

JAN 17 2025

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 harmful to young people and
4 their families. In Hawaii, the consequences of these costs fall
5 disproportionately on Native Hawaiian, Pacific Islander, and
6 Black youth, who are more likely to be arrested, detained, and
7 unable to afford fees and fines. The legislature also finds
8 that, although existing law authorizes courts to charge youth
9 and their families a range of fees and fines, judges across the
10 State rarely impose these costs in practice.

11 The legislature recognizes that assessing fines in juvenile
12 justice proceedings is not an evidence-based practice for
13 rehabilitating, deterring, or even punishing delinquent youth.
14 Parents may be forced to choose between paying court costs or
15 meeting basic needs. The economic burdens placed on juveniles
16 and their families can undermine public safety by leading to
17 recidivism and escalating crime. Additionally, jurisdictions on



1 the mainland that charge fines and fees to minors often spend
2 more money trying to collect those outstanding debts than they
3 receive in revenue.

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

15 The legislature further finds that data from January 2019
16 through September 2024, shows that only thirty-two per cent of
17 restitution ordered by the courts against minors was paid during
18 that six-year period. Excluding payments for restitution, only
19 seventeen per cent of fines ordered by the courts against minors
20 was paid during that same timeframe. The data reflects that
21 minors and their parents, the large majority of which are Native



1 Hawaiian, are struggling to cover the exorbitant debt assessed
2 to them by the courts.

3 Accordingly, the purpose of this Act is to allow a court to
4 order community service in place of the assessment of any fines
5 and fees against a person who is adjudicated for a traffic
6 offense committed while the person was a minor under the age of
7 eighteen years, or against the person's parent or guardian.

8 PART II

9 SECTION 2. Section 286-136, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By amending subsection (a) to read:

12 "(a) Any person who violates section 286-102, 286-122,
13 286-130, 286-131, 286-132, 286-133, or 286-134 shall be
14 penalized as follows:

15 (1) For a first offense, or any offense not preceded
16 within a five-year period for the same offense, the
17 person shall pay a fine of [~~no~~] not more than \$1,000
18 or serve a term of imprisonment of [~~no~~] not more than
19 thirty days, or both;

20 (2) For an offense that occurs within five years of a
21 prior conviction for the same offense, the person



1 shall pay a minimum fine of \$500 and a maximum fine of
2 \$1,000, or serve a term of imprisonment of ~~[no]~~ not
3 more than one year, or both; or

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

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

12 "(c) Notwithstanding subsections (a) and (b), a minor
13 under the age of eighteen years under the jurisdiction of the
14 family court who is subject to this section ~~[shall either]~~ :

15 (1) May lose the right to drive a motor vehicle until the
16 age of eighteen ~~[or be subject to a fine of \$500.]~~
17 years; and

18 (2) In place of any financial penalty provided for in this
19 section against a person who is adjudicated of an
20 offense committed while the person was a minor under
21 the age of eighteen years, or against the person's



1 parent or guardian for the person's offense, the court
2 may order the minor to participate in community
3 service of not more than seventy-two hours; provided
4 that the community service shall not interfere with
5 the minor's school or work commitments."

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

8 "**§286G-3 Driver education assessments.** (a) [A] Except as
9 provided in subsection (e), a driver education assessment of \$7
10 shall be levied on a finding that a violation of a statute or
11 county ordinance relating to vehicles or their drivers or owners
12 occurred, except for[+] offenses:

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

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

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

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

19 (1) \$100 shall be levied on persons convicted under
20 section 291E-61 or 291E-61.5 to defray costs of



1 services provided by the driver education and training
2 program;

3 (2) \$50 shall be levied on persons required to attend a
4 child passenger restraint system safety class under
5 section 291-11.5; and

6 (3) \$75 shall be levied on persons convicted under
7 section 291C-105 to defray costs of services provided
8 by the driver education and training program.

9 (c) The driver education assessments levied by subsections

10 (a) and (b) shall be paid for each violation in addition to any
11 fine imposed by the court, and regardless of whether a fine is
12 suspended; provided that the driver education assessment of \$100
13 levied on a person convicted under section 291E-61 or 291E-61.5
14 may be waived by the court if the court determines that the
15 person is unable to pay the driver education assessment.

