
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) Repeal certain penalties imposed on parents,
2 guardians, or other persons associated with
3 unaccompanied children in streets and unmarried minors
4 in dance halls.

5 PART II

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

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

9 "(a) ~~[Any]~~ Except as provided in subsections (b) and (c),
10 any person who violates section 286-102, 286-122, 286-130, 286-
11 131, 286-132, 286-133, or 286-134 shall be penalized as follows:

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

17 (2) For an offense that occurs within five years of a
18 prior conviction for the same offense, the person
19 shall pay a minimum fine of \$500 and a maximum fine of
20 \$1,000, or serve a term of imprisonment of no more
21 than one year, or both; or



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) [~~For~~] 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 shall~~] to be
13 deposited into the neurotrauma special fund.

14 (e) [~~For~~] 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 shall~~] to 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 shall~~] to 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 shall~~] to 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 shall~~] to 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 shall~~] to 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 shall~~] to 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[~~τ~~] and address[~~τ~~]
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[~~τ~~] and address[~~τ~~] 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 shall~~] to be deposited into the trauma system special
20 fund[~~τ~~]; 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) [~~It~~] 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[~~;~~]; 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)~~] (3), or [~~291E-61(a)(4)~~] (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)~~] (4) is a second or subsequent offense
21 that 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:



- 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; provided
13 that the court may order restitution to a victim, as
14 applicable; and

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

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

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



1 **"§291E-61.5 Habitually operating a vehicle under the**
2 **influence of an intoxicant.** (a) A person commits the offense
3 of habitually operating a vehicle under the influence of an
4 intoxicant if:

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

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

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

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

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

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

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



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

3 (1) An indeterminate term of imprisonment of five years;
4 or

5 (2) A term of probation of five years, with conditions to
6 include:

7 (A) Mandatory revocation of license to operate a
8 vehicle for a period no less than three years but
9 no more than five years, with mandatory
10 installation of an ignition interlock device in
11 all vehicles operated by the respondent during
12 the revocation period;

13 (B) No less than ten days imprisonment, of which at
14 least forty-eight hours shall be served
15 consecutively;

16 (C) A fine of no less than \$2,000 but no more than
17 \$5,000, to be deposited into the drug and alcohol
18 toxicology testing laboratory special fund;

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



- 1 (E) A surcharge of \$25 to be deposited into the
- 2 neurotrauma special fund; and
- 3 (F) A surcharge of up to \$50 to be deposited into the
- 4 trauma system special fund if the court so
- 5 orders.

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

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

- 14 (1) An indeterminate term of imprisonment of ten years; or
- 15 (2) A term of probation of five years, with conditions to
- 16 include the following:
 - 17 (A) Permanent revocation of license to operate a
 - 18 vehicle;
 - 19 (B) No less than eighteen months imprisonment;
 - 20 (C) A fine of no less than \$5,000 but no more than
 - 21 \$25,000; and



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

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

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

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



1 revocation is complete, the person may apply for and the
2 examiner of drivers may grant to the person a new driver's
3 license.

4 (g) ~~[Any]~~ Except as provided in subsection (h), any person
5 sentenced under this section may be ordered to reimburse the
6 county for the cost of any blood or urine tests conducted
7 pursuant to section 291E-11. The court shall order the person
8 to make 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.

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

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

18 "Convicted one or more times for offenses of habitually
19 operating a vehicle under the influence" means that, at the time
20 of the behavior for which the person is charged under this



1 section, the person had one or more times within ten years of
2 the instant offense:

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

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 this section or section 291-4.4 as
10 that section was in effect on December 31, 2001; or

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

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



1 "Convicted two or more times for offenses of operating a
2 vehicle under the influence" means that, at the time of the
3 behavior for which the person is charged under this section, the
4 person had two or more times within ten years of the instant
5 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 section 291E-61 or 707-702.5;

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

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

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



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

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

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

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

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

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



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

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

6 (A) The court shall impose:

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

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



1 prohibition from operating a vehicle and,
2 for the remainder of the one hundred
3 eighty-day period, a restriction on the
4 license that allows the person to drive for
5 limited work-related purposes and to
6 participate in alcohol abuse education and
7 treatment programs; and

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

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

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

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

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



- 1 (B) In addition, the court may impose any of the
2 following:
- 3 (i) [~~Not~~] No more than fifty hours of community
4 service work; or
- 5 (ii) A fine of [~~not~~] no less than \$300 but [~~not~~]
6 no more 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~~] No more than one hundred hours of
15 community service work; or
- 16 (ii) A fine of [~~not~~] no less than \$300 but [~~not~~]
17 no more 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.



