood or urine test conducted on the minor  
14 pursuant to this section for the minor's offense."

15 SECTION 11. Section 291E-39, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§291E-39 Fees and costs.** ~~[The]~~ (a) Except as provided  
18 in subsection (b), the director may assess and collect a \$30 fee  
19 from the respondent to cover the costs of processing the  
20 respondent's request for an administrative hearing. These costs  
21 include but shall not be limited to: the cost of photocopying





1 documents; conditional license permits, temporary permits, and  
2 relicensing forms; interpreter services; and other similar  
3 costs; provided that the costs of issuing subpoenas for  
4 witnesses, including mileage fees, shall be borne by the party  
5 requesting the subpoena. The director may waive the fee in the  
6 case of an indigent respondent, upon an appropriate inquiry into  
7 the financial circumstances of the respondent seeking the waiver  
8 and an affidavit or a certificate signed by the respondent  
9 demonstrating the respondent's financial inability to pay the  
10 fee.

11 (b) The director shall not assess or collect any fee from  
12 a respondent who requests an administrative hearing for a  
13 violation that occurred while the respondent was a minor under  
14 the age of eighteen, or against the respondent's parent or  
15 guardian for the respondent's offense."

16 SECTION 12. Section 291E-61, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 **"§291E-61 Operating a vehicle under the influence of an**  
19 **intoxicant.** (a) A person commits the offense of operating a  
20 vehicle under the influence of an intoxicant if the person  
21 operates or assumes actual physical control of a vehicle:



1 (1) While under the influence of alcohol in an amount  
2 sufficient to impair the person's normal mental  
3 faculties or ability to care for the person and guard  
4 against casualty;

5 (2) While under the influence of any drug that impairs the  
6 person's ability to operate the vehicle in a careful  
7 and prudent manner;

8 (3) With .08 or more grams of alcohol per two hundred ten  
9 liters of breath; or

10 (4) With .08 or more grams of alcohol per one hundred  
11 milliliters or cubic centimeters of blood.

12 (b) [A] Except as provided in subsection (1), a person  
13 committing the offense of operating a vehicle under the  
14 influence of an intoxicant shall be sentenced without  
15 possibility of probation or suspension of sentence as follows:

16 (1) Except as provided in paragraph (4), for the first  
17 offense, or any offense not preceded within a ten-year  
18 period by a conviction for an offense under this  
19 section or section 291E-4(a):

20 (A) A fourteen-hour minimum substance abuse  
21 rehabilitation program, including education and



- 1                   counseling, or other comparable programs deemed
- 2                   appropriate by the court;
- 3           (B)   Revocation of license to operate a vehicle for no
- 4                   less than one year and no more than eighteen
- 5                   months;
- 6           (C)   Installation during the revocation period of an
- 7                   ignition interlock device on all vehicles
- 8                   operated by the person;
- 9           (D)   Any one or more of the following:
- 10                   (i)   Seventy-two hours of community service work;
- 11                   (ii)   No less than forty-eight hours and no more
- 12                                than five days of imprisonment; or
- 13                   (iii)   A fine of no less than \$250 and no more than
- 14                                \$1,000;
- 15           (E)   A surcharge of \$25 to be deposited into the
- 16                   neurotrauma special fund; and
- 17           (F)   A surcharge, if the court so orders, of up to \$25
- 18                   to be deposited into the trauma system special
- 19                   fund;
- 20           (2)   For an offense that occurs within ten years of a prior
- 21                   conviction for an offense under this section:



- 1           (A) A substance abuse program of at least thirty-six
- 2                           hours, including education and counseling, or
- 3                           other comparable programs deemed appropriate by
- 4                           the court;
- 5           (B) Revocation of license to operate a vehicle for no
- 6                           less than two years and no more than three years;
- 7           (C) Installation during the revocation period of an
- 8                           ignition interlock device on all vehicles
- 9                           operated by the person;
- 10          (D) Either one of the following:
- 11                       (i) No less than two hundred forty hours of
- 12                           community service work; or
- 13                       (ii) No less than five days and no more than
- 14                           thirty days of imprisonment, of which at
- 15                           least forty-eight hours shall be served
- 16                           consecutively;
- 17          (E) A fine of no less than \$1,000 and no more than
- 18                           \$3,000, to be deposited into the drug and alcohol
- 19                           toxicology testing laboratory special fund;
- 20          (F) A surcharge of \$25 to be deposited into the
- 21                           neurotrauma special fund; and



1 (G) A surcharge of up to \$50, if the court so orders,  
2 to be deposited into the trauma system special  
3 fund;

4 (3) In addition to a sentence imposed under paragraphs (1)  
5 and (2), any person eighteen years of age or older who  
6 is convicted under this section and who operated a  
7 vehicle with a passenger, in or on the vehicle, who  
8 was younger than fifteen years of age, shall be  
9 sentenced to an additional mandatory fine of \$500 and  
10 an additional mandatory term of imprisonment of  
11 forty-eight hours; provided that the total term of  
12 imprisonment for a person convicted under this  
13 paragraph shall not exceed the maximum term of  
14 imprisonment provided in paragraph (1) or (2), as  
15 applicable. Notwithstanding paragraphs (1) and (2),  
16 the revocation period for a person sentenced under  
17 this paragraph shall be no less than two years;

18 (4) In addition to a sentence imposed under paragraph (1),  
19 for a first offense under this section, or an offense  
20 not preceded within a ten-year period by a conviction  
21 for an offense, any person who is convicted under this



1 section and was a highly intoxicated driver at the  
2 time of the subject incident shall be sentenced to an  
3 additional mandatory term of imprisonment for  
4 forty-eight consecutive hours and an additional  
5 mandatory revocation period of six months; provided  
6 that the total term of imprisonment for a person  
7 convicted under this paragraph shall not exceed the  
8 maximum term of imprisonment provided in paragraph  
9 (1). Notwithstanding paragraph (1), the revocation  
10 period for a person sentenced under this paragraph  
11 shall be no less than eighteen months;

12 (5) In addition to a sentence under paragraph (2), for an  
13 offense that occurs within ten years of a prior  
14 conviction for an offense under this section, any  
15 person who is convicted under this section and was a  
16 highly intoxicated driver at the time of the subject  
17 incident shall be sentenced to an additional mandatory  
18 term of imprisonment of ten consecutive days and an  
19 additional mandatory revocation period of one year;  
20 provided that the total term of imprisonment for a  
21 person convicted under this paragraph shall not exceed



1 the maximum term of imprisonment provided in paragraph  
2 (2), as applicable. Notwithstanding paragraph (2),  
3 the revocation period for a person sentenced under  
4 this paragraph shall be no less than three years;

5 (6) A person sentenced pursuant to paragraph (1) (B) may  
6 file a motion for early termination of the applicable  
7 revocation period if the person:

8 (A) Was not sentenced to any additional mandatory  
9 revocation period pursuant to paragraph (3) or  
10 (4);

11 (B) Actually installed and maintained an ignition  
12 interlock device on all vehicles operated by the  
13 person for a continuous period of six months,  
14 after which the person maintained the ignition  
15 interlock device on all vehicles operated by the  
16 person for a continuous period of three months  
17 without violation;

18 (C) Includes with the person's motion for early  
19 termination a certified court abstract  
20 establishing that the person was not sentenced to



1           any additional mandatory revocation period  
2           pursuant to paragraph (3) or (4);  
3           (D) Includes with the person's motion for early  
4           termination a certified statement from the  
5           director of transportation establishing that:  
6           (i) The person installed and maintained an  
7           ignition interlock device on all vehicles  
8           operated by the person for a continuous  
9           period of six months; and  
10          (ii) After the six-month period, the person  
11          maintained the ignition interlock device on  
12          all vehicles operated by the person for a  
13          continuous period of three months without  
14          violation; and  
15          (E) Has complied with all other sentencing  
16          requirements.  
17          Nothing in this paragraph shall require a court to  
18          grant early termination of the revocation period if  
19          the court finds that continued use of the ignition  
20          interlock device will further the person's  
21          rehabilitation or compliance with this section;





- 1 (7) If the person demonstrates to the court that the  
2 person:
- 3 (A) Does not own or have the use of a vehicle in  
4 which the person can install an ignition  
5 interlock device during the revocation period; or  
6 (B) Is otherwise unable to drive during the  
7 revocation period,
- 8 the person shall be prohibited from driving during the  
9 period of applicable revocation provided in paragraphs  
10 (1) to (5); provided that the person shall be  
11 sentenced to the maximum license revocation period,  
12 the court shall not issue an ignition interlock permit  
13 pursuant to subsection (i), and the person shall be  
14 subject to the penalties provided by section 291E-62  
15 if the person drives during the applicable revocation  
16 period; and
- 17 (8) For purposes of this subsection, "violation" means:
- 18 (A) Providing a sample of .04 or more grams of  
19 alcohol per two hundred ten liters of breath when  
20 starting the vehicle, unless a subsequent test  
21 performed within ten minutes registers a breath



1 alcohol concentration lower than .02 and the  
2 digital image confirmed the same person provided  
3 both samples;

4 (B) Providing a sample of .04 or more grams of  
5 alcohol per two hundred ten liters of breath on a  
6 rolling retest, unless a subsequent test  
7 performed within ten minutes registers a breath  
8 alcohol concentration lower than .02 and the  
9 digital image confirms the same person provided  
10 both samples;

11 (C) Failing to provide a rolling retest, unless an  
12 acceptable test is performed within ten minutes;

13 (D) Violating section 291E-66; or

14 (E) Failing to provide a clear photo of the person  
15 when the person blows into the ignition interlock  
16 device.