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

19 (e) In place of any financial penalty provided for in this
20 section against a person who is adjudicated for an offense
21 committed while the person was a minor under the age of eighteen



1 years, or against the person's parent or guardian for the
2 person's offense, the court may order the person to participate
3 in community service of not more than seventy-two hours;
4 provided that the community service shall not interfere with the
5 person's school or work commitments."

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

8 "**§291C-12 Collisions involving ~~[death or]~~ serious bodily**
9 **injury[-] or death.** (a) The driver of any vehicle involved in
10 a collision resulting in serious bodily injury to or death of
11 any person shall immediately stop the vehicle at the scene of
12 the collision or as close thereto as possible but shall then
13 forthwith return to and in every event shall remain at the scene
14 of the collision until the driver has fulfilled the requirements
15 of section 291C-14. Every stop shall be made without
16 obstructing traffic more than is necessary.

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

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



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

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

(f) In place of any financial penalty provided for in this
section against a person who is adjudicated for an offense
committed while the person was a minor under the age of eighteen
years, or against the person's parent or guardian for the
person's offense, the court may order the person to participate
in community service of not more than seventy-two hours;
provided that the community service shall not interfere with the
person's school or work commitments."

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

**"§291C-12.5 Collisions involving substantial bodily
injury.** (a) The driver of any vehicle involved in a collision
resulting in substantial bodily injury to any person shall



1 immediately stop the vehicle at the scene of the collision or as
2 close thereto as possible but shall then forthwith return to and
3 in every event shall remain at the scene of the collision until
4 the driver has fulfilled the requirements of section 291C-14.

5 Every stop shall be made without obstructing traffic more than
6 is necessary.

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

9 (c) ~~[For]~~ Except as provided in subsection (e), for any
10 violation under this section, a surcharge of \$250 shall be
11 imposed, in addition to any other penalties, and shall be
12 deposited into the neurotrauma special fund.

13 (d) ~~[For]~~ Except as provided in subsection (e), for any
14 violation under this section, a surcharge of up to \$250 may be
15 imposed, in addition to other penalties, ~~[which]~~ and if imposed,
16 shall be deposited into the trauma system special fund.

17 (e) In place of any financial penalty provided for in this
18 section against a person who is adjudicated for an offense
19 committed while the person was a minor under the age of eighteen
20 years, or against the person's parent or guardian for the
21 person's offense, the court may order the person to participate



1 in community service of not more than seventy-two hours;
2 provided that the community service shall not interfere with the
3 person's school or work commitments."

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

6 "**S291C-12.6 Collisions involving bodily injury.** (a) The
7 driver of any vehicle involved in a collision resulting in
8 bodily injury to any person shall immediately stop the vehicle
9 at the scene of the collision or as close thereto as possible
10 but shall then forthwith return to and in every event shall
11 remain at the scene of the collision until the driver has
12 fulfilled the requirements of section 291C-14. Every stop shall
13 be made without obstructing traffic more than is necessary.

14 (b) Any person who violates subsection (a) shall be guilty
15 of a misdemeanor.

16 (c) [~~For~~] Except as provided in subsection (e), for any
17 violation under this section, a surcharge of \$100 shall be
18 imposed, in addition to any other penalties, and 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 \$100 may be



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

3 (e) In place of any financial penalty provided for in this
4 section against a person who is adjudicated for an offense
5 committed while the person was a minor under the age of eighteen
6 years, or against the person's parent or guardian for the
7 person's offense, the court may order the person to participate
8 in community service of not more than seventy-two hours;
9 provided that the community service shall not interfere with the
10 person's school or work commitments."

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

13 "(c) For any violation under this section, a surcharge of
14 up to \$100 may be imposed, in addition to other penalties,
15 ~~[which]~~ and if imposed, shall be deposited into the trauma
16 system special fund~~[-]~~; provided that in place of any financial
17 penalty provided for in this section against a person who is
18 adjudicated for an offense committed while the person was a
19 minor under the age of eighteen years, or against the person's
20 parent or guardian for the person's offense, the court may order
21 the person to participate in community service of not more than



1 seventy-two hours; provided that the community service shall not
2 interfere with the person's school or work commitments."

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

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

19 (b) For any violation under this section, a surcharge of
20 up to \$100 may be imposed, in addition to other penalties, which
21 shall be deposited into the trauma system special fund[-];



1 provided that in place of any financial penalty provided for in
2 this section shall be levied against a person who is adjudicated
3 for an offense committed while the person was a minor under the
4 age of eighteen years, or against the person's parent or
5 guardian for the person's offense, the court may order the
6 person to participate in community service of not more than
7 seventy-two hours; provided that the community service shall not
8 interfere with the person's school or work commitments."