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

14 (e) Notwithstanding section 831-3.2 or any other law to
15 the contrary, a person convicted of a first-time violation under
16 subsection (b)(1) or section 291-4.3, as it existed before Act
17 189, Session Laws of Hawaii 2000, who had no prior alcohol
18 enforcement contacts, may apply to the court for an expungement
19 order upon attaining the age of twenty-one, or thereafter, if
20 the person has fulfilled the terms of the sentence imposed by
21 the court and has had no subsequent alcohol or drug related



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

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

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

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

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



1 ~~make restitution in any manner, including monetary restitution~~
2 ~~by the pupil or pupil's parents, or guardian, or both.] may be~~
3 ~~required to perform community service to repair any damage~~
4 ~~caused.~~

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

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

14 (c) The principal of the school in which the vandalism
15 occurred shall make or order an investigation of the vandalism.
16 If after the investigation, the principal has reasonable cause
17 to believe that a specific pupil is responsible for the
18 vandalism, the principal shall schedule a conference with the
19 pupil and the pupil's parents or guardian. Except for the
20 principal of the school in which the vandalism occurred, the



1 pupil and the parents or guardian, no other person shall be
2 permitted to be in the conference for any reason.

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

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

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

15 ~~If restitution is made in this fashion, then no],~~ when
16 appropriate, the principal will assess the extent of the damage
17 and determine if the pupil has the skills necessary to address
18 the damage. This shall include no more than seventy-two hours
19 of community service, which shall be performed in a manner that
20 does not interfere with the pupil's school or work commitments.
21 No information about the investigation, conference, and the



1 actions taken shall be communicated to any person not directly
2 involved in the proceedings.

3 If the pupil and parent or guardian do not agree with the
4 findings made by the principal, the principal shall report the
5 findings, including all the records and documents regarding the
6 investigation and conference, to the complex area
7 superintendent, who shall review the findings and may refer the
8 matter to the attorney general for any further action pursuant
9 to section 577-3.

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

14 ~~{f)}~~ (e) Notwithstanding any provisions in this section to
15 the contrary, the State may elect to bring any appropriate
16 action for the recovery of all damages to school properties.
17 Nothing in this section shall limit the right of the State to
18 bring an action against any person to recover these damages."

19 PART IV

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



1 "**§351-62.6 Compensation fee.** (a) [~~The~~] Except as
2 provided in subsection (d), the court shall impose a
3 compensation fee upon every defendant who has been convicted or
4 who has entered a plea under section 853-1 and who is or will be
5 able to pay the compensation fee. The amount of the
6 compensation fee shall be commensurate with the seriousness of
7 the offense as follows:

8 (1) [~~Not~~] No less than \$105 nor more than \$505 for a
9 felony;

10 (2) \$55 for a misdemeanor; and

11 (3) \$30 for a petty misdemeanor.

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

19 (b) The criteria of section 706-641 may apply to this
20 section. In setting the amount of the compensation fee to be



1 imposed, the court shall consider all relevant factors,
2 including but not limited to:

- 3 (1) The seriousness of the offense;
- 4 (2) The circumstances of the commission of the offense;
- 5 (3) The economic gain, if any, realized by the defendant;
- 6 (4) The number of victims; and
- 7 (5) The defendant's earning capacity, including future
8 earning capacity.

9 (c) The compensation fee shall be considered a civil
10 judgment.

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

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

18 "[~~§~~353G-10[~~§~~] **Drug testing or assessment fees.** (a)
19 Except as provided in [~~subsection~~] subsections (b) [~~7~~] and (e),
20 the agency responsible for monitoring a person's compliance with
21 the terms and conditions of parole or other release from a



1 correctional center or facility shall impose upon the person
2 reasonable fees to cover the cost of:

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

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

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

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

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



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

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

8 PART V

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

11 "(c) Informal adjustment under this section may include,
12 among other suitable methods, programs, and procedures, the
13 following:

- 14 (1) Participation in restitution projects to obtain
- 15 appropriate victim satisfaction;
- 16 (2) Participation in community service projects so as to
- 17 establish the child's self value in the community;
- 18 (3) Participation in community-based programs [~~which~~] that
- 19 work with the child and family to maintain and
- 20 strengthen the family unit so that the child may be
- 21 retained in the child's own home;



- 1 (4) Submission to neighborhood courts or panels upon
2 procedures to be established by the court. As used in
3 this paragraph "neighborhood courts or panels" are
4 community organizations designed to settle minor
5 disputes between parties on a voluntary basis using
6 mediation or nonbinding arbitration;
- 7 (5) Participation in programs to support, counsel, or
8 provide work and recreational opportunities to help
9 prevent delinquency;
- 10 (6) Participation in educational programs or supportive
11 services designed to help delinquents and to encourage
12 other youths to remain in elementary and secondary
13 schools or in alternative learning situations;
- 14 (7) Participation in youth-initiated programs and outreach
15 programs designed to assist youth and families;
- 16 (8) Appropriate physical and medical examinations,
17 vocational and aptitude testing, examinations for
18 learning disabilities or emotional dysfunctions, and
19 suitable counseling and therapy;
- 20 (9) Placement with nonsecure or secure shelter facilities;



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

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

20 "**§571-32 Detention; shelter; release; notice.** (a) If a
21 minor who is believed to come within section 571-11(1) is not