17 (c) Except as provided in sections 286-118.5 and  
18 291E-61.6, the court shall not issue an ignition interlock  
19 permit to[+] a defendant:



- 1           (1) ~~[A defendant whose]~~ Whose license is expired,  
2                       suspended, or revoked as a result of action other than  
3                       the instant offense;
- 4           (2) ~~[A defendant who]~~ Who does not hold a valid license at  
5                       the time of the instant offense;
- 6           (3) ~~[A defendant who]~~ Who holds either a category 4  
7                       license under section 286-102(b) or a commercial  
8                       driver's license under section 286-239(a), unless the  
9                       ignition interlock permit is restricted to a category  
10                      1, 2, or 3 license under section 286-102(b); or
- 11          (4) ~~[A defendant who]~~ Who holds a license that is a  
12                      learner's permit or instruction permit.
- 13          (d) Except as provided in subsection (c), the court may  
14                      issue a separate permit authorizing a defendant to operate a  
15                      vehicle owned by the defendant's employer during the period of  
16                      revocation without installation of an ignition interlock device  
17                      if the defendant is gainfully employed in a position that  
18                      requires driving and the defendant will be discharged if  
19                      prohibited from driving a vehicle not equipped with an ignition  
20                      interlock device.



1 (e) A request made pursuant to subsection (d) shall be  
2 accompanied by[+] a sworn statement from:

3 (1) [~~A sworn statement from the~~] The defendant containing  
4 facts establishing that the defendant currently is  
5 employed in a position that requires driving and that  
6 the defendant will be discharged if prohibited from  
7 driving a vehicle not equipped with an ignition  
8 interlock device; and

9 (2) [~~A sworn statement from the~~] The defendant's employer  
10 establishing that the employer will, in fact,  
11 discharge the defendant if the defendant cannot drive  
12 a vehicle that is not equipped with an ignition  
13 interlock device and identifying the specific vehicle  
14 the defendant will drive for purposes of employment  
15 and the hours of the day, not to exceed twelve hours  
16 per day, or the period of the specified assigned hours  
17 of work, the defendant will drive the vehicle for  
18 purposes of employment.

19 (f) A permit issued pursuant to subsection (d) shall  
20 include restrictions allowing the defendant to drive[+] only:



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- 1           (1) ~~[Only during]~~ During specified hours of employment,  
2                           not to exceed twelve hours per day, or the period of  
3                           the specified assigned hours of work, and only for  
4                           activities solely within the scope of the employment;
- 5           (2) ~~[Only the]~~ The vehicle specified; and
- 6           (3) ~~[Only if]~~ If the permit is kept in the defendant's  
7                           possession while operating the employer's vehicle.
- 8           (g) Notwithstanding any other law to the contrary, any:
- 9           (1) Conviction under this section, section 291E-4(a), or  
10                           section 291E-61.5;
- 11           (2) Conviction in any other state or federal jurisdiction  
12                           for an offense that is comparable to operating or  
13                           being in physical control of a vehicle while having  
14                           either an unlawful alcohol concentration or an  
15                           unlawful drug content in the blood or urine or while  
16                           under the influence of an intoxicant or habitually  
17                           operating a vehicle under the influence of an  
18                           intoxicant; or
- 19           (3) Adjudication of a minor for a law violation that, if  
20                           committed by an adult, would constitute a violation of



1           this section or an offense under section 291E-4(a), or  
2           section 291E-61.5,  
3 shall be considered a prior conviction for the purposes of  
4 imposing sentence under this section. Any judgment on a verdict  
5 or a finding of guilty, a plea of guilty or nolo contendere, or  
6 an adjudication, in the case of a minor, that at the time of the  
7 offense has not been expunged by pardon, reversed, or set aside  
8 shall be deemed a prior conviction under this section.

9           (h) Whenever a court sentences a person pursuant to  
10 subsection (b), it also shall require that the offender be  
11 referred to the driver's education program for an assessment, by  
12 a certified substance abuse counselor deemed appropriate by the  
13 court, of the offender's substance abuse or dependence and the  
14 need for appropriate treatment. The counselor shall submit a  
15 report with recommendations to the court. The court shall  
16 require the offender to obtain appropriate treatment if the  
17 counselor's assessment establishes the offender's substance  
18 abuse or dependence. ~~[All]~~ Except as provided in subsection  
19 (1), all costs for assessment and treatment shall be borne by  
20 the offender.

21           (i) Upon proof that the defendant has:



1 (1) Installed an ignition interlock device in any vehicle  
2 the defendant operates pursuant to subsection (b); and

3 (2) Obtained motor vehicle insurance or self-insurance  
4 that complies with the requirements under either  
5 section 431:10C-104 or section 431:10C-105,

6 the court shall issue an ignition interlock permit that will  
7 allow the defendant to drive a vehicle equipped with an ignition  
8 interlock device during the revocation period.

9 (j) Notwithstanding any other law to the contrary,  
10 whenever a court revokes a person's driver's license pursuant to  
11 this section, the examiner of drivers shall not grant to the  
12 person a new driver's license until the expiration of the period  
13 of revocation determined by the court. After the period of  
14 revocation is completed, the person may apply for and the  
15 examiner of drivers may grant to the person a new driver's  
16 license.

17 (k) ~~[Any]~~ Except as provided in subsection (l), any person  
18 sentenced under this section may be ordered to reimburse the  
19 county for the cost of any blood or urine tests conducted  
20 pursuant to section 291E-11. The court shall order the person  
21 to make restitution in a lump sum, or in a series of prorated



1 installments, to the police department or other agency incurring  
2 the expense of the blood or urine test. Except as provided in  
3 section 291E-5, installation and maintenance of the ignition  
4 interlock device required by subsection (b) shall be at the  
5 defendant's own expense.

6 (1) For any person sentenced pursuant to this section for  
7 an offense committed while the person was a minor under the age  
8 of eighteen:

9 (1) The court shall not order any financial penalties,  
10 surcharges, or reimbursements otherwise permitted  
11 under this section against the person or the person's  
12 parent or guardian for the person's offense; and

13 (2) Any sentence of community service shall be limited to  
14 no more than seventy-two hours and shall not interfere  
15 with the person's school or work commitments.

16 ~~(1)~~ (m) As used in this section, the term "examiner of  
17 drivers" has the same meaning as provided in section 286-2."

18 SECTION 13. Section 291E-61.5, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "**§291E-61.5 Habitually operating a vehicle under the**  
21 **influence of an intoxicant.** (a) A person commits the offense





1 of habitually operating a vehicle under the influence of an  
2 intoxicant if:

3 (1) The person is a habitual operator of a vehicle while  
4 under the influence of an intoxicant; and

5 (2) The person operates or assumes actual physical control  
6 of a vehicle:

7 (A) While under the influence of alcohol in an amount  
8 sufficient to impair the person's normal mental  
9 faculties or ability to care for the person and  
10 guard against casualty;

11 (B) While under the influence of any drug that  
12 impairs the person's ability to operate the  
13 vehicle in a careful and prudent manner;

14 (C) With .08 or more grams of alcohol per two hundred  
15 ten liters of breath; or

16 (D) With .08 or more grams of alcohol per one hundred  
17 milliliters or cubic centimeters of blood.

18 (b) Habitually operating a vehicle while under the  
19 influence of an intoxicant is a class C felony.

20 (c) [~~For~~] Except as provided in subsection (h), for a  
21 conviction under this section, the sentence shall be either:



- 1           (1) An indeterminate term of imprisonment of five years;  
2                    or  
3           (2) A term of probation of five years, with conditions to  
4                    include:  
5                    (A) Mandatory revocation of license to operate a  
6                            vehicle for a period no less than three years but  
7                            no more than five years, with mandatory  
8                            installation of an ignition interlock device in  
9                            all vehicles operated by the respondent during  
10                           the revocation period;  
11                   (B) No less than ten days imprisonment, of which at  
12                           least forty-eight hours shall be served  
13                           consecutively;  
14                   (C) A fine of no less than \$2,000 but no more than  
15                           \$5,000, to be deposited into the drug and alcohol  
16                           toxicology testing laboratory special fund;  
17                   (D) Referral to a certified substance abuse counselor  
18                           as provided in subsection (e);  
19                   (E) A surcharge of \$25 to be deposited into the  
20                           neurotrauma special fund; and



1           (F) A surcharge of up to \$50 to be deposited into the  
2           trauma system special fund if the court so  
3           orders.