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

11 "(a) ~~[In]~~ Except as provided in subsection (d), in
12 addition to any other civil penalties ordered by the court, a
13 person who violates any offense under this part may be ordered
14 to pay a trauma system surcharge, ~~[provided that:]~~ the maximum
15 of which may be:

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

19 (2) ~~[The maximum of which may be]~~ \$25 if the violation is
20 an offense under section 291E-61(a)(1),
21 ~~[291E-61(a)]~~ (3), or ~~[291E-61(a)]~~ (4);



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

(b) The surcharge shall not be ordered [~~when~~]:

(1) When the court determines that the defendant is unable to pay the surcharge[-]; or

(2) The court orders community service in place of the surcharge against a person who is adjudicated for an offense committed while the person was a minor under the age of eighteen years, or against the person's parent or guardian for the person's offense."

SECTION 10. Section 291E-61, Hawaii Revised Statutes, is amended to read as follows:

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

(1) While under the influence of alcohol in an amount sufficient to impair the person's normal mental



1 faculties or ability to care for the person and guard
2 against casualty;

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

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

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

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

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

18 (A) A fourteen-hour minimum substance abuse
19 rehabilitation program, including education and
20 counseling, or other comparable programs deemed
21 appropriate by the court;



- 1 (B) Revocation of license to operate a vehicle for
- 2 [~~no~~] not less than one year and [~~no~~] not more
- 3 than eighteen months;
- 4 (C) Installation during the revocation period of an
- 5 ignition interlock device on all vehicles
- 6 operated by the person;
- 7 (D) Any one or more of the following:
- 8 (i) Seventy-two hours of community service work;
- 9 (ii) [~~no~~] Not less than forty-eight hours and
- 10 [~~no~~] not more than five days of
- 11 imprisonment; or
- 12 (iii) A fine of [~~no~~] not less than \$250 and [~~no~~]
- 13 not more than \$1,000;
- 14 (E) A surcharge of \$25 to be deposited into the
- 15 neurotrauma special fund; and
- 16 (F) A surcharge, if the court so orders, of up to \$25
- 17 to be deposited into the trauma system special
- 18 fund;
- 19 (2) For an offense that occurs within ten years of a prior
- 20 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
6 ~~[no]~~ not less than two years and ~~[no]~~ not more
7 than three years;

8 (C) Installation during the revocation period of an
9 ignition interlock device on all vehicles
10 operated by the person;

11 (D) Either one of the following:

12 (i) ~~[No]~~ Not less than two hundred forty hours
13 of community service work; or

14 (ii) ~~[No]~~ Not less than five days and ~~[no]~~ not
15 more than thirty days of imprisonment, of
16 which at least forty-eight hours shall be
17 served consecutively;

18 (E) A fine of ~~[no]~~ not less than \$1,000 and ~~[no]~~ not
19 more than \$3,000, to be deposited into the drug
20 and alcohol toxicology testing laboratory special
21 fund;



1 (F) A surcharge of \$25 to be deposited into the
2 neurotrauma special fund; and

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

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

20 (4) In addition to a sentence imposed under paragraph (1),
21 for a first offense under this section, or an offense



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

14 (5) In addition to a sentence under paragraph (2), for an
15 offense that occurs within ten years of a prior
16 conviction for an offense under this section, any
17 person who is convicted under this section and was a
18 highly intoxicated driver at the time of the subject
19 incident shall be sentenced to an additional mandatory
20 term of imprisonment of ten consecutive days and an
21 additional mandatory revocation period of one year;



1 provided that the total term of imprisonment for a
2 person convicted under this paragraph shall not exceed
3 the maximum term of imprisonment provided in paragraph
4 (2), as applicable. Notwithstanding paragraph (2),
5 the revocation period for a person sentenced under
6 this paragraph shall be [~~no~~] not less than three
7 years;

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

11 (A) Was not sentenced to any additional mandatory
12 revocation period pursuant to paragraph (3) or
13 (4);

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



(C) Includes with the person's motion for early termination a certified court abstract establishing that the person was not sentenced to any additional mandatory revocation period pursuant to paragraph (3) or (4);

(D) Includes with the person's motion for early termination a certified statement from the director of transportation establishing that:

(i) The person installed and maintained an ignition interlock device on all vehicles operated by the person for a continuous period of six months; and

(ii) After the six-month period, the person maintained the ignition interlock device on all vehicles operated by the person for a continuous period of three months without violation; and

(E) Has complied with all other sentencing requirements.

