

ACT 232

A Bill for an Act to Establish Family Courts and to Amend Chapter 333, Revised Laws of Hawaii 1955, as Amended, Relating to Juvenile Courts.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 333, Revised Laws of Hawaii 1955, as amended, is hereby further amended to read as follows:

**CHAPTER 333
FAMILY COURTS**

PART I. ESTABLISHMENT: PERSONNEL

Sec. 333-1. Construction and purpose of chapter. This chapter shall be liberally construed to the end that families whose unity or well-being is threatened shall be assisted and protected, and restored if possible as secure units of law-abiding members; and that each child and minor coming within the jurisdiction of the court shall receive, preferably in his own home, the care, guidance, and control that will conduce to his welfare and the best interests of the State, and that when he is removed from the control of his parents the court shall secure for him care as nearly as possible equivalent to that which they should have given him.

Sec. 333-2. Definitions. When used in this chapter, unless the context otherwise requires:

- (a) "Court" means one of the family courts as herein established.
- (b) "Judge" means judge of the family court.
- (c) "Senior judge" means the judge so designated, as provided in this chapter.
- (d) "Board" means the board of family court judges.
- (e) "Child" means a person less than eighteen years of age.
- (f) "Minor" means a person less than twenty years of age.
- (g) "Adult" means a person twenty years of age or older.
- (h) "Detention" means the temporary care of children who require secure custody for their own or the community's protection in physically restricting facilities pending court disposition.
- (i) "Shelter" means the temporary care of children in physically unrestricting facilities pending court disposition.
- (j) "Guardianship of the person of a minor" means the duty and authority to make important decisions in matters having a permanent effect on the life and development of the minor and to be concerned about his general welfare. It shall include but shall not necessarily be limited in either number or kind to:
- (1) the authority to consent to marriage, to enlistment in the armed forces of the United States, or to major medical, psychiatric, and surgical treatment; to represent the minor in legal actions; to make other decisions concerning the minor of substantial legal significance;
 - (2) the authority and duty of reasonable visitation, except to the extent that such right of visitation has been limited by court order;
 - (3) the rights and responsibilities of legal custody when guardianship of the person is exercised by the natural or adoptive parent, except where legal custody has been vested in another individual, agency, or institution;
 - (4) the authority to consent to the adoption of the minor and to make any other decision concerning him which his parents could make, when the rights of his parents, only living parent, have been judicially terminated as provided for in the statutes governing termination of parental rights to facilitate legal adoption, or when both of his legal parents are deceased.
- (k) "Legal custody" means the relationship created by the court's decree which imposes on the custodian the responsibility of physical possession of the minor and the duty to protect, train, and discipline him and to provide him with food, shelter, education, and ordinary medical care, all subject to residual parental rights and responsibilities and the rights and responsibilities of any legally appointed guardian of the person.
- (l) "Residual parental rights and responsibilities" means those rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship of the person, including, but not necessarily limited to, the right to reasonable visitation, consent to adoption or marriage, and the responsibility for support.
- (m) "Commit" means to transfer legal custody.
- (n) "Probation" means a legal status created by court order following adjudication in a case involving a violation of law whereby a minor is permitted to remain in his home subject to supervision by

the court or an agency designated by the court and subject to return to the court for violation of probation at any time during the period of probation.

(o) "Protective supervision" means a legal status created by court order in proceedings not involving violations of law but where the legal custody of the minor is subject to change, whereby the minor is permitted to remain in his home under the supervision of the court or an agency designated by the court and subject to return to the court during the period of protective supervision.

(p) The singular includes the plural, the plural the singular, and the masculine the feminine, when consistent with the intent of this chapter.

Sec. 333-3. Family courts, divisions of circuit courts. The family courts shall be divisions of the circuit courts of the State and shall not be deemed to be inferior courts as that term is used in the State Constitution. In each circuit a family court shall be held at the courthouse or other duly designated place by the judge or judges of the respective family courts as herein defined. The chief justice of the supreme court may temporarily assign a family court judge to preside in another circuit when the urgency of one or more cases requires him to do so. In any case in which it has jurisdiction the court shall exercise general equity powers as authorized by law.

Sec. 333-4. Family courts, circuits. In the first circuit any judge or judges so designated by the chief justice of the supreme court shall be the judge or judges of the family court of the first circuit. The several judges of the second, third and fifth circuits, and of any other circuits hereafter created by the legislature, shall, when exercising jurisdiction under the provisions of this chapter, be judges of the family courts of their respective circuits. In any circuit in which more than one judge is authorized to exercise jurisdiction as judge of the family court, the chief justice of the supreme court shall designate one of such judges as senior judge.

Nothing in this chapter shall be construed to limit the jurisdiction and authority of any circuit judge, designated as judge of a family court, to matters within the scope of this chapter.

Sec. 333-5. Board of family court judges. A board of family court judges, which shall consist of all the State's family court judges, is hereby created. The board shall annually elect from among its members a chairman who shall preside at meetings of the board. The chairman shall have no other authority not specifically authorized under the provisions of this chapter, or any applicable rule of the supreme court, or specifically delegated by a majority of the board. The board shall meet at stated times to be fixed by it but not less often than once every six months, and on call of the chairman.

The board shall discuss and shall attempt to achieve agreement upon general policies for the conduct of the family courts and rules and forms governing procedure and practices in such courts. The board may, within the limitations of the facilities available to the family courts of the State, seek the consolidation of the statistical

and other data on the work and services of such courts and research studies that may be made of the problems of families and children dealt with by such courts to the end that the treatment of children and families subject to the jurisdiction of such courts shall achieve the highest possible degree of uniformity throughout the State and to the further end that knowledge of treatment methods and therapeutic practices be shared among such courts. The board may also formulate recommendations for remedial legislation and for actions by the supreme court under its rule-making power. All actions by such board shall be subject to the regulatory supervision of the chief justice of the supreme court.