4 In addition to the foregoing, any vehicle owned and operated by  
5 the person committing the offense shall be subject to forfeiture  
6 pursuant to chapter 712A.

7           (d) ~~[For]~~ Except as provided in subsection (h), for any  
8 person who is convicted under this section and was a highly  
9 intoxicated driver at the time of the subject incident, the  
10 offense shall be a class B felony and the person shall be  
11 sentenced to the following:

12           (1) An indeterminate term of imprisonment of ten years; or

13           (2) A term of probation of five years, with conditions to  
14 include the following:

15           (A) Permanent revocation of license to operate a  
16 vehicle;

17           (B) No less than eighteen months imprisonment;

18           (C) A fine of no less than \$5,000 but no more than  
19 \$25,000; and

20           (D) Referral to a certified substance abuse counselor  
21 as provided in subsection (e).



1 In addition to the foregoing, any vehicle owned and operated by  
2 the person who committed the offense shall be subject to  
3 forfeiture pursuant to chapter 712A.

4 (e) Whenever a court sentences a person under this  
5 section, it shall also require that the offender be referred to  
6 the driver's education program for an assessment, by a certified  
7 substance abuse counselor, of the offender's substance abuse or  
8 dependence and the need for appropriate treatment. The  
9 counselor shall submit a report with recommendations to the  
10 court. The court shall require the offender to obtain  
11 appropriate treatment if the counselor's assessment establishes  
12 the offender's substance abuse or dependence. ~~[All]~~ Except as  
13 provided in subsection (h), all costs for assessment and  
14 treatment shall be borne by the offender.

15 (f) Notwithstanding any other law to the contrary,  
16 whenever a court revokes a person's driver's license pursuant to  
17 this section, the examiner of drivers shall not grant to the  
18 person a new driver's license until expiration of the period of  
19 revocation determined by the court. After the period of  
20 revocation is complete, the person may apply for and the



1 examiner of drivers may grant to the person a new driver's  
2 license.

3 (g) ~~[Any]~~ Except as provided in subsection (h), any person  
4 sentenced under this section may be ordered to reimburse the  
5 county for the cost of any blood or urine tests conducted  
6 pursuant to section 291E-11. The court shall order the person  
7 to make restitution in a lump sum, or in a series of prorated  
8 installments, to the police department or other agency incurring  
9 the expense of the blood or urine test.

10 (h) No financial penalty, surcharge, or cost of assessment  
11 and treatment provided for in this section shall be ordered  
12 against a person who is adjudicated or sentenced under this  
13 section while the person was a minor under the age of eighteen,  
14 or against the person's parent or guardian for the person's  
15 offense.

16 ~~[-(h)]~~ (i) As used in this section:

17 "Convicted one or more times for offenses of habitually  
18 operating a vehicle under the influence" means that, at the time  
19 of the behavior for which the person is charged under this  
20 section, the person had one or more times within ten years of  
21 the instant offense:



- 1           (1) A judgment on a verdict or a finding of guilty, or a  
2           plea of guilty or nolo contendere, for a violation of  
3           this section or section 291-4.4 as that section was in  
4           effect on December 31, 2001;
- 5           (2) A judgment on a verdict or a finding of guilty, or a  
6           plea of guilty or nolo contendere, for an offense that  
7           is comparable to this section or section 291-4.4 as  
8           that section was in effect on December 31, 2001; or
- 9           (3) An adjudication of a minor for a law or probation  
10          violation that, if committed by an adult, would  
11          constitute a violation of this section or section  
12          291-4.4 as that section was in effect on December 31,  
13          2001,
- 14          that, at the time of the instant offense, had not been expunged  
15          by pardon, reversed, or set aside. All convictions that have  
16          been expunged by pardon, reversed, or set aside before the  
17          instant offense shall not be deemed prior convictions for the  
18          purposes of proving the person's status as a habitual operator  
19          of a vehicle while under the influence of an intoxicant.
- 20          "Convicted two or more times for offenses of operating a  
21          vehicle under the influence" means that, at the time of the



1 behavior for which the person is charged under this section, the  
2 person had two or more times within ten years of the instant  
3 offense:

4 (1) A judgment on a verdict or a finding of guilty, or a  
5 plea of guilty or nolo contendere, for a violation of  
6 section 291E-61 or 707-702.5;

7 (2) A judgment on a verdict or a finding of guilty, or a  
8 plea of guilty or nolo contendere, for an offense that  
9 is comparable to section 291E-61 or 707-702.5; or

10 (3) An adjudication of a minor for a law or probation  
11 violation that, if committed by an adult, would  
12 constitute a violation of section 291E-61 or  
13 707-702.5,

14 that, at the time of the instant offense, had not been expunged  
15 by pardon, reversed, or set aside. All convictions that have  
16 been expunged by pardon, reversed, or set aside before the  
17 instant offense shall not be deemed prior convictions for the  
18 purposes of proving that the person is a habitual operator of a  
19 vehicle while under the influence of an intoxicant.

20 "Examiner of drivers" has the same meaning as provided in  
21 section 286-2.



1 "Habitual operator of a vehicle while under the influence  
2 of an intoxicant" means that the person was convicted:

3 (1) Two or more times for offenses of operating a vehicle  
4 under the influence; or

5 (2) One or more times for offenses of habitually operating  
6 a vehicle under the influence."

7 SECTION 14. Section 291E-64, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 **"§291E-64 Operating a vehicle after consuming a measurable**  
10 **amount of alcohol; persons under the age of twenty-one.** (a) It  
11 shall be unlawful for any person under the age of twenty-one  
12 years to operate any vehicle with a measurable amount of  
13 alcohol. A law enforcement officer may arrest a person under  
14 this section when the officer has probable cause to believe the  
15 arrested person is under the age of twenty-one and had been  
16 operating a vehicle upon a public way, street, road, or highway  
17 or on or in the waters of the State with a measurable amount of  
18 alcohol.

19 (b) [A] Except as provided in subsection (j), a person who  
20 violates this section shall be sentenced as follows:





1           (1) For a first violation or any violation not preceded  
2           within a five-year period by a prior alcohol  
3           enforcement contact:

4           (A) The court shall impose:

5                   (i) A requirement that the person and, if the  
6                   person is under the age of eighteen, the  
7                   person's parent or guardian attend an  
8                   alcohol abuse education and counseling  
9                   program for [~~not~~] no more than ten hours;  
10                  and

11                  (ii) A one hundred eighty-day prompt suspension  
12                  of license and privilege to operate a  
13                  vehicle with absolute prohibition from  
14                  operating a vehicle during the suspension  
15                  period, or in the case of a person eighteen  
16                  years of age or older, the court may impose,  
17                  in lieu of the one hundred eighty-day prompt  
18                  suspension of license, a minimum thirty-day  
19                  prompt suspension of license with absolute  
20                  prohibition from operating a vehicle and,  
21                  for the remainder of the one hundred



1                   eighty-day period, a restriction on the  
2                   license that allows the person to drive for  
3                   limited work-related purposes and to  
4                   participate in alcohol abuse education and  
5                   treatment programs; and

6           (B)   In addition, the court may impose any one or more  
7                   of the following:

8                   (i)   ~~[Not]~~ No more than thirty-six hours of  
9                   community service work; or

10                  (ii)  A fine of ~~[not]~~ no less than \$150 but ~~[not]~~  
11                   no more than \$500;

12       (2)   For a violation that occurs within five years of a  
13           prior alcohol enforcement contact:

14           (A)   The court shall impose prompt suspension of  
15                   license and privilege to operate a vehicle for a  
16                   period of one year with absolute prohibition from  
17                   operating a vehicle during the suspension period;  
18                   and

19           (B)   In addition, the court may impose any of the  
20                   following:



- 1 (i) [~~Not~~] No more than fifty hours of community
- 2 service work; or
- 3 (ii) A fine of [~~not~~] no less than \$300 but [~~not~~]
- 4 no more than \$1,000; and
- 5 (3) For a violation that occurs within five years of two
- 6 prior alcohol enforcement contacts:
- 7 (A) The court shall impose revocation of license and
- 8 privilege to operate a vehicle for a period of
- 9 two years; and
- 10 (B) In addition, the court may impose any of the
- 11 following:
- 12 (i) [~~Not~~] No more than one hundred hours of
- 13 community service work; or
- 14 (ii) A fine of [~~not~~] no less than \$300 but [~~not~~]
- 15 no more than \$1,000.
- 16 (c) Notwithstanding any other law to the contrary, any
- 17 conviction or plea under this section shall be considered a
- 18 prior alcohol enforcement contact.
- 19 (d) Whenever a court sentences a person pursuant to
- 20 subsection (b) (2) or (3), it also shall require that the person
- 21 be referred to the driver's education program for an assessment,



1 by a certified substance abuse counselor, of the person's  
2 alcohol abuse or dependence and the need for appropriate  
3 treatment. The counselor shall submit a report with  
4 recommendations to the court. The court shall require the  
5 person to obtain appropriate treatment if the counselor's  
6 assessment establishes the person's alcohol abuse or dependence.  
7 ~~[All]~~ Except as provided in subsection (j), all costs for  
8 assessment and treatment shall be borne by the person ~~[or by the~~  
9 ~~person's parent or guardian, if the person is under the age of~~  
10 ~~eighteen]~~.