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

14 (b) The officer or other person who brings a minor to a
15 detention or shelter facility shall give notice to the court at
16 once, stating the legal basis therefor and the reason why the
17 minor was not released to the minor's parents. If the facility
18 to which the minor is taken is not an agency of the court, the
19 person in charge of the facility in which the minor is placed
20 shall promptly give notice to the court that the minor is in
21 that person's custody. Before acceptance of the minor for



1 detention or shelter care, a prompt inquiry shall be made by a
2 duly authorized staff member of the detention or shelter
3 facility or officer of the court. Where it is deemed in the
4 best interests of the minor, the judge, officer, staff member,
5 or director of detention services may then order the minor to be
6 released, if possible, to the care of the minor's parent,
7 guardian, legal custodian, or other responsible adult, or the
8 judge may order the minor held in the facility subject to
9 further order or placed in some other appropriate facility.

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

19 (d) No minor shall be held in a detention facility for
20 juveniles or shelter longer than twenty-four hours, excluding
21 weekends and holidays, unless a petition or motion for



1 revocation of probation, or motion for revocation of protective
2 supervision has been filed, or unless the judge orders otherwise
3 after a court hearing. No ex parte motions shall be considered.

4 For the purposes of this section:

5 (1) Unless a court finds, after a hearing and in writing,
6 that it is in the interest of justice as provided for
7 in subsection (g) (2), a minor believed to come within
8 section 571-11(1), or a minor awaiting trial or
9 another legal process, who is treated as an adult for
10 purposes of prosecution in criminal court and housed
11 in a secure facility shall not:

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

14 (B) Be held in any jail or lockup for adults,
15 except as provided in subsection (g) (3); and

16 (2) Detention in a jail or lockup for adults may be
17 permitted for[+] a minor accused of a non-status
18 offense who is:

19 (A) [~~A minor accused of a non-status offense who is~~
20 ~~held~~] Held for a period not to exceed six hours;
21 provided that the minor is being held:



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



1 than an additional forty-eight hours is
2 excusable; or
3 (iii) Where safety concerns exist, such as severe
4 and life-threatening weather conditions that
5 do not allow for reasonably safe travel, in
6 which case the time for an appearance may be
7 delayed until twenty-four hours after the
8 time that conditions allow for reasonably
9 safe travel;

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

16 (e) No minor [~~may~~] shall be held after the filing of a
17 petition or motion, as specified in subsection (d), unless an
18 order for continued detention or shelter has been made by a
19 judge after a court hearing. If there is probable cause to
20 believe that the minor comes within section 571-11(1), the minor
21 may be securely detained, following a court hearing, in a



1 detention facility for juveniles or may be held in a shelter.
2 If there is probable cause to believe that the minor comes
3 within section 281-101.5 or 571-11(2), the minor may be held,
4 following a court hearing, in a shelter but shall not be
5 securely detained in a detention facility for juveniles for
6 longer than twenty-four hours, excluding weekends and holidays,
7 unless the minor is subject to the provisions of chapter 582,
8 Interstate Compact on Juveniles, or chapter 582D, Interstate
9 Compact for Juveniles, or is allegedly in or has already been
10 adjudicated for a violation of a valid court order, as provided
11 under the federal Juvenile Justice and Delinquency Prevention
12 Act of 1974, as amended.

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

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

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

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

21 or



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

4 (2) In determining whether it is in the interest of
5 justice to permit a minor to be held in any jail or
6 lockup for adults, or to have sight or sound contact
7 with adult inmates, a court shall consider:

8 (A) The age of the minor;

9 (B) The physical and mental maturity of the minor;

10 (C) The present mental state of the minor, including
11 whether the minor presents an imminent risk of
12 self-harm;

13 (D) The nature and circumstances of the alleged
14 offense;

15 (E) The minor's history of prior delinquent acts;

16 (F) The relative ability of the available adult and
17 juvenile detention facilities to meet the
18 specific needs of the minor and protect the
19 safety of the public as well as other detained
20 minors; and

21 (G) Any other relevant factor; and



1 (3) If a court determines that it is in the interest of
2 justice to permit a minor to be held in any jail or
3 lockup for adults, or to have sight or sound contact
4 with adult inmates:

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

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



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

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

6 (A) The behavior poses an immediate and substantial
7 risk of danger to the minor's self or another
8 individual, or a serious and immediate threat to
9 the safety and orderly operation of the facility;
10 provided that any decision to hold a minor in
11 room confinement due to a mental health emergency
12 shall be made by a mental health professional and
13 based upon the mental health professional's
14 examination of the minor; or

15 (B) The minor is an imminent escape risk;

16 (2) Because of the potential impact on a minor's mental or
17 physical health, room confinement may only be used for
18 the minimum time necessary for the minor to regain
19 self-control, and only after less restrictive options
20 or techniques, including de-escalation, conflict and
21 behavioral management techniques, and intervention by