Sec. 333-6. Appointment and duties of employees. (a) For each family court the judge, or the senior judge where there is more than one judge, shall appoint a chief administrative and executive officer who shall have the title of director of the family court. Under the general supervision of the senior judge or the judge, the director shall:

- (1) prepare an annual budget for the court;
- (2) formulate procedures governing the routine administration of court services;
- (3) make recommendations to the court for improvement in court services;
- (4) make recommendations to the senior judge or the judge for the appointment of administrative, supervisory, consultant, and necessary professional and clerical and other personnel to perform the duties assigned to the court and the director;
- (5) collect necessary statistics and prepare an annual report of the work of the court;
- (6) provide supervision and consultation to the administrative and supervisory staff regarding the administration of court services, recruitment of personnel, in-service training, and fiscal and office management;
- (7) perform such other duties as the senior judge or the judge shall specify.

(b) For each family court the judge or senior judge where there is more than one shall appoint necessary probation officers, social workers, and marital counselors and may appoint, or make arrangements for the services of, physicians, psychologists, psychiatrists and other professionally competent persons, to carry on the work of the court.

Sec. 333-7. Appointment of referees, duties. The judge or senior judge, if there is more than one, may appoint licensed or such other suitable persons trained in the law, to act as referees, who shall hold office during the pleasure of the senior judge or judge. Such other person shall be selected from eligible lists secured through competitive examinations. The compensation of such referees shall be determined pursuant to the provisions of chapter 4. The senior judge or judge may direct that any case coming within the jurisdictional provisions of this chapter, or all cases of a class or within a district to be

designated by him, shall be heard in the first instance by a referee in the manner provided for the hearing of cases by the court, but any party may, upon request, have a hearing before a judge in the first instance. At the conclusion of a hearing the referee shall transmit promptly to the senior judge or judge all papers relating to the case, together with his findings and recommendations in writing.

Such referees shall have power to administer oaths, to perpetuate testimony under the rules and orders of the family court, and to issue commissions for the perpetuation of testimony to be used in controversies pending before them, to grant continuances of proceedings before them, to subpoena and compel the attendance of witnesses within their respective circuits and to punish contempts according to law.

Written notice of the referee's findings and recommendations shall be given to the minor if he is of sufficient age to understand the nature of the notice, and to the parent, guardian, or custodian of such minor whose case, other than an uncontested adoption case, has been heard by a referee and to all parties in contested adoption cases and in cases coming within the provisions of section 333-11. A hearing by a judge shall be allowed if any of such persons files with the court a request for review, provided that the request is filed within five days after the referee's written notice which shall apprise such persons of their right to request such review. If a hearing de novo is not requested by any party or ordered by the court, the hearing shall be upon the same evidence heard by the referee and reported in his findings, provided that new evidence may be admitted in the discretion of the judge. If a hearing before a judge is not requested or the right to the review is waived, the findings and recommendations of the referee, when confirmed by an order of a judge, shall become the decree of the court.

PART II. JURISDICTION

Sec. 333-8. Jurisdiction: children, minors. Except as otherwise provided herein, the court shall have exclusive original jurisdiction in proceedings:

(a) Concerning any child who is alleged to have violated or attempted to violate any federal, state or local law or municipal ordinance, regardless of where the violation occurred; or any minor alleged to have violated or attempted to violate any federal, state, or local law or municipal ordinance prior to having become eighteen years of age. Such minor shall be dealt with under the provisions of this chapter relating to children. Jurisdiction may be taken by the court of the circuit where the minor is living or found, or in which the offense is alleged to have occurred. When a minor eighteen years of age or over already under the jurisdiction of the court is alleged to have violated or to have attempted to violate any federal, state or local law or municipal ordinance, the family court shall have concurrent jurisdiction with the criminal court.

(b) Concerning any minor living or found within the circuit

(1) who is neglected as to proper or necessary support, or edu-

cation as required by law, or as to medical or other care necessary for his well-being, or who is abandoned by his parent or other custodian; or

(2) whose environment is injurious to his welfare, or whose behavior is injurious to his own or others' welfare; or

(3) who is beyond the control of his parent or other custodian.

(c) To determine the custody of any minor or appoint a guardian of the person of any minor.

(d) For the adoption of a person under the provisions of chapter 331.

(e) For the termination of parental rights under the provisions of section 333-29 to 333-31.

(f) For judicial consent to the marriage, employment, or enlistment of a minor, when such consent is required by law.

(g) For the treatment or commitment of a mentally defective, mentally retarded or mentally ill minor.

(h) Under the Interstate Compact on Juveniles under the provisions of chapter 334A.

Sec. 333-9. Transfer from other courts. If, during the pendency of a criminal charge against a minor in another court, it shall be ascertained that he was less than eighteen years old when he allegedly committed the offense, such other court shall forthwith transfer the case to the family court, together with all the papers, documents, and any available transcripts of testimony connected with it. The court making the transfer shall order that such minor be taken forthwith to the place of detention designated by the family court or to that court itself, or shall release him to the custody of his parent or guardian or other person legally responsible for him, to be brought before the family court at a time designated by it. The family court shall then proceed as provided in this chapter.

Sec. 333-10. Retention of jurisdiction. Jurisdiction obtained by the court in the case of a child may be retained by it, for the purposes of this chapter, until he becomes twenty years of age, unless judicially terminated prior thereto. If a minor eighteen years of age or more already under family court jurisdiction is convicted of a felony in a criminal court, that conviction shall terminate the jurisdiction of the family court.

Sec. 333-11. Jurisdiction: adults. The court shall have exclusive original jurisdiction:

(a) To try any offense committed against a minor by his parent or guardian or by any other person having his legal or physical custody, including violations of sections 330-6 and 330-10;

(b) To try any adult charged with:

(1) deserting, abandoning, or failing to provide support for any person in violation of law;

(2) an offense, other than a felony, against the person of the defendant's husband or wife.

In any case within subsection (a) or (b) (1) or (b) (2) of this section the court may, in its discretion, waive its jurisdiction and

certify the defendant for criminal proceedings to a court which has trial jurisdiction over the offense charged.

(c) In all proceedings under the provisions of chapter 324, and in all proceedings under the provisions of chapter 332.

(d) In proceedings under chapter 328, the Uniform Desertion and Nonsupport Act, and under chapter 329, the Uniform Reciprocal Enforcement of Support Act.

(e) For commitment of an adult alleged to be mentally defective or mentally ill.