11 (e) Notwithstanding section 831-3.2 or any other law to  
12 the contrary, a person convicted of a first-time violation under  
13 subsection (b) (1) or section 291-4.3, as it existed before Act  
14 189, Session Laws of Hawaii 2000, who had no prior alcohol  
15 enforcement contacts, may apply to the court for an expungement  
16 order upon attaining the age of twenty-one, or thereafter, if  
17 the person has fulfilled the terms of the sentence imposed by  
18 the court and has had no subsequent alcohol or drug related  
19 enforcement contacts; provided that this subsection shall not  
20 apply to persons in possession of a commercial learner's permit



1 or commercial driver's license or convicted in a commercial  
2 motor vehicle or while transporting hazardous materials.

3 (f) Notwithstanding any other law to the contrary,  
4 whenever a court revokes a person's driver's license pursuant to  
5 this section, the examiner of drivers shall not grant to the  
6 person an application for a new driver's license for a period to  
7 be determined by the court.

8 (g) ~~[Any]~~ Except as provided in subsection (j), any person  
9 sentenced under this section may be ordered to reimburse the  
10 county for the cost of any blood tests conducted pursuant to  
11 section 291E-11. The court shall order the person to make  
12 restitution in a lump sum, or in a series of prorated  
13 installments, to the police department or other agency incurring  
14 the expense of the blood test.

15 (h) The requirement to provide proof of financial  
16 responsibility pursuant to section 287-20 shall not be based  
17 upon a sentence imposed under subsection (b)(1).

18 (i) Any person who violates this section shall be guilty  
19 of a violation.



1 (j) For any person sentenced pursuant to this section for  
2 a violation committed while the person was a minor under the age  
3 of eighteen:

4 (1) The court shall not order any financial penalties,  
5 surcharges, or reimbursements as permitted by this  
6 section against the person, or the person's parent or  
7 guardian for the person's violation; and

8 (2) Any sentence of community service shall be limited to  
9 no more than seventy-two hours and shall not interfere  
10 with the person's school or work commitments.

11 ~~[(j)]~~ (k) As used in this section, the terms "driver's  
12 license" and "examiner of drivers" have the same meanings as  
13 provided in section 286-2."

14 PART III

15 SECTION 15. Section 302A-1153, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 **"§302A-1153 Vandalism damage to public school property.**

18 (a) Any pupil found to be responsible for an act of vandalism  
19 against any public school, building, facility, or ground [~~shall~~  
20 ~~make restitution in any manner, including monetary restitution~~  
21 ~~by the pupil or pupil's parents, or guardian, or both.~~] may be



1 required to perform community service to repair any damage  
2 caused.

3 This section shall be in addition to, and shall in no way  
4 limit the provisions of any other law concerning, offenses  
5 against property rights.

6 (b) No pupil, parent, or guardian shall be required to  
7 make monetary restitution in any manner [~~unless the pupil and~~  
8 ~~the parents or guardian have been notified and have been given~~  
9 ~~an opportunity to be heard, on any report of vandalism involving~~  
10 ~~the pupil, and the pupil, parent, or guardian have executed a~~  
11 ~~written agreement to make restitution~~].

12 (c) The principal of the school in which the vandalism  
13 occurred shall make or order an investigation of the vandalism.  
14 If after the investigation, the principal has reasonable cause  
15 to believe that a specific pupil is responsible for the  
16 vandalism, the principal shall schedule a conference with the  
17 pupil and the pupil's parents or guardian. Except for the  
18 principal of the school in which the vandalism occurred, the  
19 pupil and the parents or guardian, no other person shall be  
20 permitted to be in the conference for any reason.



1 (d) At the conference, the principal of the school in  
2 which the vandalism occurred shall present the findings of the  
3 investigation [~~and the requirements of restitution~~] to the pupil  
4 and parents or guardian.

5 If the pupil and the parents or guardian agree with the  
6 findings of the principal and the manner in which [~~restitution~~  
7 ~~is to be made,~~] the pupil is to be held accountable, the  
8 principal and the pupil and parent or guardian shall execute a  
9 written agreement [~~which~~] that shall specify the manner in which  
10 [~~restitution is to be made.~~

11 ~~Agreements shall be made only for damages that do not~~  
12 ~~exceed \$3,500.~~

13 ~~If restitution is made in this fashion, then no]~~ the pupil  
14 shall repair any damage caused. This shall include no more than  
15 seventy-two hours of community service, which shall be performed  
16 in a manner that does not interfere with the pupil's school or  
17 work commitments. No information about the investigation,  
18 conference, and the actions taken shall be communicated to any  
19 person not directly involved in the proceedings.

20 If the pupil and parent or guardian do not agree with the  
21 findings made by the principal, the principal shall report the





1 findings, including all the records and documents regarding the  
2 investigation and conference, to the complex area  
3 superintendent, who shall review the findings and may refer the  
4 matter to the attorney general for any further action pursuant  
5 to section 577-3.

6 ~~[(e) If the damages exceed \$3,500, the principal shall~~  
7 ~~report the matter to the complex area superintendent, who shall~~  
8 ~~refer the matter to the attorney general for any further action~~  
9 ~~pursuant to section 577-3.~~

10 ~~(f)]~~ (e) Notwithstanding any provisions in this section to  
11 the contrary, the State may elect to bring any appropriate  
12 action for the recovery of all damages to school properties.  
13 Nothing in this section shall limit the right of the State to  
14 bring an action against any person to recover these damages."

15 PART IV

16 SECTION 16. Section 351-62.6, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "**§351-62.6 Compensation fee.** (a) ~~[The]~~ Except as  
19 provided in subsection (d), the court shall impose a  
20 compensation fee upon every defendant who has been convicted or  
21 who has entered a plea under section 853-1 and who is or will be



1 able to pay the compensation fee. The amount of the  
2 compensation fee shall be commensurate with the seriousness of  
3 the offense as follows:

- 4 (1) [~~Not~~] No less than \$105 nor more than \$505 for a  
5 felony;  
6 (2) \$55 for a misdemeanor; and  
7 (3) \$30 for a petty misdemeanor.

8 The compensation fee shall be separate from any fine that may be  
9 imposed under section 706-640 and shall be in addition to any  
10 other disposition under this chapter; provided that the court  
11 shall waive the imposition of a compensation fee if the  
12 defendant is unable to pay the compensation fee. Moneys from  
13 the compensation fees shall be deposited into the crime victim  
14 compensation special fund under section 351-62.5.

15 (b) The criteria of section 706-641 may apply to this  
16 section. In setting the amount of the compensation fee to be  
17 imposed, the court shall consider all relevant factors,  
18 including but not limited to:

- 19 (1) The seriousness of the offense;  
20 (2) The circumstances of the commission of the offense;  
21 (3) The economic gain, if any, realized by the defendant;



1 (4) The number of victims; and

2 (5) The defendant's earning capacity, including future  
3 earning capacity.

4 (c) The compensation fee shall be considered a civil  
5 judgment.

6 (d) No compensation fee provided for in this section shall  
7 be levied against a person who is adjudicated for an offense  
8 committed while the person was a minor under the age of  
9 eighteen, or against the person's parent or guardian for that  
10 person's offense."

11 SECTION 17. Section 353G-10, Hawaii Revised Statutes, is  
12 amended to read as follows:

13 "[+]§353G-10[+] **Drug testing or assessment fees.** (a)  
14 Except as provided in [~~subsection~~] subsections (b) [7] and (e),  
15 the agency responsible for monitoring a person's compliance with  
16 the terms and conditions of parole or other release from a  
17 correctional center or facility shall impose upon the person  
18 reasonable fees to cover the cost of:

19 (1) Any drug test of the person required or ordered under  
20 this chapter; and



1           (2) Any assessment of the person required or ordered under  
2           this chapter.

3 The fees shall not be less than the actual and administrative  
4 costs of a drug test or assessment. The fees may be deducted  
5 from any income a person has received as a result of labor  
6 performed in a correctional center or facility or any type of  
7 work release program.

8           (b) Upon a finding of indigence, the agency responsible  
9 for monitoring a person's compliance with the terms and  
10 conditions of parole or other release from a correctional center  
11 or facility shall require the person to pay as much of the fee  
12 as is consistent with the person's ability to pay.

13           (c) All fees collected pursuant to subsection (a)(1) shall  
14 be forwarded to the agency responsible for monitoring the  
15 person's compliance with the terms and conditions of parole or  
16 other release from a correctional center or facility for payment  
17 of costs associated with the agency's drug testing program.