1 a mental health professional, have been attempted,
2 exhausted, and failed;

3 (3) If a minor is placed in room confinement, the reasons
4 for the room confinement shall be explained to the
5 minor. The minor shall also be informed that release
6 from room confinement will occur immediately when the
7 minor exhibits self-control and is no longer deemed a
8 threat to the minor's safety or the safety of others;

9 (4) If a minor is placed in room confinement, the
10 following individuals shall be notified on the next
11 business day and provided the reasons for the room
12 confinement as well as the location and duration of
13 the confinement:

14 (A) The senior judge of the family court;

15 (B) The presiding judge who ordered the minor to be
16 held at the facility;

17 (C) The deputy chief court administrator; and

18 (D) The social services manager of the juvenile
19 client services branch for the circuit court of
20 the first circuit;



- 1 (5) Room confinement shall not be used for purposes of
2 punishment or disciplinary sanction, coercion,
3 convenience, or retaliation, or to address staffing
4 shortages at the facility;
- 5 (6) A minor may be held in room confinement for no more
6 than three hours unless the minor is a danger to
7 themselves or another, or the on-call judge grants an
8 extension of no more than three additional hours of
9 confinement. Thereafter, the minor shall be returned
10 to the general population; provided that if a minor is
11 held in room confinement for more than three hours, a
12 hearing shall be held before the family court on the
13 next business day, at which time the minor shall be
14 provided legal representation;
- 15 (7) A minor shall not be returned to room confinement
16 immediately after returning to the general population
17 from room confinement for the purposes of evading the
18 reporting requirements and room confinement
19 restrictions pursuant to this section;
- 20 (8) If the minor is not returned to the general population
21 following a hearing pursuant to paragraph (6), the



1 minor shall be transferred to a location where
2 services may be provided to the minor without the need
3 for room confinement; provided that if a mental health
4 professional determines that the level of crisis
5 service needed is not presently available at the
6 location, the superintendent or deputy superintendent
7 of the facility shall initiate a referral to a
8 facility that can meet the needs of the minor;

9 (9) All rooms used for room confinement shall have
10 adequate and operational lighting[7] and ventilation
11 for the comfort of the minor[7] and shall be clean and
12 resistant to suicide and self-harm;

13 (10) The minor shall have access to drinking water, toilet
14 facilities, hygiene supplies, and reading materials
15 approved by a mental health professional;

16 (11) The minor shall have the same access as provided to
17 minors in the general population of the facility to
18 meals, contact with parents or legal guardians, legal
19 assistance, educational programs, and medical and
20 mental health services;



1 (12) The minor shall be continuously monitored by facility
2 staff; and

3 (13) The judiciary shall post quarterly on the judiciary's
4 website a report of its detention center detailing
5 their compliance with this section. Each report shall
6 include:

7 (A) The number of incidents of room confinement every
8 year;

9 (B) The number of minors impacted;

10 (C) The age, gender identity, and race of minors
11 impacted;

12 (D) Any alternative strategies employed before the
13 use of room confinement, the reasons those
14 alternative strategies failed, and why room
15 confinement was necessary; and

16 (E) The incidence of mental illness.

17 For the purposes of this subsection:

18 "Mental health professional" means a qualified mental
19 health professional or mental health professional supervised by
20 a qualified mental health professional.



1 "Room confinement" means the placement of a minor in a
2 room, cell, or area with minimal or no contact with persons
3 other than court staff and attorneys. "Room confinement" does
4 not include confinement of a minor in a single-person room or
5 cell for brief periods of locked room time as necessary for
6 required institutional operations and does not include
7 confinement during sleep hours.

8 (i) Provisions regarding bail shall not be applicable to
9 minors detained in accordance with this chapter, except that
10 bail may be allowed after a minor has been transferred for
11 criminal prosecution pursuant to waiver of family court
12 jurisdiction.

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

17 (k) Any other provision of law to the contrary
18 notwithstanding, any person otherwise subject to proceedings
19 under chapter 832 and who is under the age of eighteen may be
20 confined in a detention facility or correctional facility by



1 order of a judge for the purposes set forth in section 832-12,
2 832-15, or 832-17.

3 (1) The department of human services through the office of
4 youth services shall certify police station cellblocks and
5 community correctional centers that provide sight and sound
6 separation between minors and adults in secure custody. Only
7 cellblocks and centers certified under this subsection shall be
8 authorized to detain juveniles pursuant to section 571-32(d).
9 The office of youth services may develop sight and sound
10 separation standards, issue certifications, monitor and inspect
11 facilities for compliance, cite facilities for violations,
12 withdraw certifications, and require certified facilities to
13 submit data and information as requested. In addition, the
14 office of youth services may monitor and inspect all cellblocks
15 and centers for compliance with section 571-32(d).