PART III. INITIATION OF CASES

Sec. 333-12. Complaint: investigation; petition. (a) Except as provided in subsection (b), whenever the court is informed by any person that a minor is within the purview of subsection (a) or (b) of section 333-8 of this chapter, the court shall make a preliminary investigation to determine whether the interests of the public or of the minor require that further action be taken. If so, the court may authorize the filing of a petition, or may make whatever informal adjustment is practicable without a petition, provided that the facts appear to establish prima facie jurisdiction and are admitted, and provided that consent is obtained from the parents and also from the child if he is of sufficient age and understanding. Efforts to effect informal adjustment may be continued not longer than three months without review by the judge or a referee.

(b) In cases of violation of a law or ordinance relating to operation of a motor vehicle by a child, the issuance of a traffic citation or summons shall be sufficient to invoke the jurisdiction of the court, which may proceed to dispose of such a case with or without preliminary investigation and the filing of a petition.

(c) When a complaint, petition or libel is made or sought to be filed against a member of the complainant's family, the court's staff may, when required by the judge or if requested by either party, inquire into the interpersonal relationships of the members of the family to ascertain the causes of the conflict.

They shall assist the family by extending or securing suitable measures of help and conciliation, and this aid may be provided for persons seeking it prior to the filing of formal proceedings. They shall endeavor to make whatever informal adjustment is practicable without the filing of a petition, but no person in such cases shall be deprived of the right to file a petition, complaint or libel.

(d) In children's cases, under the provisions of subsections (a) and (b) of section 333-8, the petition and all subsequent court documents shall be suitably entitled so as to indicate that the proceeding is in the interest of rather than against the child or minor involved. The petition shall be verified and statements may be made upon information and belief. It shall set forth plainly (1) the facts which bring the child within the purview of this chapter; (2) the name, age and residence of the child; (3) the names and residences of his parents; (4) the name and residence of his legal guardian if there be one, or of the person or persons having custody or control of the child, or of the nearest known relative if no parent or guardian can

be found. If any of the facts herein required are not known by the petitioner the petition shall so state.

(e) The family courts may, by suitable rules or orders, provide regulations concerning the titles, filing, investigation and the form and content of petitions and other pleadings in cases under the provisions of this chapter.

Sec. 333-13. Waiver of jurisdiction; transfer to other courts. (a) The court may waive jurisdiction and order a minor held for criminal proceedings after full investigation and hearing when:

(1) a child sixteen years of age or over is alleged to have committed an act which would constitute a felony if committed by an adult, or,

(2) a minor eighteen years of age or over is alleged to have committed an act prior to reaching the age of eighteen which act would be a crime if committed by an adult, or,

(3) a minor eighteen years of age or over already under the jurisdiction of the court is alleged to have committed an act which if committed by an adult would be a crime, and the court finds that there is no evidence the child or minor is committable to an institution for the mentally defective or retarded or the mentally ill, is not treatable in any available institution or facility within the State designed for the care and treatment of children, or that the safety of the community requires that the child or minor continue under restraint for a period extending beyond his minority.

(b) If thereafter any minor with respect to whom the court has waived jurisdiction under this section comes within the provisions of subsection (a) of section 333-8 of this chapter, the court may after a summary review waive jurisdiction and order such minor held for trial under the regular procedures of the court which would have jurisdiction over such offenses if committed by an adult.

(c) If criminal proceedings instituted under the provisions of subsections (a) and (b) of this section result in an acquittal or other discharge of the minor involved, no petition shall thereafter be filed in any family court based on the same facts as were alleged in the criminal proceeding.

(d) A minor shall not be subject to criminal prosecution based on the facts giving rise to a petition filed under the provisions of this chapter except as provided for in this section.

(e) Where the petition has been filed in a circuit other than the minor's residence, the judge may in his discretion transfer the case to the family court of the circuit of the minor's residence.

(f) When a petition is filed bringing a minor before the court under the provisions of subsections (a) and (b) of section 333-8 of this chapter, and the minor resides outside of the circuit, but within the State, the court may after a finding as to the allegations in the petition certify the case for disposition to the family court having jurisdiction where the minor resides. Thereupon, such court shall accept the case and shall have the power to dispose of the case as if the petition was originally filed in that court. Whenever a case is so certified, the certifying court shall forward to the receiving court certified copies of all pertinent legal and social records.

Sec. 333-14. Summons; notice; custody of minor. After a petition under the provisions of subsection (a) or (b) of section 333-8 is filed in the interest of a minor, and after such investigation as the court may direct, the court shall issue a summons, unless the parties hereinafter named shall promise in writing to appear voluntarily, requiring the person or persons who have the custody or control of the minor to appear personally and bring the minor before the court at a time and place stated. If the person so summoned is not the parent or guardian of the minor, then the parent or guardian or both shall also be notified, by personal service before the hearing except as herein provided, of the pendency of the case and of the time and place appointed. Summons may be issued requiring the appearance of any other person whose presence, in the opinion of the judge, is necessary. If it appears that the minor is in such condition or surroundings that his welfare requires taking him into custody, the judge may order, by endorsement upon the summons, or otherwise, that the person serving the summons shall take the minor into custody at once. A parent or guardian shall be entitled to the issuance of compulsory process for the attendance of witnesses on his own behalf or on behalf of the minor.

Service of summons shall be made personally by the delivery of a copy thereof, together with a copy of the petition, to the person summoned, except that if the judge is satisfied that personal service of the summons or the notice provided for in the preceding paragraph is impracticable, he may order service by certified or registered mail addressed to the last known address, or by publication, or both. Service effected not less than forty-eight hours before the time fixed in the summons for the return thereof shall be sufficient to confer jurisdiction, provided, that jurisdiction shall be conferred if any person who might be so summoned shall appear voluntarily at the time and place appointed and shall waive such service and such notice.

Service of summons, process, or notice required by this chapter may be made by any suitable person under the direction of the court and upon request of the court shall be made by any police officer. The judge may authorize the payment of necessary travel expenses incurred by persons summoned or otherwise required to appear at the hearing of a case coming within the purview of this chapter. The provisions of section 222-7 shall apply to persons summoned under the provisions of this section other than a parent, guardian or other legal custodian of the child concerned.

Sec. 333-15. Failure to answer summons; warrants. Any person summoned as provided in section 333-14 hereof who, without reasonable cause, fails to appear, may be proceeded against for contempt of court. If the summons cannot be served, or if the parties served fail to obey the summons, or if it is made to appear to the judge that serving the summons will be ineffectual or that the welfare of the minor requires that he be brought forthwith into the custody of

the court, a warrant may be issued for the parent, the guardian, or the minor.