18           (d) All fees collected pursuant to subsection (a)(2) shall  
19 be forwarded to the assessment program for payment of costs  
20 associated with the provision of assessments.



1        (e) No fees provided for in this section shall be levied  
2 against a person for a violation that occurred while the person  
3 was a minor under the age of eighteen, or against the person's  
4 parent or guardian for that person's violation."

5                                        PART V

6        SECTION 18. Section 571-31.4, Hawaii Revised Statutes, is  
7 amended by amending subsection (c) to read as follows:

8        "(c) Informal adjustment under this section may include,  
9 among other suitable methods, programs, and procedures, the  
10 following:

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



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



1           other supporters of the child, may meet with the  
2           victim harmed by the child's law violation and the  
3           victim's supporters[-];  
4   provided that any treatment or services provided under this  
5   section shall be provided at no cost to the person whose  
6   violation occurred while the person was a minor under the age of  
7   eighteen, or to the person's parent or guardian for that  
8   person's violation. Nothing in this section shall prohibit the  
9   utilization of treatment or services provided or covered by any  
10   health insurance plan under which the person is already a  
11   covered person or beneficiary; provided that the person or the  
12   person's parent or guardian shall be responsible for all  
13   copayments required by the insurer."

14           SECTION 19. Section 571-32, Hawaii Revised Statutes, is  
15   amended to read as follows:

16           "**§571-32 Detention; shelter; release; notice.** (a) If a  
17   minor who is believed to come within section 571-11(1) is not  
18   released as provided in section 571-31 and is not deemed  
19   suitable for diversion, then the minor shall be taken without  
20   unnecessary delay to the court or to the place of detention or  
21   shelter designated by the court. If a minor who is believed to



1 come within section 571-11(2) is not released as provided in  
2 section 571-31, and is not deemed suitable for diversion, then  
3 the minor shall be taken without unnecessary delay to the court  
4 or to the place of shelter designated by the court. If the  
5 court determines that the minor requires care away from the  
6 minor's own home but does not require secure physical  
7 restriction, the minor shall be given temporary care in any  
8 available nonsecure minor caring institution, foster family  
9 home, or other shelter facility.

10 (b) The officer or other person who brings a minor to a  
11 detention or shelter facility shall give notice to the court at  
12 once, stating the legal basis therefor and the reason why the  
13 minor was not released to the minor's parents. If the facility  
14 to which the minor is taken is not an agency of the court, the  
15 person in charge of the facility in which the minor is placed  
16 shall promptly give notice to the court that the minor is in  
17 that person's custody. Before acceptance of the minor for  
18 detention or shelter care, a prompt inquiry shall be made by a  
19 duly authorized staff member of the detention or shelter  
20 facility or officer of the court. Where it is deemed in the  
21 best interests of the minor, the judge, officer, staff member,





1 or director of detention services may then order the minor to be  
2 released, if possible, to the care of the minor's parent,  
3 guardian, legal custodian, or other responsible adult, or the  
4 judge may order the minor held in the facility subject to  
5 further order or placed in some other appropriate facility.

6 (c) As soon as a minor is detained, the minor's parents,  
7 guardian, or legal custodian shall be informed, by personal  
8 contact or by notice in writing on forms prescribed by the  
9 court, that they may have a prompt hearing held by a circuit  
10 judge or district family judge regarding release or detention.  
11 A minor may be released on the order of the judge with or  
12 without a hearing. The director of detention services may order  
13 the release of the minor if an order of detention has not been  
14 made.

15 (d) No minor shall be held in a detention facility for  
16 juveniles or shelter longer than twenty-four hours, excluding  
17 weekends and holidays, unless a petition or motion for  
18 revocation of probation, or motion for revocation of protective  
19 supervision has been filed, or unless the judge orders otherwise  
20 after a court hearing. No ex parte motions shall be considered.  
21 For the purposes of this section:



- 1 (1) Unless a court finds, after a hearing and in writing,  
2 that it is in the interest of justice as provided for  
3 in subsection (g) (2), a minor believed to come within  
4 section 571-11(1), or a minor awaiting trial or  
5 another legal process, who is treated as an adult for  
6 purposes of prosecution in criminal court and housed  
7 in a secure facility shall not:
- 8 (A) Have sight or sound contact with adult inmates;  
9 or
- 10 (B) Be held in any jail or lockup for adults,  
11 except as provided in subsection (g) (3); and
- 12 (2) Detention in a jail or lockup for adults may be  
13 permitted for[+] a minor accused of a non-status  
14 offense who is:
- 15 (A) [~~A minor accused of a non-status offense who is~~  
16 ~~held~~] Held for a period not to exceed six hours;  
17 provided that the minor is being held:
- 18 (i) For processing or release;  
19 (ii) While awaiting transfer to a juvenile  
20 facility; or



- 1                   (iii) For a court appearance that occurs within
- 2                                   the period of detention; or
- 3           (B) ~~[A minor accused of a non-status offense who is~~
- 4                   ~~awaiting]~~ Awaiting an initial court appearance
- 5                   that will occur within forty-eight hours of the
- 6                   minor being taken into custody, excluding
- 7                   weekends and holidays, and where the jail or
- 8                   lockup for adults is in a location:
- 9                   (i) Outside a metropolitan statistical area, as
- 10                                   defined by the Office of Management and
- 11                                   Budget, and no acceptable alternative
- 12                                   placement is available;
- 13                   (ii) Where the distance to be traveled or the
- 14                                   lack of highway, road, or transportation
- 15                                   does not allow for court appearances within
- 16                                   forty-eight hours, excluding weekends and
- 17                                   holidays, such that a brief delay of no more
- 18                                   than an additional forty-eight hours is
- 19                                   excusable; or
- 20                   (iii) Where safety concerns exist, such as severe
- 21                                   and life-threatening weather conditions that



1 do not allow for reasonably safe travel, in  
2 which case the time for an appearance may be  
3 delayed until twenty-four hours after the  
4 time that conditions allow for reasonably  
5 safe travel;

6 provided that the minor shall not have sight or sound  
7 contact with adult inmates; provided further that the  
8 State shall have a policy in effect that requires  
9 individuals who work with both minor and adult inmates  
10 in collocated facilities to be trained and certified  
11 to work with juveniles.

12 (e) No minor may be held after the filing of a petition or  
13 motion, as specified in subsection (d), unless an order for  
14 continued detention or shelter has been made by a judge after a  
15 court hearing. If there is probable cause to believe that the  
16 minor comes within section 571-11(1), the minor may be securely  
17 detained, following a court hearing, in a detention facility for  
18 juveniles or may be held in a shelter. If there is probable  
19 cause to believe that the minor comes within section 281-101.5  
20 or 571-11(2), the minor may be held, following a court hearing,  
21 in a shelter but shall not be securely detained in a detention



1 facility for juveniles for longer than twenty-four hours,  
2 excluding weekends and holidays, unless the minor is subject to  
3 the provisions of chapter 582, Interstate Compact on Juveniles,  
4 or chapter 582D, Interstate Compact for Juveniles, or is  
5 allegedly in or has already been adjudicated for a violation of  
6 a valid court order, as provided under the federal Juvenile  
7 Justice and Delinquency Prevention Act of 1974, as amended.

8 (f) No minor shall be released from detention except in  
9 accordance with this chapter.

10 (g) When a minor is ordered to be held or detained by the  
11 court:

12 (1) Where a minor transferred for criminal proceedings  
13 pursuant to a waiver of family court jurisdiction is  
14 detained, the minor shall not:

15 (A) Have sight or sound contact with adult inmates;

16 or

17 (B) Be held in any jail or lockup for adults,  
18 unless a court finds, after a hearing and in writing,  
19 that it is in the interest of justice;

20 (2) In determining whether it is in the interest of  
21 justice to permit a minor to be held in any jail or



1 lockup for adults, or to have sight or sound contact  
2 with adult inmates, a court shall consider:  
3 (A) The age of the minor;  
4 (B) The physical and mental maturity of the minor;  
5 (C) The present mental state of the minor, including  
6 whether the minor presents an imminent risk of  
7 self-harm;  
8 (D) The nature and circumstances of the alleged  
9 offense;  
10 (E) The minor's history of prior delinquent acts;  
11 (F) The relative ability of the available adult and  
12 juvenile detention facilities to meet the  
13 specific needs of the minor and protect the  
14 safety of the public as well as other detained  
15 minors; and  
16 (G) Any other relevant factor; and  
17 (3) If a court determines that it is in the interest of  
18 justice to permit a minor to be held in any jail or  
19 lockup for adults, or to have sight or sound contact  
20 with adult inmates:



1           (A) The court shall hold a hearing no less frequently  
2           than once every thirty days, or in the case of a  
3           rural jurisdiction, no less frequently than once  
4           every forty-five days, to review whether it  
5           remains in the interest of justice to permit the  
6           minor to be held in a jail or lockup for adults  
7           or to have sight or sound contact with adult  
8           inmates; and

9           (B) The minor shall not be held in any jail or lockup  
10          for adults, or permitted to have sight or sound  
11          contact with adult inmates, for more than one  
12          hundred eighty days, unless the court, in  
13          writing, determines there is good cause for an  
14          extension, or the minor expressly waives this  
15          limitation.