16 (m) Any costs associated with the detention of a minor
17 shall be borne by the court. The court shall not seek
18 reimbursement for costs incurred pursuant to this section from a
19 person adjudicated under sections 571-11(1) or (2), 571-13,
20 571-22, or 571-41(f), or from the person's parent or guardian;



1 provided that the court may order restitution to a victim, as
2 applicable."

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

5 "**§571-33 Detention and shelter facilities.** Provisions
6 shall be made for the temporary detention of children or minors
7 in a detention home, to be conducted as an agency of the court;
8 or the court may arrange for the care and custody of [~~such~~] the
9 children or minors temporarily in private homes subject to the
10 supervision of the court, or may arrange with any institution or
11 agency to receive for temporary care and custody children or
12 minors within the jurisdiction of the court.

13 When a detention home is established as an agency of the
14 court, the judge may appoint a director of detention services
15 and other necessary employees for [~~such~~] the home in the same
16 manner as is provided by law for the appointment of other
17 employees of the court.

18 A detention home established in any circuit may be used for
19 the temporary detention of children or minors ordered to be
20 detained by the court of another circuit. The use shall be
21 subject to the approval of the judge of the court of the circuit



1 in which the detention home is situated, upon [~~such~~] the terms
2 and conditions as may be established by the judge.

3 The family court shall also provide nonsecure shelter
4 facilities separate from detention facilities. In referring
5 minors to a nonsecure shelter, the court shall consider the
6 minor's background, degree of involvement in illegal and
7 antisocial activities, current behavioral patterns, and any
8 other relevant criteria to determine placement.

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

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

17 "**§571-48 Decree, if informal adjustment or diversion to a**
18 **private or community agency or program has not been effected.**

19 When a child is found by the court to come within section
20 571-11, the court shall so decree and in its decree shall make a
21 finding of the facts upon which the court exercises its



1 jurisdiction over the child. Upon the decree the court, by
2 order duly entered, shall proceed as follows:

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

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

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

6 (ii) In the custody of a suitable person or
7 facility elsewhere, upon conditions
8 determined by the court.

9 An order by the court placing a child on
10 probation under this subparagraph shall include a
11 definite term of probation stated in months or
12 years, subject to extension or modification by
13 the court pursuant to section 571-50. When
14 conditions of probation include custody in a
15 youth correctional facility, the custody shall be
16 for a term not to exceed one year, after which
17 time the child shall be allowed to reside in the
18 community subject to additional conditions as may
19 be imposed by the court;



1 (B) The court may vest legal custody of the child,
2 after prior consultation with the agency or
3 institution:

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

18 (ii) In a local public agency or institution;

19 (iii) In any private institution or agency
20 authorized by the court to care for
21 children; or



1 (iv) In a private home.

2 If legal custody of the child is vested in a
3 private agency or institution in another state,
4 the court shall select one that is approved by
5 the family or juvenile court of the other state
6 or by that state's department of social services
7 or other appropriate department;

8 (C) The court may place a child on administrative
9 monitoring, as defined in section 571-2, pending
10 completion of conditions as may be imposed by the
11 court, to preempt the need for disposition to a
12 full probation term, and to afford the child the
13 opportunity to demonstrate behavior adjustments.
14 Upon completion of the court-ordered conditions,
15 the court shall discharge the child pursuant to
16 section 571-50. If a child fails to complete the
17 court-ordered conditions, the court may extend or
18 modify the order pursuant to section 571-50, or
19 dispose the child to probation status under
20 paragraph (1) (A); or



1 (D) [~~The court may fine the child for~~] For a
2 violation [~~which~~] that would be theft in the
3 third degree by shoplifting if committed by an
4 adult[~~.—The~~], the court may require the child to
5 perform [~~public services in lieu of the fine,~~]
6 community service of no more than seventy-two
7 hours; provided that the community service shall
8 not interfere with the child's school or work
9 commitments. The court shall not impose a fine
10 on the child or the child's parent or guardian;

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

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

17 (B) The court may vest legal custody of the child,
18 after prior consultation with the agency or
19 institution, in a local governmental agency or
20 institution licensed or approved by the State to
21 care for children, with the exception of an



1 institution authorized by the court to care for
2 children. If legal custody of the child is
3 vested in a private agency or institution in
4 another state, the court shall select one that is
5 approved by the family or juvenile court of the
6 other state or by that state's department of
7 social services or other appropriate department;
8 provided that the child [~~may~~] shall not be
9 committed to a public or private institution
10 operated solely for the treatment of law
11 violators;

12 (3) An order vesting legal custody of a minor in an
13 individual, agency, or institution under section
14 571-11(2) shall be for an indeterminate period but
15 shall not remain in force or effect beyond three years
16 from the date entered, except that the individual,
17 institution, or agency may file with the court a
18 petition for renewal of the order and the court may
19 renew the order if it finds [~~such~~] the renewal
20 necessary to safeguard the welfare of the child or the
21 public interest. The court, after notice to the