If, after being summoned or notified to appear, a parent fails to do so, a warrant may be issued for his appearance, and the hearing shall not take place without the presence of one or both of the parents or the guardian, or, if none is present, a guardian ad litem appointed by the court to protect the interests of the minor. The court may also appoint a guardian ad litem, whenever this is necessary for the welfare of the minor, whether or not a parent or guardian is present.

PART IV. CUSTODY, DETENTION AND SHELTER.

Sec. 333-16. Taking Children into custody; release; notice. A child may be taken into custody by any police officer without order of the judge (a) when in the presence of the officer the child has violated a state or federal law or a county or municipal ordinance; (b) when there are reasonable grounds to believe that he has committed an act which if committed by an adult would be a felony; (c) when he is seriously endangered in his surroundings and immediate removal appears to be necessary for his protection; (d) when there are reasonable grounds to believe that he has run away from his parents, guardian, or legal custodian.

When an officer or other person takes a child into custody the parents, guardian, or legal custodian shall be notified immediately. The child shall be released to the care of his parent or other responsible adult unless his immediate welfare or the protection of the community requires that he be detained. If the person taking the child into custody believes it desirable, he may request the parent, guardian, or legal custodian to sign a written promise to bring the child to the court at the time directed by the court.

If a parent or other responsible custodian fails to produce the child in court as required by an authorized notice, or when notified by the court, a summons or a warrant may be issued for the apprehension of that person or the child or both. The court may assess the cost of the issuance and execution of such summons or warrant against such person.

The provisions of this section shall apply to any minor over the age of eighteen who comes within the provisions of subsection (a), (b) (1), (b) (2) or (b) (3) of section 333-8 of this chapter.

Sec. 333-17. Detention; shelter; release, notice. (a) if the child or minor is not released as provided above, he shall be taken without unnecessary delay to the court or to the place of detention or shelter designated by the court. Any child or minor taken into custody who requires care away from his home but who does not require secure physical restriction shall be given temporary care in any available foster family home or other shelter facility.

The officer or other person who brings a child or minor to a detention or shelter facility shall at once give notice to the court, stating the legal basis therefor and the reason why the child or

minor was not released to his parents. The person in charge of the facility in which the child or minor is placed shall promptly give notice to the court that the child or minor is in his custody. After prompt investigation by a duly authorized officer of the court, the judge or such officer or a referee or the director of detention services shall order the child or minor to be released, if possible, to the care of his parent, guardian or legal custodian, or he may order the child or minor held in the facility subject to further order or placed in some other appropriate facility.

As soon as a child or minor is detained, his parents, guardian or legal custodian shall be informed, by personal contact or by notice in writing on forms prescribed by the court, that they may have a prompt hearing regarding release or detention. The judge may hold the hearing or may authorize the referee to hold it. A child or minor may be released on the order of the judge or referee with or without a hearing. The director of detention services may order the release of the child or minor if an order of detention has not been made.

(b) No child or minor shall be held in detention or shelter longer than forty-eight hours, excluding Sundays and court holidays, unless a petition has been filed or unless the judge or a referee shall otherwise order. No child or minor may be so held longer than forty-eight hours, excluding Sundays and court holidays, after the filing of a petition unless an order for such continued detention or shelter has been signed by the judge or referee.

(c) No child or minor shall be released from such detention except in accordance with the provisions of this chapter.

(d) No child shall at any time be detained in a police station, lockup, jail, or prison, except that, by the judge's order in which the reasons therefor shall be specified, a child whose conduct or condition endangers his own safety or the safety of others in the detention facility for children may be placed in some other place of confinement that the judge considers proper, including a jail or any other place of detention for adults.

(e) Where a child or minor transferred for criminal proceedings in accordance with the provisions of section 333-13 is detained, he shall be held in the detention facility used for persons charged with crime. When a child or minor is ordered committed to an agency or institution, he shall be promptly transported to the place of commitment.

(f) Provisions regarding bail shall not be applicable to children or minors detained in accordance with the provisions of this chapter, except that bail may be allowed after a child or minor has been transferred for criminal prosecution in accordance with the provisions of section 333-13.

(g) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately when a child who is or appears to be under eighteen years of age is received at the facility.

(h) The term "minor", as used in this section, shall be deemed

to apply only to minors who come within the jurisdiction of the family court under the applicable provisions of section 333-8 of this chapter.

Sec. 333-18. Detention facilities. Provisions shall be made for the temporary detention of children or minors in a detention home, to be conducted as an agency of the court; or the court may arrange for the care and custody of such children or minors temporarily in private homes subject to the supervision of the court, or may arrange with any institution or agency to receive for temporary care and custody children or minors within the jurisdiction of the court.

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

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

PART V. PROCEDURE AND DECREE

Sec. 333-19. Procedure in children's and minors' cases. Cases of children and minors in proceedings under subsections (a) and (b) of section 333-8 shall be heard by the court separate from hearings of adult cases and without a jury. Stenographic notes or mechanical recordings shall be required as in other civil cases in the circuit courts, unless the parties waive the right of such record or the court so orders. The hearings may be conducted in an informal manner and may be adjourned from time to time. The general public shall be excluded and only such persons admitted whose presence is requested by the parent or guardian or as the judge or referee shall find to have a direct interest in the case or in the work of the court from the standpoint of the best interests of the child or minor involved. Prior to the start of a hearing, the parents, guardian, legal custodian, and when appropriate, the minor shall be notified of the right to be represented by counsel.

Findings of fact by the judge or referee of the validity of the allegations in the petition shall be based upon a preponderance of evidence admissible under the rules applicable to the trial of civil causes, provided, that no minor who is before the court under the provisions of subsection (a) of section 333-8 shall be required to testify against himself over the objection of his parents, guardian or counsel. In the discretion of the judge or referee the child may be excluded from the hearing at any time. When more than one minor is alleged to have been involved in the same act, the hearing may be held jointly for the purpose of making a finding as to the allegations in the petition and then shall be heard separately for the purpose of disposition except in cases where the minors involved have one common parent.