16          (h) A minor may be placed in room confinement in a  
17          juvenile detention or adult jail facility only under the  
18          following conditions:

19          (1) Room confinement may only be used as a temporary  
20          response to a minor's behavior, and only if:



- 1           (A) The behavior poses an immediate and substantial  
2           risk of danger to the minor's self or another  
3           individual, or a serious and immediate threat to  
4           the safety and orderly operation of the facility;  
5           provided that any decision to hold a minor in  
6           room confinement due to a mental health emergency  
7           shall be made by a mental health professional and  
8           based upon the mental health professional's  
9           examination of the minor; or
- 10           (B) The minor is an imminent escape risk;
- 11       (2) Because of the potential impact on a minor's mental or  
12       physical health, room confinement may only be used for  
13       the minimum time necessary for the minor to regain  
14       self-control, and only after less restrictive options  
15       or techniques, including de-escalation, conflict and  
16       behavioral management techniques, and intervention by  
17       a mental health professional, have been attempted,  
18       exhausted, and failed;
- 19       (3) If a minor is placed in room confinement, the reasons  
20       for the room confinement shall be explained to the  
21       minor. The minor shall also be informed that release





- 1 from room confinement will occur immediately when the  
2 minor exhibits self-control and is no longer deemed a  
3 threat to the minor's safety or the safety of others;
- 4 (4) If a minor is placed in room confinement, the  
5 following individuals shall be notified on the next  
6 business day and provided the reasons for the room  
7 confinement as well as the location and duration of  
8 the confinement:
- 9 (A) The senior judge of the family court;  
10 (B) The presiding judge who ordered the minor to be  
11 held at the facility;  
12 (C) The deputy chief court administrator; and  
13 (D) The social services manager of the juvenile  
14 client services branch for the circuit court of  
15 the first circuit;
- 16 (5) Room confinement shall not be used for purposes of  
17 punishment or disciplinary sanction, coercion,  
18 convenience, or retaliation, or to address staffing  
19 shortages at the facility;
- 20 (6) A minor may be held in room confinement for no more  
21 than three hours unless the minor is a danger to



1 themselves or another, or the on-call judge grants an  
2 extension of no more than three additional hours of  
3 confinement. Thereafter, the minor shall be returned  
4 to the general population; provided that if a minor is  
5 held in room confinement for more than three hours, a  
6 hearing shall be held before the family court on the  
7 next business day, at which time the minor shall be  
8 provided legal representation;

9 (7) A minor shall not be returned to room confinement  
10 immediately after returning to the general population  
11 from room confinement for the purposes of evading the  
12 reporting requirements and room confinement  
13 restrictions pursuant to this section;

14 (8) If the minor is not returned to the general population  
15 following a hearing pursuant to paragraph (6), the  
16 minor shall be transferred to a location where  
17 services may be provided to the minor without the need  
18 for room confinement; provided that if a mental health  
19 professional determines that the level of crisis  
20 service needed is not presently available at the  
21 location, the superintendent or deputy superintendent



- 1 of the facility shall initiate a referral to a  
2 facility that can meet the needs of the minor;
- 3 (9) All rooms used for room confinement shall have  
4 adequate and operational lighting, ventilation for the  
5 comfort of the minor, and shall be clean and resistant  
6 to suicide and self-harm;
- 7 (10) The minor shall have access to drinking water, toilet  
8 facilities, hygiene supplies, and reading materials  
9 approved by a mental health professional;
- 10 (11) The minor shall have the same access as provided to  
11 minors in the general population of the facility to  
12 meals, contact with parents or legal guardians, legal  
13 assistance, educational programs, and medical and  
14 mental health services;
- 15 (12) The minor shall be continuously monitored by facility  
16 staff; and
- 17 (13) The judiciary shall post quarterly on the judiciary's  
18 website a report of its detention center detailing  
19 their compliance with this section. Each report shall  
20 include:



- 1           (A) The number of incidents of room confinement every
- 2                               year;
- 3           (B) The number of minors impacted;
- 4           (C) The age, gender identity, and race of minors
- 5                               impacted;
- 6           (D) Any alternative strategies employed before the
- 7                               use of room confinement, the reasons those
- 8                               alternative strategies failed, and why room
- 9                               confinement was necessary; and
- 10          (E) The incidence of mental illness.

11          For the purposes of this subsection:

12          "Mental health professional" means a qualified mental  
13 health professional or mental health professional supervised by  
14 a qualified mental health professional.

15          "Room confinement" means the placement of a minor in a  
16 room, cell, or area with minimal or no contact with persons  
17 other than court staff and attorneys. "Room confinement" does  
18 not include confinement of a minor in a single-person room or  
19 cell for brief periods of locked room time as necessary for  
20 required institutional operations and does not include  
21 confinement during sleep hours.



1 (i) Provisions regarding bail shall not be applicable to  
2 minors detained in accordance with this chapter, except that  
3 bail may be allowed after a minor has been transferred for  
4 criminal prosecution pursuant to waiver of family court  
5 jurisdiction.

6 (j) The official in charge of a facility for the detention  
7 of adult offenders or persons charged with crime shall inform  
8 the court immediately when a minor who is or appears to be under  
9 eighteen years of age is received at the facility.

10 (k) Any other provision of law to the contrary  
11 notwithstanding, any person otherwise subject to proceedings  
12 under chapter 832 and who is under the age of eighteen may be  
13 confined in a detention facility or correctional facility by  
14 order of a judge for the purposes set forth in section 832-12,  
15 832-15, or 832-17.

16 (l) The department of human services through the office of  
17 youth services shall certify police station cellblocks and  
18 community correctional centers that provide sight and sound  
19 separation between minors and adults in secure custody. Only  
20 cellblocks and centers certified under this subsection shall be  
21 authorized to detain juveniles pursuant to section 571-32(d).



1 The office of youth services may develop sight and sound  
2 separation standards, issue certifications, monitor and inspect  
3 facilities for compliance, cite facilities for violations,  
4 withdraw certifications, and require certified facilities to  
5 submit data and information as requested. In addition, the  
6 office of youth services may monitor and inspect all cellblocks  
7 and centers for compliance with section 571-32(d).

8 (m) Any costs associated with the detention of a minor  
9 shall be borne by the court. The court shall not seek  
10 reimbursement for costs incurred pursuant to this section from a  
11 person adjudicated under sections 571-11(1) or (2), 571-13,  
12 571-22, or 571-41(f), or from the person's parent or guardian;  
13 provided that the court may order restitution to a victim, as  
14 applicable."

15 SECTION 20. Section 571-33, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§571-33 Detention and shelter facilities.** Provisions  
18 shall be made for the temporary detention of children or minors  
19 in a detention home, to be conducted as an agency of the court;  
20 or the court may arrange for the care and custody of [~~such~~] the  
21 children or minors temporarily in private homes subject to the



1 supervision of the court, or may arrange with any institution or  
2 agency to receive for temporary care and custody children or  
3 minors within the jurisdiction of the court.

4 When a detention home is established as an agency of the  
5 court, the judge may appoint a director of detention services  
6 and other necessary employees for [~~such~~] the home in the same  
7 manner as is provided by law for the appointment of other  
8 employees of the court.

9 A detention home established in any circuit may be used for  
10 the temporary detention of children or minors ordered to be  
11 detained by the court of another circuit. The use shall be  
12 subject to the approval of the judge of the court of the circuit  
13 in which the detention home is situated, upon such terms and  
14 conditions as may be established by the judge.

15 The family court shall also provide nonsecure shelter  
16 facilities separate from detention facilities. In referring  
17 minors to a nonsecure shelter, the court shall consider the  
18 minor's background, degree of involvement in illegal and  
19 antisocial activities, current behavioral patterns, and any  
20 other relevant criteria to determine placement.



1        Any costs associated with the detention, placement, or care  
2 of a minor who is subject to this section shall be borne by the  
3 court. The court shall not seek reimbursement for costs  
4 incurred pursuant to this section from a person adjudicated  
5 under sections 571-11(1) or (2), 571-13, 571-22, or 571-41(f),  
6 or from the person's parent or guardian."

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

9        "**§571-48 Decree, if informal adjustment or diversion to a**  
10 **private or community agency or program has not been effected.**

11 When a child is found by the court to come within section  
12 571-11, the court shall so decree and in its decree shall make a  
13 finding of the facts upon which the court exercises its  
14 jurisdiction over the child. Upon the decree the court, by  
15 order duly entered, shall proceed as follows:

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

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

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

19                    (ii) In the custody of a suitable person or  
20                    facility elsewhere, upon conditions  
21                    determined by the court.