1 parties, may conduct a hearing on the petition.
2 Renewal may be periodic during minority, but no order
3 shall have any force or effect beyond the period
4 authorized by section 571-13. An agency granted legal
5 custody shall be subject to prior approval of the
6 court in any case in which the child is to reside
7 without the territorial jurisdiction of the court and
8 may be subject to prior approval in other cases. An
9 individual granted legal custody shall exercise the
10 rights and responsibilities personally unless
11 otherwise authorized by the court;

12 (4) Whenever the court commits a child to the care of the
13 director of human services or executive director of
14 the office of youth services, or vests legal custody
15 of a child in an institution or agency, it shall
16 transmit with the order copies of the clinical
17 reports, social study, results of the risk and needs
18 assessment conducted by the court, and other
19 information pertinent to the care and treatment of the
20 child, and the institution or agency shall give to the
21 court any information concerning the child that the



1 court may at any time require. An institution or
2 agency receiving a child under this paragraph shall
3 inform the court whenever the status of the child is
4 affected through temporary or permanent release,
5 discharge, or transfer to other custody. An
6 institution to which a child is committed under
7 section 571-11(1) or (2) shall not transfer custody of
8 the child to an institution for the correction of
9 adult offenders, except as authorized in this chapter
10 and under chapter 352;

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

14 (6) In placing a child under the guardianship or custody
15 of an individual or of a private agency or private
16 institution, the court shall give primary
17 consideration to the welfare of the child;

18 (7) In support of any order or decree under section
19 571-11(1) or (2), the court may require the parents or
20 other persons having custody of the child, or any
21 other person who has been found by the court to be



1 encouraging, causing, or contributing to the acts or
2 conditions [~~which~~] that bring the child within the
3 purview of this chapter and who are parties to the
4 proceeding, to do or to omit doing any acts required
5 or forbidden by law, when the judge deems this
6 requirement necessary for the welfare of the child.
7 The court may also make appropriate orders concerning
8 the parents or other persons having custody of the
9 child and who are parties to the proceeding. If such
10 persons fail to comply with the requirement or with
11 the court order, the court may proceed against them
12 for contempt of court;

13 (8) In support of any order or decree for custody or
14 support, the court may make an order of protection
15 setting forth reasonable conditions of behavior to be
16 observed for a specified time, binding upon both
17 parents or either of them. This order may require
18 either parent to stay away from the home or from the
19 other parent or children, may permit the other to
20 visit the children at stated periods, or may require a



- 1 parent to abstain from offensive conduct against the
2 children or each other;
- 3 (9) The court may dismiss the petition or otherwise
4 terminate its jurisdiction at any time;
- 5 (10) In any other case of which the court has jurisdiction,
6 the court may make any order or judgment authorized by
7 law;
- 8 (11) The court may order any person adjudicated pursuant to
9 section 571-11(1) to make restitution of money or
10 services to any victim who suffers loss as a result of
11 the child's action, or to render community service[+] of no more than seventy-two hours; provided that the
12 community service shall not interfere with the child's
13 school or work commitments;
- 14 (12) The court may order any [~~person~~] child adjudicated
15 pursuant to section 571-11(2) to participate in
16 community service[~~;~~and] of no more than seventy-two
17 hours; provided that the community service shall not
18 interfere with the child's school or work commitments;
- 19 (13) The court may order the parents of an adjudicated
20 child to make restitution of money or services to any
21



1 victim, person, or party who has incurred a loss or
2 damages as a result of the child's action[~~+~~]; and
3 (14) Notwithstanding paragraph (11) or (13), the court
4 shall not impose any financial penalties or seek
5 reimbursement for costs against the adjudicated child
6 or the child's parent or guardian."

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

9 **"§571-51 Support of minor committed for study or care.**

10 Whenever legal custody of a minor is given by the court to
11 someone other than the minor's parents, or when a minor is given
12 medical, psychological, or psychiatric study or treatment under
13 order of the court, and no provision is otherwise made by law
14 for the support of the minor or for payment for such treatment,
15 compensation for the study and treatment of the minor, when
16 approved by order of the court, shall[~~, if necessary,~~] be paid
17 out of such moneys as may be appropriated for the expenses of
18 the court. [~~After giving the parent a reasonable opportunity to~~
19 ~~be heard, the court may order and decree that the parent shall~~
20 ~~pay, in such manner as the court may direct, a reasonable sum~~
21 ~~that will cover in whole or in part the support and treatment of~~



1 ~~the minor given after the decree is entered. If the parent~~
2 ~~wilfully fails or refuses to pay such sum, the court may proceed~~
3 ~~against the parent as for contempt, or the order may be filed~~
4 ~~and shall have the effect of a civil judgment.] The court shall~~
5 not order the parent or guardian of a person adjudicated under
6 sections 571-11(1) or (2), 571-13, 571-22, or 571-41(f) to pay
7 for the person's support and treatment; provided that the court
8 may order the person or the person's parent or guardian to
9 utilize treatment options available to the person or the
10 person's parent or guardian through any health insurance under
11 which the person is already a covered person or beneficiary;
12 provided further that the person or the person's parent or
13 guardian shall be responsible for all copayments required by the
14 insurer.