In the disposition part of the hearing any relevant and material

information, including that contained in a written report, study or examination, shall be admissible, and may be relied upon to the extent of its probative value; provided, that the maker of such written report, study or examination shall be subject to both direct and cross-examination upon demand and when he is reasonably available. The disposition shall be based only upon the admitted evidence, and findings adverse to the minor as to disputed issues of fact shall be based upon a preponderance of such evidence.

Upon a final adverse disposition, if the parent or guardian is without counsel the court shall inform the parent or guardian of his right to appeal as provided for in section 333-28.

The court may by rule establish appropriate special procedures for the hearing and disposition of cases involving violation of traffic laws or ordinances by children or minors.

Sec. 333-20. Procedure in adult cases. In any criminal proceeding arising under section 333-11 the court, with the consent of the defendant or the parties in interest, may make a preliminary investigation and such adjustment as is practicable, without prosecution. The procedure and disposition applicable in the trial of such cases in a criminal court shall be applicable to any trial in the family court. On request of the court, the appropriate prosecuting officer shall prepare and prosecute any criminal case within the purview of section 333-11.

Where in his opinion it is necessary to protect the welfare of the persons before the court, the judge or referee may conduct hearings in chambers, and may exclude persons having no direct interest in the case.

In proceedings arising under subsection (c), (d) or (e) of section 333-11 the court may also make a preliminary investigation and, with consent of the parties in interest, may make such adjustment as is practicable without further formal procedures.

Sec. 333-21. Additional remedies not pleaded. When it appears, during the course of any trial, hearing, or proceeding, that some action or remedy other than or in addition to those indicated by the petition or other pleadings appears appropriate, the court may, provided all necessary parties consent, proceed to hear and determine forthwith the additional or other issues as though originally properly sought and pleaded.

Sec. 333-22. Physical or mental examination and treatment. The court may order that a child or minor concerning whom a petition has been filed shall be examined by a physician, surgeon, psychiatrist, or psychologist, and it may order treatment, by them, of a child or minor who has been adjudicated by the court. For either such examination or treatment, the court may place the child or minor in a hospital or other suitable facility. The court, after hearing, may order examination by a physician, surgeon, psychiatrist, or psychologist, of a parent or guardian whose ability to care for a child before the court is at issue.

No child under the age of twelve shall be adjudged to come within the provisions of subsection (a) of section 333-8 hereof without the written recommendation of a psychiatrist or other physician duly qualified by special training and experience in the practice of child psychiatry.

Sec. 333-23. Investigation prior to disposition. Except where the requirement is waived by the judge a social study and a report in writing shall be made in the case of a minor concerning whom a petition has been filed under subsections (a) and (b) of section 333-8 of this chapter. Such study shall be initiated upon the filing of a petition except in petitions filed under subsection (a) of section 333-8 of this chapter when it is ascertained that the minor denies the allegations set forth in the petition. In such case the study shall proceed only after the court after hearing has made a finding as to the allegations of the petition.

Except where the requirement is waived by the judge, social studies shall also be made in proceedings to decide disputed or undetermined legal custody and in custody disputes arising out of a divorce action. In all other awards of custody arising out of a divorce action, including those where an agreement with respect to custody has been made by the parties, and in any other case or class of cases, the judge may order a social study when he has reason to believe such action is necessary to assure adequate protection of the minor or of any other person involved in the case. The judge by special order or by rule of court may require a social study in support cases covering financial ability and other matters pertinent to making an order of support. The use of such studies in custody and support hearings shall be subject to the applicable provisions of section 333-19.

Social studies required by this section shall be presented to and considered by the judge prior to making disposition.

The judge shall have authority to order and use a presentence investigation with respect to any criminal action under the jurisdiction of the court in accordance with the existing provisions of the law with respect to the making and use of such studies.

Sec. 333-24. Decree. When a minor is found by the court to come within the provisions of section 333-8 of this chapter, the court shall so decree and in its decree shall make a finding of the facts upon which the court exercises its jurisdiction over the minor. Upon such decree the court shall, by order duly entered, proceed as follows:

(a) As to a minor adjudicated under subsection (a) of section 333-8:

(1) The court may place the minor on probation in his own home or in the custody of a suitable person elsewhere, upon conditions determined by the court.

(2) The court may vest legal custody of the minor in the Hawaii youth correctional facility, in a local public agency or institution, or in any private institution or agency authorized to care for children or to place them in family homes. In committing a minor to a private institution or agency, the court shall select one that is approved by

the state department of social services, or if such institution or agency is in another state, by the equivalent department of that state where approval is required by law.

(3) In cases of violation of traffic laws or ordinances the court may, in addition to any other disposition, revoke, suspend or restrict a license to drive.

(b) As to a minor adjudicated under subsection (b) of section 333-8:

(1) The court may place the minor under protective supervision, as hereinabove defined, in his own home or in the custody of a suitable person or agency elsewhere, upon conditions determined by the court.

(2) The court may vest legal custody of the minor in a governmental or nongovernmental agency or institution licensed or approved by the State to care for minors, with the exception of an institution primarily for the care and treatment of minors committed under subsection (a) of section 333-8.

(c) An order vesting legal custody in an individual, agency, or institution under the provisions of subsection (b) of section 333-8 shall be for an indeterminate period but shall not remain in force or effect beyond three years from the date entered, except that the individual, institution, or agency may file with the court a written request for renewal of the order and the court may renew the order if it finds such renewal necessary to safeguard the welfare of the minor or the public interest. The court may, if it is deemed necessary, require that such request be in the form of a petition and may, after notice to the parties, conduct a hearing of such petition. Renewal may be periodic during minority, but no order shall have any force or effect beyond minority. An agency granted legal custody shall have the right to determine where and with whom the minor shall live, provided that placement of the minor does not remove him from the territorial jurisdiction of the court, except with the prior approval of the court. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by the court.

(d) Whenever the court vests legal custody of a minor in an institution or agency it shall transmit with the order copies of the clinical reports, social study, and other information pertinent to the care and treatment of the minor, and the institution or agency shall give to the court any information concerning the minor that the court may at any time require. An institution or agency receiving a minor under this subsection shall inform the court whenever the status of the minor is affected through temporary or permanent release, discharge, or transfer to other custody. An institution to which a minor is committed under subsection (a) or (b) of section 333-8 shall not transfer custody of the minor to an institution for the correction of adult offenders, except as authorized under the provisions of section 80-31.