Nothing in this paragraph shall require a court to grant early termination of the revocation period if the



1 court finds that continued use of the ignition interlock
2 device will further the person's rehabilitation or
3 compliance with this section;

4 (7) If the person demonstrates to the court that the
5 person:

6 (A) Does not own or have the use of a vehicle in
7 which the person can install an ignition
8 interlock device during the revocation period; or

9 (B) Is otherwise unable to drive during the
10 revocation period,

11 the person shall be prohibited from driving during the
12 period of applicable revocation provided in paragraphs
13 (1) to (5); provided that the person shall be
14 sentenced to the maximum license revocation period,
15 the court shall not issue an ignition interlock permit
16 pursuant to subsection (i), and the person shall be
17 subject to the penalties provided by section 291E-62
18 if the person drives during the applicable revocation
19 period; and

20 (8) For purposes of this subsection, "violation" means:



1 (A) Providing a sample of .04 or more grams of
2 alcohol per two hundred ten liters of breath when
3 starting the vehicle, unless a subsequent test
4 performed within ten minutes registers a breath
5 alcohol concentration lower than .02 and the
6 digital image confirmed the same person provided
7 both samples;

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

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

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

18 (E) Failing to provide a clear photo of the person
19 when the person blows into the ignition interlock
20 device.



1 (c) Except as provided in sections 286-118.5 and
2 291E-61.6, the court shall not issue an ignition interlock
3 permit to[+] a defendant:

4 (1) [~~A defendant whose~~] Whose license is expired,
5 suspended, or revoked as a result of action other than
6 the instant offense;

7 (2) [~~A defendant who~~] Who does not hold a valid license at
8 the time of the instant offense;

9 (3) [~~A defendant who~~] Who holds either a category 4
10 license under section 286-102(b) or a commercial
11 driver's license under section 286-239(a), unless the
12 ignition interlock permit is restricted to a category
13 1, 2, or 3 license under section 286-102(b); or

14 (4) [~~A defendant who~~] Who holds a license that is a
15 learner's permit or instruction permit.

16 (d) Except as provided in subsection (c), the court may
17 issue a separate permit authorizing a defendant to operate a
18 vehicle owned by the defendant's employer during the period of
19 revocation without installation of an ignition interlock device
20 if the defendant is gainfully employed in a position that
21 requires driving and the defendant will be discharged if



1 prohibited from driving a vehicle not equipped with an ignition
2 interlock device.

3 (e) A request made pursuant to subsection (d) shall be
4 accompanied by[+] sworn statements from:

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

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



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

3 (1) [~~Only during~~] During specified hours of employment,
4 not to exceed twelve hours per day, or the period of
5 the specified assigned hours of work, and only for
6 activities solely within the scope of the employment;

7 (2) [~~Only the~~] The vehicle specified; and

8 (3) [~~Only if~~] If the permit is kept in the defendant's
9 possession while operating the employer's vehicle.

10 (g) Notwithstanding any other law to the contrary, any:

11 (1) Conviction under this section, section 291E-4(a) [7] or
12 [~~section~~] 291E-61.5;

13 (2) Conviction in any other state or federal jurisdiction
14 for an offense that is comparable to operating or
15 being in physical control of a vehicle while having
16 either an unlawful alcohol concentration or an
17 unlawful drug content in the blood or urine or while
18 under the influence of an intoxicant or habitually
19 operating a vehicle under the influence of an
20 intoxicant; or



1 (3) Adjudication of a minor for a law violation that, if
2 committed by an adult, would constitute a violation of
3 this section or an offense under section 291E-4(a) [7]
4 or ~~[section]~~ 291E-61.5,

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

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



1 (1), all costs for assessment and treatment shall be borne by
2 the offender.

3 (i) Upon proof that the defendant has:

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

6 (2) Obtained motor vehicle insurance or self-insurance
7 that complies with the requirements under either
8 section 431:10C-104 or section 431:10C-105, the court
9 shall issue an ignition interlock permit that will
10 allow the defendant to drive a vehicle equipped with
11 an ignition interlock device during the revocation
12 period.