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

12 (B) The court may vest legal custody of the child,  
13 after prior consultation with the agency or  
14 institution:

15 (i) In a Hawaii youth correctional facility if  
16 the child has been adjudicated for a  
17 felony-level offense or a violation or  
18 revocation of probation, or is committed to  
19 the facility from juvenile drug court or  
20 girls court on a court order. For a child  
21 eligible for placement in a Hawaii youth



1                   correctional facility, the court shall enter  
2                   a finding of fact in the record stating the  
3                   reasons the child is a public safety risk  
4                   warranting placement in the correctional  
5                   facility. No such finding of fact shall be  
6                   required if the child is adjudicated for a  
7                   felony against a person or a sex offense;  
8                   (ii) In a local public agency or institution;  
9                   (iii) In any private institution or agency  
10                  authorized by the court to care for  
11                  children; or  
12                  (iv) In a private home.  
13                  If legal custody of the child is vested in a  
14                  private agency or institution in another state,  
15                  the court shall select one that is approved by  
16                  the family or juvenile court of the other state  
17                  or by that state's department of social services  
18                  or other appropriate department;  
19                  (C) The court may place a child on administrative  
20                  monitoring, as defined in section 571-2, pending  
21                  completion of conditions as may be imposed by the



1 court, to preempt the need for disposition to a  
2 full probation term, and to afford the child the  
3 opportunity to demonstrate behavior adjustments.  
4 Upon completion of the court-ordered conditions,  
5 the court shall discharge the child pursuant to  
6 section 571-50. If a child fails to complete the  
7 court-ordered conditions, the court may extend or  
8 modify the order pursuant to section 571-50, or  
9 dispose the child to probation status under  
10 paragraph (1) (A); or

11 (D) [~~The court may fine the child for~~] For a  
12 violation [~~which~~] that would be theft in the  
13 third degree by shoplifting if committed by an  
14 adult[~~-. The~~], the court may require the child to  
15 perform [~~public services in lieu of the fine;~~]  
16 community service of no more than seventy-two  
17 hours; provided that the community service shall  
18 not interfere with the child's school or work  
19 commitments. The court shall not impose a fine  
20 on the child or the child's parent or guardian;

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



- 1           (A) The court may place the child under protective  
2           supervision, as hereinabove defined, in the  
3           child's own home, or in the custody of a suitable  
4           person or agency elsewhere, upon conditions  
5           determined by the court; or
- 6           (B) The court may vest legal custody of the child,  
7           after prior consultation with the agency or  
8           institution, in a local governmental agency or  
9           institution licensed or approved by the State to  
10          care for children, with the exception of an  
11          institution authorized by the court to care for  
12          children. If legal custody of the child is  
13          vested in a private agency or institution in  
14          another state, the court shall select one that is  
15          approved by the family or juvenile court of the  
16          other state or by that state's department of  
17          social services or other appropriate department;  
18          provided that the child may not be committed to a  
19          public or private institution operated solely for  
20          the treatment of law violators;



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



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



- 1           (5) The court may order, for any child within its  
2           jurisdiction, whatever care or treatment is authorized  
3           by law;
- 4           (6) In placing a child under the guardianship or custody  
5           of an individual or of a private agency or private  
6           institution, the court shall give primary  
7           consideration to the welfare of the child;
- 8           (7) In support of any order or decree under section  
9           571-11(1) or (2), the court may require the parents or  
10          other persons having custody of the child, or any  
11          other person who has been found by the court to be  
12          encouraging, causing, or contributing to the acts or  
13          conditions [~~which~~] that bring the child within the  
14          purview of this chapter and who are parties to the  
15          proceeding, to do or to omit doing any acts required  
16          or forbidden by law, when the judge deems this  
17          requirement necessary for the welfare of the child.  
18          The court may also make appropriate orders concerning  
19          the parents or other persons having custody of the  
20          child and who are parties to the proceeding. If such  
21          persons fail to comply with the requirement or with



1 the court order, the court may proceed against them  
2 for contempt of court;

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

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

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

18 (11) The court may order any person adjudicated pursuant to  
19 section 571-11(1) to make restitution of money or  
20 services to any victim who suffers loss as a result of  
21 the child's action, or to render community service[+]





1           of no more than seventy-two hours; provided that the  
2           community service shall not interfere with the child's  
3           school or work commitments;

4           (12) The court may order any [~~person~~] child adjudicated  
5           pursuant to section 571-11(2) to participate in  
6           community service[~~;~~ ~~and~~] of no more than seventy-two  
7           hours; provided that the community service shall not  
8           interfere with the child's school or work commitments;

9           (13) The court may order the parents of an adjudicated  
10           child to make restitution of money or services to any  
11           victim, person, or party who has incurred a loss or  
12           damages as a result of the child's action[~~;~~]; and

13           (14) Notwithstanding paragraph (11) or (13), the court  
14           shall not impose any financial penalties or seek  
15           reimbursement for costs against the adjudicated child  
16           or the child's parent or guardian."

17           SECTION 22. Section 571-51, Hawaii Revised Statutes, is  
18           amended to read as follows:

19           "**§571-51 Support of minor committed for study or care.**

20           Whenever legal custody of a minor is given by the court to  
21           someone other than the minor's parents, or when a minor is given



1 medical, psychological, or psychiatric study or treatment under  
2 order of the court, and no provision is otherwise made by law  
3 for the support of the minor or for payment for such treatment,  
4 compensation for the study and treatment of the minor, when  
5 approved by order of the court, shall~~[, if necessary,]~~ be paid  
6 out of such moneys as may be appropriated for the expenses of  
7 the court. ~~[After giving the parent a reasonable opportunity to  
8 be heard, the court may order and decree that the parent shall  
9 pay, in such manner as the court may direct, a reasonable sum  
10 that will cover in whole or in part the support and treatment of  
11 the minor given after the decree is entered. If the parent  
12 wilfully fails or refuses to pay such sum, the court may proceed  
13 against the parent as for contempt, or the order may be filed  
14 and shall have the effect of a civil judgment.]~~ The court shall  
15 not order the parent or guardian of a person adjudicated under  
16 sections 571-11(1) or (2), 571-13, 571-22, or 571-41(f) to pay  
17 for the person's support and treatment; provided that the court  
18 may order the person or the person's parent or guardian to  
19 utilize treatment options available to the person or the  
20 person's parent or guardian through any health insurance under  
21 which the person is already a covered person or beneficiary;



1 provided further that the person or the person's parent or  
2 guardian shall be responsible for all copayments required by the  
3 insurer.

4 Compensation may be made to a nongovernmental agency,  
5 provided that it shall make periodic reports to the court or to  
6 an agency designated by the court concerning the care and  
7 treatment the minor is receiving and the minor's response to  
8 such treatment. These reports shall be made as frequently as  
9 the court deems necessary and shall be made with respect to  
10 every such minor at intervals not exceeding six months. The  
11 agency shall also afford an opportunity for a representative of  
12 the court or of an agency designated by the court to visit,  
13 examine, or consult with the minor as frequently as the court  
14 deems necessary."

15 SECTION 23. Section 571-83, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§571-83 Court fees, fines, and administrative costs;**  
18 **witness fees.** (a) In proceedings under section 571-11(1), (2),  
19 or (9), no ~~[court]~~ fees, fines, or administrative costs shall be  
20 charged against ~~[, and no]~~ a child or the child's parent or  
21 guardian.



1        (b) No witness fees shall be allowed to~~[7]~~ any party to a  
2 petition. No officer of the State or of any political  
3 subdivision thereof shall be entitled to receive any fee for the  
4 service of process or for attendance in court in any ~~[such]~~  
5 proceedings except as otherwise provided in this chapter. All  
6 other persons acting under orders of the court may be paid for  
7 service of process and attendance or service as witnesses, the  
8 fees provided by law to be paid from the proper appropriation  
9 when the allowances are certified to by the judge."

10        SECTION 24. Section 571-87, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12        "(a) When it appears to a judge that a person requesting  
13 the appointment of counsel satisfies the requirements of chapter  
14 802 for determination of indigency, or the court in its  
15 discretion appoints counsel under chapters ~~[+]587A[+]~~ and 346,  
16 part X, or that a person requires the appointment of a guardian  
17 ad litem, the judge shall appoint counsel or a guardian ad litem  
18 to represent the person at all stages of the proceedings,  
19 including appeal, if any. Appointed counsel and the guardian ad  
20 litem shall receive reasonable compensation for necessary  
21 expenses, including travel, the amount of which shall be



1 determined by the court, and reasonable fees pursuant to  
2 subsections (b) and (c). All of these expenses and fees shall  
3 be certified by the court and paid upon vouchers approved by the  
4 judiciary and warrants drawn by the comptroller. If the person  
5 the appointed counsel or guardian ad litem is representing is a  
6 minor, the court shall not order the minor or the minor's parent  
7 or guardian to reimburse any costs associated with the  
8 appointment of counsel or a guardian ad litem in proceedings  
9 under sections 571-11(1) or (2), 571-13, 571-22, or 571-41(f)."