(e) The court may order, for any minor within its jurisdiction, whatever care or treatment is authorized by law.

(f) In placing a minor under the guardianship or custody of an individual or of a private agency or private institution, the court shall give primary consideration to the welfare of the minor.

(g) In support of any order or decree under subsection (a) or (b) of section 333-8, the court may require the parents or other persons having the custody of the minor, or any other person who has been found by the court to be encouraging, causing, or contributing to the acts or conditions which bring the minor within the purview of this chapter and who are parties to the proceeding, to do or to omit doing any acts required or forbidden by law, when the judge deems this requirement necessary for the welfare of the minor. If such persons fail to comply with the requirement, the court may proceed against them for contempt of court.

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

(i) The court may dismiss the petition or otherwise terminate its jurisdiction at any time.

(j) In any other case of which the court has jurisdiction, the court may make any order or judgment authorized by law.

Sec. 333-25. Adjudication of child noncriminal. No adjudication by the court of the status of any child or minor under the provisions of this chapter shall be deemed a conviction, no such adjudication shall impose any civil disability ordinarily resulting from conviction; no child or minor shall be found guilty or be deemed a criminal by reason of such adjudication; and no child shall be charged with crime or be convicted in any court except as provided in section 333-13 of this chapter. The disposition made of a child or minor or any evidence given in the court, shall not operate to disqualify the child or minor in any civil service or military application or appointment. Any evidence given in any case under the provisions of section 333-8 shall not in any civil, criminal or other cause in any court be lawful or proper evidence against the child or minor involved for any purpose whatever except in subsequent cases involving the same child or minor under the provisions of said section 333-8.

Sec. 333-26. Modification of decree, rehearing. Except as otherwise provided by this chapter, any decree or order of the court may be modified at any time.

At any time during supervision of a minor the court may issue notice or other appropriate process to the minor if he is of sufficient age to understand the nature of the process, to the parents, and to any other necessary parties to appear at a hearing on a charge of

violation of the terms of supervision, for any change in or modification of the decree or for discharge. The provisions of this chapter relating to process, custody, and detention at other stages of the proceeding shall be applicable.

A parent, guardian, custodian, or next friend of any minor whose status has been adjudicated by the court, or any adult affected by a decree of the court, may at any time petition the court for a rehearing on the ground that new evidence, which was not known or not available through the exercise of due diligence at the time of the original hearing and which might affect the decree, has been discovered. Upon a satisfactory showing of such evidence, the court shall order a new hearing and make such disposition of the case as the facts and the best interests of the minor warrant.

A parent, guardian, or next friend of a minor whose legal custody has been transferred by the court to an institution, agency, or person may petition the court for modification or revocation of the decree, on the ground that such legal custodian has wrongfully denied application for the release of the minor or has failed to act upon it within a reasonable time, or has acted in an arbitrary manner not consistent with the welfare of the minor or the public interest. An institution, agency, or person vested with legal custody of a minor may petition the court for a renewal, modification, or revocation of the custody order on the ground that such change is necessary for the welfare of the minor or in the public interest. The court may dismiss the petition if on preliminary investigation it finds it without substance. If the court is of the opinion that the decree should be reviewed, it shall conduct a hearing on notice to all parties concerned, and may enter an order continuing, modifying, or terminating the decree.

Notwithstanding the foregoing provisions of this section the court's authority with respect to the review, rehearing, renewal, modification or revocation of decrees, judgments or orders entered in the hereinbelow listed classes of proceedings shall be limited by any specific limitations set forth in the statutes governing such proceedings or in any other specifically applicable statutes or rules. Such proceedings are as follows:

- (a) Annulment, divorce, separation, and other proceedings under the provisions of chapter 324;
- (b) Adoption proceedings under the provisions of chapter 331;
- (c) Paternity proceedings under the provisions of chapter 332;
- (d) Termination of parental rights proceedings under the provisions of this chapter;
- (e) Waimano training school and hospital commitment proceedings under the provisions of chapter 82;
- (f) State hospital commitment proceedings under the provisions of chapter 81.

A decree, judgment or order transferring the custody of a minor to the Hawaii youth correctional facility of the department of social services shall be reviewable under the provisions of this section at the instance of others than duly authorized representatives of such de-

partment only after a lapse of thirty days following the date of such decree, judgment or order, and thereafter only at intervals of not less than one year.

Notwithstanding the provisions of this section the court shall not conduct a rehearing of any petition, filed under the provisions of section 333-8 (a), which, following a hearing, has been denied or dismissed.

Sec. 333-27. Support of minor committed for study or care. Whenever legal custody of a minor is given by the court to someone other than his parents, or when a minor is given medical, psychological, or psychiatric study or treatment under order of the court, and no provision is otherwise made by law for the support of the minor or for payment for such treatment, compensation for the study and treatment of the minor, when approved by order of the court, shall, if necessary, be paid out of such moneys as may be appropriated for the expenses of the court. After giving the parent a reasonable opportunity to be heard, the court may order and decree that the parent shall pay, in such manner as the court may direct, a reasonable sum that will cover in whole or in part the support and treatment of the minor given after the decree is entered. If the parent willfully fails or refuses to pay such sum, the court may proceed against him as for contempt, or the order may be filed and shall have the effect of a civil judgment.

Compensation may be made to a nongovernmental agency provided that it shall make periodic reports to the court or to an agency designated by the court concerning the care and treatment the minor is receiving and his response to such treatment. These reports shall be made as frequently as the court deems necessary and shall be made with respect to every such minor at intervals not exceeding six months. The agency shall also afford an opportunity for a representative of the court or of an agency designated by the court to visit, examine, or consult with the minor as frequently as the court deems necessary.

Sec. 333-28. Appeal. An interested party aggrieved by any order or decree of the court may appeal to the supreme court for review of questions of law and fact upon the same terms and conditions as are set forth in section 208-3, as modified by the Hawaii Rules of Civil Procedure and by the Hawaii Rules of Criminal Procedure, in cases to which such rules are applicable, except as hereinafter provided. Where the decree or order affects the custody of a child or minor the appeal shall be heard at the earliest practicable time. In cases under the provisions of section 333-8 the record on appeal shall be given a fictitious title, to safeguard against publication of the names of the children or minors involved.