15 Compensation may be made to a nongovernmental agency[~~r~~];
16 provided that [~~it~~] the nongovernmental agency shall make
17 periodic reports to the court or to an agency designated by the
18 court concerning the care and treatment the minor is receiving
19 and the minor's response to such treatment. These reports shall
20 be made as frequently as the court deems necessary and shall be
21 made with respect to every such minor at intervals not exceeding



1 six months. The agency shall also afford an opportunity for a
2 representative of the court or of an agency designated by the
3 court to visit, examine, or consult with the minor as frequently
4 as the court deems necessary."

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

7 "**§571-83 Court fees, fines, and administrative costs;**
8 **witness fees.** (a) In proceedings under section 571-11(1), (2),
9 or (9), no [~~court~~] fees, fines, or administrative costs shall be
10 charged against [~~, and no~~] a child or the child's parent or
11 guardian.

12 (b) No witness fees shall be allowed to [~~7~~] any party to a
13 petition. No officer of the State or of any political
14 subdivision thereof shall be entitled to receive any fee for the
15 service of process or for attendance in court in any [~~such~~]
16 proceedings except as otherwise provided in this chapter. All
17 other persons acting under orders of the court may be paid for
18 service of process and attendance or service as witnesses [~~7~~];
19 provided that the fees provided by law [~~to~~] shall be paid from
20 the proper appropriation when the allowances are certified to by
21 the judge."



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

3 "(a) When it appears to a judge that a person requesting
4 the appointment of counsel satisfies the requirements of chapter
5 802 for determination of indigency, or the court in its
6 discretion appoints counsel under chapters [†]587A[†] and 346,
7 part X, or that a person requires the appointment of a guardian
8 ad litem, the judge shall appoint counsel or a guardian ad litem
9 to represent the person at all stages of the proceedings,
10 including appeal, if any. Appointed counsel and the guardian ad
11 litem shall receive reasonable compensation for necessary
12 expenses, including travel, the amount of which shall be
13 determined by the court, and reasonable fees pursuant to
14 subsections (b) and (c). All of these expenses and fees shall
15 be certified by the court and paid upon vouchers approved by the
16 judiciary and warrants drawn by the comptroller. If the person
17 the appointed counsel or guardian ad litem is representing is a
18 minor, the court shall not order the minor or the minor's parent
19 or guardian to reimburse any costs associated with the
20 appointment of counsel or a guardian ad litem in proceedings
21 under sections 571-11(1) or (2), 571-13, 571-22, or 571-41(f)."



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

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

6 (1) Require the minor~~[, the]~~ or the minor's parents~~[,]~~ or
7 ~~[the]~~ legal guardians to remove the graffiti from the
8 affected property within sixty days of the order ~~[and~~
9 ~~pay for the cost of paint and materials]~~; or if
10 appropriate, pay for the actual cost of having the
11 damaged property repaired or replaced~~[,]~~ or
12 participate in an available accountability program
13 offered by the judiciary; and

14 (2) Order the minor to perform ~~[a minimum of eighty hours~~
15 ~~of community service to remove graffiti from other~~
16 ~~properties.]~~ no more than seventy-two hours of
17 community service; provided that the community service
18 shall not interfere with the minor's school or work
19 commitments."

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



1 **"§577-21 Curfew ordinances, effect.** Each of the counties
2 may enact and enforce ordinances regulating the presence of
3 children in public places and on public streets and roads during
4 certain hours at night.

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

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

12 **"§577-26 Alcohol or drug abuse relating to minors;
13 diagnosis, counseling, and related activities.** (a) A
14 counselor, certified, licensed, or otherwise authorized by law
15 to engage in the practice of counseling services in either or
16 both the public and private sector, may inform the spouse,
17 parent, custodian, or guardian of any minor who requests, is
18 referred for, or received counseling services relating to
19 alcohol or drug abuse.

20 (b) If a minor consents to receive counseling services for
21 alcohol or drug abuse, the spouse, parent, custodian, or



1 guardian of the minor shall not be liable for the legal
2 obligations resulting from the furnishing of ~~[such]~~ the
3 counseling services provided by the counselor. A minor who
4 consents to the provision of counseling services under this
5 section shall ~~[assume financial responsibility for the costs of~~
6 ~~such services, if any.]~~ not be financially responsible for the
7 costs of the services, except as provided in subsection (f).

8 (c) ~~[Notwithstanding any other law to the contrary, no]~~
9 Except as provided in subsection (f), no spouse, parent,
10 custodian, or guardian~~[, whose consent has not been obtained or~~
11 ~~who has no prior knowledge that the minor has consented to the~~
12 ~~provision of such counseling services for alcohol or drug abuse]~~
13 shall be liable for the costs ~~[incurred by virtue of the minor's~~
14 ~~consent.]~~ of alcohol or drug abuse counseling services provided
15 to the minor.