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



1 (k) ~~[Any]~~ Except as provided in subsection (l), any person
2 sentenced under this section may be ordered to reimburse the
3 county for the cost of any blood or urine tests conducted
4 pursuant to section 291E-11. The court shall order the person
5 to make restitution in a lump sum, or in a series of prorated
6 installments, to the police department or other agency incurring
7 the expense of the blood or urine test. Except as provided in
8 section 291E-5, installation and maintenance of the ignition
9 interlock device required by subsection (b) shall be at the
10 defendant's own expense.

11 (l) For any person sentenced pursuant to this section for
12 an offense committed while the person was a minor under the age
13 of eighteen years, in place of any financial penalties or
14 surcharges against the person or the person's parent or guardian
15 for the minor's offense, the court may order the person to
16 participate in community service of not more than seventy-two
17 hours; provided that the community service shall not interfere
18 with the person's school or work commitments.

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



SECTION 11. Section 291E-61.5, Hawaii Revised Statutes, is amended to read as follows:

"§291E-61.5 Habitually operating a vehicle under the influence of an intoxicant. (a) A person commits the offense of habitually operating a vehicle under the influence of an intoxicant if:

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

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

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

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

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

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



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

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

5 (1) An indeterminate term of imprisonment of five years;

6 or

7 (2) A term of probation of five years, with conditions to
8 include:

9 (A) Mandatory revocation of license to operate a
10 vehicle for a period [~~no~~] not less than three
11 years but [~~no~~] not more than five years, with
12 mandatory installation of an ignition interlock
13 device in all vehicles operated by the respondent
14 during the revocation period;

15 (B) [~~No~~] Not less than ten days imprisonment, of
16 which at least forty-eight hours shall be served
17 consecutively;

18 (C) A fine of [~~no~~] not less than \$2,000 but [~~no~~] not
19 more than \$5,000, to be deposited into the drug
20 and alcohol toxicology testing laboratory special
21 fund;



(D) Referral to a certified substance abuse counselor as provided in subsection (e);

(E) A surcharge of \$25 to be deposited into the neurotrauma special fund; and

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

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

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

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

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

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

(B) ~~[No]~~ Not less than eighteen months imprisonment;



1 (C) A fine of [~~no~~] not less than \$5,000 but [~~no~~] not
2 more than \$25,000; and

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

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

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

19 (f) Notwithstanding any other law to the contrary,
20 whenever a court revokes a person's driver's license pursuant to
21 this section, the examiner of drivers shall not grant to the



1 person a new driver's license until expiration of the period of
2 revocation determined by the court. After the period of
3 revocation is complete, the person may apply for and the
4 examiner of drivers may grant to the person a new driver's
5 license.

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

13 (h) In place of any financial penalty or surcharge under
14 subsection (c) or (d) against a person who is adjudicated or
15 sentenced under this section while the person was a minor under
16 the age of eighteen years, or against the person's parent or
17 guardian for the person's offense, the court may order the
18 person to participate in community service of not more than
19 seventy-two hours; provided that the community service shall not
20 interfere with the person's school or work commitments.

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



1 "Convicted one or more times for offenses of habitually
2 operating a vehicle under the influence" means that, at the time
3 of the behavior for which the person is charged under this
4 section, the person had one or more times within ten years of
5 the instant offense:

6 (1) A judgment on a verdict or a finding of guilty, or a
7 plea of guilty or nolo contendere, for a violation of
8 this section or section 291-4.4 as that section was in
9 effect on December 31, 2001;

10 (2) A judgment on a verdict or a finding of guilty, or a
11 plea of guilty or nolo contendere, for an offense that
12 is comparable to this section or section 291-4.4 as
13 that section was in effect on December 31, 2001; or

14 (3) An adjudication of a minor for a law or probation
15 violation that, if committed by an adult, would
16 constitute a violation of this section or
17 section 291-4.4 as that section was in effect on
18 December 31, 2001,

19 that, at the time of the instant offense, had not been expunged
20 by pardon, reversed, or set aside. All convictions that have
21 been expunged by pardon, reversed, or set aside before the



1 instant offense shall not be deemed prior convictions for the
2 purposes of proving the person's status as a habitual operator
3 of a vehicle while under the influence of an intoxicant.