The pendency of an appeal or application therefor shall not suspend the order of the court regarding a child or minor and it shall not discharge the child or minor from the custody of the court or of the person, institution, or agency to whose care he has been com-

mitted, unless otherwise ordered by the supreme court on application of appellant. If the supreme court does not dismiss the proceedings and discharge the child or minor, it shall affirm or modify the order of the family court and remand the child or minor to the jurisdiction of the court for disposition not inconsistent with the supreme court's finding on the appeal.

An order or decree entered in a proceeding based upon subsection (a) or (b) (1), (b) (2) or (b) (3), or (f) of section 333-8 shall be subject to appeal to the supreme court only as follows:

Within ten days from the date of the entry of any such order or decree, any party directly affected thereby, including a parent or legal custodian of any child or minor involved, may petition the judge for a rehearing and reconsideration of the facts involved. Such petition shall set forth the grounds on which a rehearing is requested and shall be sworn to by the petitioner. A copy thereof shall be served upon the attorney general, who shall represent the interests of the State at such rehearing and in connection with any subsequent appeal. As soon thereafter as may be practicable, the judge shall proceed with the rehearing of the case, affording to all parties concerned the full right of representation by counsel and presentation of relevant evidence. The findings of the judge upon such rehearing and his determination and disposition of the case thereafter, and any decision, judgment, order or decree affecting the child and entered as a result of such rehearing shall be set forth in writing and signed by the judge. Any party deeming himself aggrieved by any such judgment, order or decree, entered following a rehearing as in this section provided, shall have the right to appeal therefrom to the supreme court upon the same terms and conditions as are set forth in the first paragraph of this section; provided, that no such petition for rehearing shall operate as a stay of any such judgment, order or decree unless the judge of the family court so orders, provided, further, that no informality or technical irregularity in the proceedings prior to the rehearing hereinabove provided for shall constitute grounds for the reversal of any such judgment, order or decree by the supreme court.

PART VI. TERMINATION OF PARENTAL RIGHTS

Sec. 333-29. Termination of parental rights; petition. (a) The legal parents or the surviving parent or the mother of a minor born out of wedlock who desire to relinquish parental rights to any natural or adopted minor and thus make such minor available for adoption or readoption, may petition the family court of the circuit in which they or he or she resides, or of the circuit in which the minor resides, for the entry of a judgment of termination of parental rights. Such petition shall be verified and shall be substantially in such form as may be prescribed by the judge or senior judge of the family court. Such a petition may be filed by the legal parents or the surviving parent or the unmarried mother of a living minor, or by the legal parents or the surviving mother or the unmarried mother of an unborn child at any time following the sixth month of pregnancy, provided, that no

judgment may be entered upon a petition concerning an unborn child until after the birth of the child, and until the petitioner or petitioners shall have filed in the termination proceeding a written reaffirmation of their desires as expressed in the petition or until the petitioner or petitioners shall have been given not less than ten days' notice of a proposal for the entry of judgment and an opportunity to be heard in connection with such proposal.

(b) The family courts shall have authority to terminate the parental rights of any legal parent or parents in respect to any minor: (a) who has been abandoned for a period of not less than six months; or (b) who has been voluntarily surrendered to the care and custody of others than the legal parents for a period of two years; or (c) who has been neglected, ill-treated or abused to such an extent that legally authorized judicial action has been taken which has resulted in the removal of such minor from the physical custody of such parent or parents; or (d) whose parents have or whose sole legal parent has legally been found to be mentally ill or mentally incompetent to an extent requiring institutional care and who shall be found, as a result of such mental illness or mental incompetence, to be incapacitated from giving consent to the adoption of such minor. Such authority may be exercised only when a verified petition, substantially in the form above prescribed, has been filed by some proper adult person on behalf of the minor in the family court of the circuit in which the parents or a parent or the minor resides and the court has conducted a hearing of such petition. A copy of every such petition, together with notice of the time and place of the hearing thereof, shall be personally served at least twenty days prior to such hearing upon the parent or parents whose rights are sought to be terminated. In the event that personal service cannot be effected within the State, service of such notice may be made as provided in section 230-31 or 230-32, whichever is applicable; or in lieu thereof, service of such notice may be made by certified or registered mail with request for a return receipt, which service, evidenced by such receipt signed by the parent whose rights are sought to be terminated and returned to the clerk of the court, shall be regarded as equivalent to personal service.

Sec. 333-30. Hearing; investigation and report. Every petition under the provisions of section 333-29 shall be filed in duplicate and the clerk of the court in which the same is filed shall immediately forward a copy of such petition, and of the notice of the time and place of the hearing thereof, to the director of the department of social services or to the nearest county administrator of such department. The director or any such county administrator shall be permitted to appear and be heard at any such hearing on behalf of the petitioner or the child or minor or the State and shall have the same right of appeal as any party to the proceeding. The attorney general shall, at the request of the director, represent and defend the interests of the department in any such proceeding. Upon the request of any petitioning parent or parents or upon the request

of the department of social services, any child-placing organization, approved by the department under the provisions of section 108-11, shall be permitted to appear together with or in place of the department. If any petitioner or the department or any such child-placing organization approved by the department or any parent whose rights are sought to be terminated requests of the court a continuance of the hearing for the purpose of permitting an objective investigation of the circumstances of the minor and the parent or parents concerned, no judgment of termination shall be entered prior to the expiration of thirty days from the date of such request or until the earlier date of the filing of a report of such investigation. If the petition has been filed by or at the request of the department of social services or any such child-placing organization, or, in the event that a continuance has been requested as above provided, the department of social services shall prepare or procure and file in the termination proceeding a report of the facts disclosed as a result of investigation of the circumstances of the minor and the parent or parents whose rights are sought to be terminated. The court may, for good cause, grant extensions of the time within which such report must be filed. Any such report shall be incorporated in the record of the proceeding and shall be considered by the court in determining the issues presented by the petition. The court may, if it deems such action necessary, appoint a guardian ad litem to represent and defend the interests of the child or minor or of any minor parent.