16 ~~[(d) Notwithstanding any other law to the contrary, any~~
17 ~~action to recover any debt founded upon any contract, obligation~~
18 ~~or liability under this section shall not commence until a minor~~
19 ~~has reached the age of majority; provided that said action shall~~
20 ~~commence within two years of date a minor reaches the age of~~
21 ~~majority.~~



1 ~~(e)~~ (d) The consent to the provision of furnishing
2 counseling services for alcohol or drug abuse by the counselor
3 when executed by a minor who is or professes to suffer from
4 alcohol or drug abuse, shall be valid and binding as if the
5 minor had achieved the minor's majority; that is, the minor who
6 is or professes to suffer from alcohol or drug abuse, shall be
7 deemed to have, and shall have the same legal capacity, the
8 infancy of the minor and any contrary provisions of law
9 notwithstanding, and ~~[such]~~ the consent shall not be subject to
10 later disaffirmance by reason of ~~[such]~~ minority; and the
11 consent of no other person (including but not limited to a
12 spouse, parent, custodian, or guardian) shall be necessary in
13 order to authorize ~~[such]~~ counseling services to ~~[such-a]~~ the
14 minor.

15 ~~(f)~~ (e) In the provision of counseling services for
16 alcohol or drug abuse, the counselor shall seek to open the
17 lines of communication between the minor and the spouse, parent,
18 custodian, or guardian; provided ~~[such]~~ that this action is
19 deemed beneficial in achieving the desired counseling
20 objectives.



1 (f) Nothing in this section shall prohibit the utilization
2 of alcohol or drug abuse counseling services provided or covered
3 by any health insurance plan under which the minor is a covered
4 person or beneficiary; provided that the minor or the minor's
5 parent or guardian shall be responsible for all copayments
6 required by the insurer."

7 SECTION 28. Section 577-18, Hawaii Revised Statutes, is
8 repealed.

9 [~~§577-18 Parents allowing children in street, prohibited~~
10 ~~when; penalty. Any parent or guardian having the care, custody,~~
11 ~~and control of a child under sixteen years of age, who, except~~
12 ~~in case of necessity, knowingly, and voluntarily suffers or~~
13 ~~permits such child to go or remain on any public street, highway~~
14 ~~or public place after ten o'clock in the evening and before four~~
15 ~~o'clock in the morning, unaccompanied by an adult person thereto~~
16 ~~authorized by such parent or guardian, shall be fined not more~~
17 ~~than \$100 or imprisoned not more than twenty days."]~~

18 SECTION 29. Section 577-23, Hawaii Revised Statutes, is
19 repealed.

20 [~~§577-23 Parent et al. responsibility, penalty. Any~~
21 ~~parent, guardian, or other person having the care, custody, or~~



1 ~~control of an unmarried minor, who knowingly permits such minor~~
2 ~~to violate section 577-22, shall be fined not more than \$50 or~~
3 ~~imprisoned not more than thirty days."]~~

4 SECTION 30. Section 577-24, Hawaii Revised Statutes, is
5 repealed.

6 [~~"§577-24 Escort's responsibility; penalty. Any person~~
7 ~~who knowingly takes, escorts, or accompanies any unmarried minor~~
8 ~~to a dance hall which the minor is prohibited from attending by~~
9 ~~section 577-22, or who invites or encourages the minor to attend~~
10 ~~such dance hall, shall be fined not more than \$100 or imprisoned~~
11 ~~not more than ninety days."]~~

12 PART VI

13 SECTION 31. (a) As of the effective date of this Act, any
14 outstanding court-ordered fees, fines, or administrative costs
15 ordered against a person who was adjudicated for offenses
16 committed during the person's minority, or pursuant to sections
17 571-11(1) or (2), 571-13, 571-22, or 571-41(f), Hawaii Revised
18 Statutes, shall be void and not collectable, including any
19 interest, penalties, or collection expenses on the judgment,
20 order, agreement, or other legally enforceable encumbrance.



1 This Act shall apply to dual-status children for purposes of
2 delinquency jurisdiction.

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

7 PART VII

8 SECTION 32. If any provision of this Act, or the
9 application thereof to any person or circumstance, is held
10 invalid, the invalidity does not affect other provisions or
11 applications of the Act that can be given effect without the
12 invalid provision or application, and to this end the provisions
13 of this Act are severable.

14 SECTION 33. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 34. This Act shall take effect on July 1, 3000;
17 provided that the amendments made to sections 291E-61 and 291E
18 61.5, Hawaii Revised Statutes, by sections 12 and 13,
19 respectively, of this Act shall not be repealed when those
20 sections are reenacted on June 30, 2028, pursuant to section 11



1 of Act 196, Session Laws of Hawaii 2021, as amended by section 8
2 of Act 148, Session Laws of Hawaii 2023.



Report Title:

Juvenile Justice; Minors; Fees; Fines; Court Costs; 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. Effective 7/1/3000. (HD1)

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