4 "Convicted two or more times for offenses of operating a
5 vehicle under the influence" means that, at the time of the
6 behavior for which the person is charged under this section, the
7 person had two or more times within ten years of the instant
8 offense:

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

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

15 (3) An adjudication of a minor for a law or probation
16 violation that, if committed by an adult, would
17 constitute a violation of section 291E-61 or
18 707-702.5,

19 that, at the time of the instant offense, had not been expunged
20 by pardon, reversed, or set aside. All convictions that have
21 been expunged by pardon, reversed, or set aside before the



1 instant offense shall not be deemed prior convictions for the
2 purposes of proving that the person is a habitual operator of a
3 vehicle while under the influence of an intoxicant.

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

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

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

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

12 SECTION 12. Section 291E-64, Hawaii Revised Statutes, is
13 amended to read as follows:

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



1 highway or on or in the waters of the State with a measurable
2 amount of alcohol.

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

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

8 (A) The court shall impose:

9 (i) A requirement that the person and, if the
10 person is under the age of eighteen, the
11 person's parent or guardian attend an
12 alcohol abuse education and counseling
13 program for not more than ten hours; and

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



prompt suspension of license with absolute prohibition from operating a vehicle and, for the remainder of the one hundred eighty-day period, a restriction on the license that allows the person to drive for limited work-related purposes and to participate in alcohol abuse education and treatment programs; and

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

(i) Not more than thirty-six hours of community service work; or

(ii) A fine of not less than \$150 but not more than \$500;

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

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



1 (B) In addition, the court may impose any of the
2 following:

3 (i) Not more than fifty hours of community
4 service work; or

5 (ii) A fine of not less than \$300 but not more
6 than \$1,000; and

7 (3) For a violation that occurs within five years of two
8 prior alcohol enforcement contacts:

9 (A) The court shall impose revocation of license and
10 privilege to operate a vehicle for a period of
11 two years; and

12 (B) In addition, the court may impose any of the
13 following:

14 (i) Not more than one hundred hours of community
15 service work; or

16 (ii) A fine of not less than \$300 but not more
17 than \$1,000.

18 (c) Notwithstanding any other law to the contrary, any
19 conviction or plea under this section shall be considered a
20 prior alcohol enforcement contact.



(d) Whenever a court sentences a person pursuant to subsection (b)(2) or (3), it also shall require that the person be referred to the driver's education program for an assessment, by a certified substance abuse counselor, of the person's alcohol abuse or dependence and the need for appropriate treatment. The counselor shall submit a report with recommendations to the court. The court shall require the person to obtain appropriate treatment if the counselor's assessment establishes the person's alcohol abuse or dependence.

~~[All]~~ Except as provided in subsection (j), all costs for assessment and treatment shall be borne by the person or by the person's parent or guardian, if the person is under the age of eighteen.

(e) Notwithstanding section 831-3.2 or any other law to the contrary, a person convicted of a first-time violation under subsection (b)(1) or section 291-4.3, as it existed before Act 189, Session Laws of Hawaii 2000, who had no prior alcohol enforcement contacts, may apply to the court for an expungement order upon attaining the age of twenty-one~~[7]~~ years, or thereafter, if the person has fulfilled the terms of the sentence imposed by the court and has had no subsequent alcohol



1 or drug related enforcement contacts; provided that this
2 subsection shall not apply to persons in possession of a
3 commercial learner's permit or commercial driver's license or
4 convicted in a commercial motor vehicle or while transporting
5 hazardous materials.

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

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

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



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

3 (j) For any person sentenced pursuant to this section for
4 a violation committed while the person was a minor under the age
5 of eighteen years, in place of any financial penalties or
6 surcharges permitted by subsection (b) against the person, or
7 the person's parent or guardian for the person's violation, the
8 court may order the person to participate in community service
9 of not more than seventy-two hours; provided that the community
10 service shall not interfere with the person's school or work
11 commitments.

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

15 PART III

16 SECTION 13. 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.



1 SECTION 14. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 15. This Act shall take effect upon its approval;
4 provided that the amendments made to sections 291E-61 and
5 291E-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: _____



S.B. NO. 1028

Report Title:

Juvenile Justice; Court Fees; Fines; Penalties

Description:

Allows community service in place of the assessment of any fines, fees, or court costs against a person who was adjudicated for a traffic-related offense committed while the person was a minor under the age of 18 years, or against the person's parent or guardian.

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