10 SECTION 25. Section 577-3.5, Hawaii Revised Statutes, is  
11 amended by amending subsection (b) to read as follows:

12 "(b) In addition to any other lawful orders, if a minor is  
13 found under chapter 571 to have committed an act constituting  
14 graffiti, the court shall:

15 (1) Require the minor~~[, the]~~ or the minor's parents~~[,]~~ or  
16 ~~[the]~~ legal guardians to remove the graffiti from the  
17 affected property within sixty days of the order ~~[and~~  
18 ~~pay for the cost of paint and materials]~~; or if  
19 appropriate, ~~[pay for the actual cost of having the~~  
20 ~~damaged property repaired or replaced,]~~ participate in



1           an available accountability program offered by the  
2           judiciary; and

3           (2) Order the minor to perform [~~a minimum of eighty hours~~  
4           ~~of community service to remove graffiti from other~~  
5           ~~properties.] no more than seventy-two hours of  
6           community service; provided that the community service  
7           shall not interfere with the minor's school or work  
8           commitments."~~

9           SECTION 26. Section 577-21, Hawaii Revised Statutes, is  
10          amended to read as follows:

11           "**§577-21 Curfew ordinances, effect.** Each of the counties  
12          may enact and enforce ordinances regulating the presence of  
13          children in public places and on public streets and roads during  
14          certain hours at night.

15           Upon each of the counties enacting an ordinance pertaining  
16          to curfew for children, then so far as that county is concerned,  
17          the ordinance shall have full force and effect, and shall  
18          supersede sections 577-16, [~~577-18,~~] 577-19 and 577-20 until the  
19          ordinance is repealed or otherwise made invalid."

20           SECTION 27. Section 577-26, Hawaii Revised Statutes, is  
21          amended to read as follows:



1           "§577-26 Alcohol or drug abuse relating to minors;  
2 diagnosis, counseling, and related activities. (a) A  
3 counselor, certified, licensed, or otherwise authorized by law  
4 to engage in the practice of counseling services in either or  
5 both the public and private sector, may inform the spouse,  
6 parent, custodian, or guardian of any minor who requests, is  
7 referred for, or received counseling services relating to  
8 alcohol or drug abuse.

9           (b) If a minor consents to receive counseling services for  
10 alcohol or drug abuse, the spouse, parent, custodian, or  
11 guardian of the minor shall not be liable for the legal  
12 obligations resulting from the furnishing of ~~[such]~~ the  
13 counseling services provided by the counselor. A minor who  
14 consents to the provision of counseling services under this  
15 section shall ~~[assume financial responsibility for the costs of~~  
16 ~~such services, if any.]~~ not be financially responsible for the  
17 costs of the services, except as provided in subsection (f).

18           (c) ~~[Notwithstanding any other law to the contrary, no]~~  
19 Except as provided in subsection (f), no spouse, parent,  
20 custodian, or guardian~~[, whose consent has not been obtained or~~  
21 ~~who has no prior knowledge that the minor has consented to the~~



1 ~~provision of such counseling services for alcohol or drug abuse]~~  
2 shall be liable for the costs [~~incurred by virtue of the minor's~~  
3 ~~consent.~~] of alcohol or drug abuse counseling services provided  
4 to the minor.

5 ~~[(d) Notwithstanding any other law to the contrary, any~~  
6 ~~action to recover any debt founded upon any contract, obligation~~  
7 ~~or liability under this section shall not commence until a minor~~  
8 ~~has reached the age of majority; provided that said action shall~~  
9 ~~commence within two years of date a minor reaches the age of~~  
10 ~~majority.~~

11 ~~(e)]~~ (d) The consent to the provision of furnishing  
12 counseling services for alcohol or drug abuse by the counselor  
13 when executed by a minor who is or professes to suffer from  
14 alcohol or drug abuse, shall be valid and binding as if the  
15 minor had achieved the minor's majority; that is, the minor who  
16 is or professes to suffer from alcohol or drug abuse, shall be  
17 deemed to have, and shall have the same legal capacity, the  
18 infancy of the minor and any contrary provisions of law  
19 notwithstanding, and [~~such~~] the consent shall not be subject to  
20 later disaffirmance by reason of [~~such~~] minority; and the  
21 consent of no other person (including but not limited to a





1 spouse, parent, custodian, or guardian) shall be necessary in  
2 order to authorize [~~such~~] counseling services to [~~such-a~~] the  
3 minor.

4 [~~(f)~~] (e) In the provision of counseling services for  
5 alcohol or drug abuse, the counselor shall seek to open the  
6 lines of communication between the minor and the spouse, parent,  
7 custodian, or guardian; provided [~~such~~] this action is deemed  
8 beneficial in achieving the desired counseling objectives.

9 (f) Nothing in this section shall prohibit the utilization  
10 of alcohol or drug abuse counseling services provided or covered  
11 by any health insurance plan under which the minor is a covered  
12 person or beneficiary; provided that the minor or the minor's  
13 parent or guardian shall be responsible for all copayments  
14 required by the insurer."

15 SECTION 28. Section 577-18, Hawaii Revised Statutes, is  
16 repealed.

17 [~~"§577-18 Parents allowing children in street, prohibited~~  
18 ~~when; penalty. Any parent or guardian having the care, custody,~~  
19 ~~and control of a child under sixteen years of age, who, except~~  
20 ~~in case of necessity, knowingly, and voluntarily suffers or~~  
21 ~~permits such child to go or remain on any public street, highway~~



1 ~~or public place after ten o'clock in the evening and before four~~  
2 ~~o'clock in the morning, unaccompanied by an adult person thereto~~  
3 ~~authorized by such parent or guardian, shall be fined not more~~  
4 ~~than \$100 or imprisoned not more than twenty days."]~~

5 SECTION 29. Section 577-23, Hawaii Revised Statutes, is  
6 repealed.

7 [~~"§577-23 Parent et al. responsibility, penalty. Any~~  
8 ~~parent, guardian, or other person having the care, custody, or~~  
9 ~~control of an unmarried minor, who knowingly permits such minor~~  
10 ~~to violate section 577-22, shall be fined not more than \$50 or~~  
11 ~~imprisoned not more than thirty days."]~~

12 SECTION 30. Section 577-24, Hawaii Revised Statutes, is  
13 repealed.

14 [~~"§577-24 Escort's responsibility; penalty. Any person~~  
15 ~~who knowingly takes, escorts, or accompanies any unmarried minor~~  
16 ~~to a dance hall which the minor is prohibited from attending by~~  
17 ~~section 577-22, or who invites or encourages the minor to attend~~  
18 ~~such dance hall, shall be fined not more than \$100 or imprisoned~~  
19 ~~not more than ninety days."]~~

20 PART VI



1 SECTION 31. (a) As of the effective date of this Act, any  
2 outstanding court-ordered fees, fines, or administrative costs  
3 ordered against a person who was adjudicated for offenses  
4 committed during the person's minority, or pursuant to sections  
5 571-11(1) or (2), 571-13, 571-22, or 571-41(f), Hawaii Revised  
6 Statutes, shall be void and not collectable, including any  
7 interest, penalties, or collection expenses on the judgment,  
8 order, agreement, or other legally enforceable encumbrance.  
9 This Act shall apply to dual-status children for purposes of  
10 delinquency jurisdiction.

11 (b) If, on or after the effective date of this Act, a  
12 payment is made by a person or the person's parent or guardian  
13 toward any fees, fines, or costs made void by this Act, the  
14 payment shall be reimbursed within a reasonable time.

15 PART VII

16 SECTION 32. If any provision of this Act, or the  
17 application thereof to any person or circumstance, is held  
18 invalid, the invalidity does not affect other provisions or  
19 applications of the Act that can be given effect without the  
20 invalid provision or application, and to this end the provisions  
21 of this Act are severable.



# H.B. NO. 129

1 SECTION 33. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 34. This Act shall take effect upon its approval;  
4 provided that the amendments made to sections 291E-61 and 291E  
5 61.5, Hawaii Revised Statutes, by sections 12 and 13,  
6 respectively, of this Act shall not be repealed when those  
7 sections are reenacted on June 30, 2028, pursuant to section 11  
8 of Act 196, Session Laws of Hawaii 2021, as amended by section 8  
9 of Act 148, Session Laws of Hawaii 2023.

10

INTRODUCED BY:

*Dave Carnes*

JAN 14 2025



**Report Title:**

Juvenile Justice; Minors; Court Fees; Fines; Penalties;  
Prohibited; Community Service

**Description:**

Prohibits the assessment of any fees, fines, or court costs against a person who was adjudicated for an offense committed during the person's minority, or against the person's parent or guardian, and discharges all related debt obligations assessed before the effective date of the Act. Limits court-ordered community service for a minor to no more than seventy-two hours. Repeals certain penalties imposed on parents, guardians, or other persons associated with unaccompanied children in streets and unmarried minors in dance halls.

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