Sec. 333-31. Findings and judgment. No judgment of termination of parental rights entered under the provisions of sections 333-29 to 333-31 shall be valid or binding unless it contains a finding that the facts upon which such petition is based bring the minor within the provisions of such sections and have been proved by the evidence and that the adjudication of termination of parental rights is necessary for the protection and preservation of the best interests of the minor concerned and will facilitate the legal adoption of the minor.

In any judgment entered pursuant to the provisions of sections 333-29 to 333-31 the court may terminate the parental rights of one or both of the parents of the minor concerned, may transfer the care, custody and control of such minor to any proper person not forbidden by law to place a child for adoption or to the department of social services or to any child-placing organization approved by the department as aforesaid, may appoint a guardian of the person of such minor, and may authorize such person or the department or such agency or such guardian to consent to the legal adoption of the minor.

No judgment of termination of parental rights entered under the provisions of sections 333-29 to 333-31 shall operate to terminate the mutual rights of inheritance of the minor and the parent or parents involved, or to terminate the legal duties and liabilities of the parent or parents, unless and until the minor has been legally adopted.

Every such judgment of termination of parental rights when the procedural provisions of sections 333-29 to 333-31 have been followed shall become final and binding upon all of the parties concerned as of the date of its entry and filing, subject to the right of appeal upon the same terms and conditions as are set forth in section 208-3. No such judgment shall be set aside for reasons other than the best interests and welfare of the minor concerned, after the entry of a decree of adoption of the minor concerned or during any period when the minor is in an adoptive home in which the minor has been placed by the department of social services or by a child-placing organization approved by the department as aforesaid or by any person not forbidden by law to place a minor for adoption. When any such minor is placed for adoption, a sworn certificate evidencing such placement shall be filed in the termination proceeding by the agency or person making such placement. Upon the entry of a final decree of adoption of any such minor, a certified copy of such decree shall be filed in the termination proceeding and notification of the entry of such decree, without disclosing the identity of the adopting parents, shall be given to each person whose parental rights have been terminated by registered mail addressed to the last known address of each such person; provided, that at any time following the expiration of one year from the date of the entry of any such judgment of termination of parental rights, upon the motion of the parent or parents of such minor or the department of social services or any child-placing organization approved by the department as aforesaid or any other proper person, based upon the fact that such minor has not been adopted or placed in a prospective adoptive home, the court in which such judgment was entered shall review the same and shall consider the currently reported circumstances of the minor and of the parent or parents and shall enter its finding as to whether such circumstances, and the present best interests of the child, justify the continuance of such judgment. Upon such reconsideration, the court may either set aside such judgment or continue it in effect, as the circumstances may warrant. Upon the entry in the termination proceeding of a certified copy of the final decree of adoption of any such minor and notification thereof to the person whose parental rights have been terminated, or upon the dismissal or discontinuance or other final disposition of the petition in the termination proceeding the clerk of the court shall seal all records in the termination proceeding and such seal shall not be broken and such records shall not be inspected by any person, including the parties to the termination proceeding, except upon order of the court.

PART VII. JUVENILE CRIME PREVENTION BUREAU

Sec. 333-32. Juvenile crime prevention bureau; establishment of. Any chief of police may establish as a subdivision of the police department under his jurisdiction a juvenile crime prevention bureau,

to be maintained and conducted as hereinafter provided.

Sec. 333-33. Duties and powers; reports. The juvenile crime prevention bureau shall direct its attention specifically to the suppression, prevention and investigation of crimes committed by children under the age of eighteen years, and any police officer shall have the power and authority to take and detain any minor coming within the provisions of subsection (a) or (b) (3) of section 333-8 at the bureau or other suitable places for questioning and investigation. If it appears upon conclusion of such investigation that such minor does come within such provisions, he may be referred to the family court or to a proper agency for treatment, and a written report of the findings of the officer shall be submitted to the court or the agency.

Sec. 333-34. No limitations on family courts. Nothing in sections 333-32 or 333-33 contained shall be construed to divest family courts of any of their powers, but the same shall specifically grant to the police departments of the several counties the power to take, detain, question, investigate and refer to appropriate social or other agencies, private or governmental, as the facts of the case appear to justify, minors coming within the provisions of section 333-33, subject, however, to the provisions of sections 333-16 and 333-17.

Sec. 333-35. Rules and standards; investigation and questioning; fingerprinting and photographing. The judges of the family courts shall make such rules and set up such standards of investigation and questioning as they consider necessary to guide and control the police, within their respective jurisdictions, in the handling of cases involving minors coming within the provisions of this chapter. Such rules and standards may include limitations and restrictions concerning the fingerprinting and photographing of any child in police custody. Such rules shall be enforceable as orders of the court.

PART VIII. GENERAL PROVISIONS

Sec. 333-36. Contempt of court. Any adult who willfully violates, neglects, or refuses to obey or perform any lawful order of the court may be proceeded against for contempt of court. Any adult found in contempt of court may be punished as provided by law.

Sec. 333-37. Court sessions; quarters. Sessions of the court shall be held at such places throughout each circuit as the court shall determine.

Sec. 333-38. Court and witness fees. In proceedings under subsections (a) and (b) of section 333-8 of this chapter, no court fees shall be charged against, and no witness fees shall be allowed to, any party to a petition. No officer of the State or of any political subdivision thereof shall be entitled to receive any fee for the service of process or for attendance in court in any such proceedings except as otherwise provided in this chapter. All other persons acting under

orders of the court may be paid for service of process and attendance or service as witnesses, the fees provided by law to be paid from the proper appropriation when the allowances are certified to by the judge.

Sec. 333-39. Records. The court shall maintain records of all cases brought before it. In proceedings under section 333-8, and in paternity proceedings under chapter 332, the following records shall be withheld from public inspection: the court docket, petitions, complaints, motions, and other papers filed in any case; transcripts of testimony taken by the court; and findings, judgments, orders, decrees, and other papers other than social records filed in proceedings before the court. Such records other than social records shall be open to inspection by the parties and their attorneys, by an institution or agency to which custody of a minor has been transferred, by an individual who has been appointed guardian; with consent of the judge, by persons having a legitimate interest in the proceedings from the standpoint of the welfare of the minor; and, pursuant to rule or special order of the court, by persons conducting pertinent research studies, and by persons, institutions, and agencies having a legitimate interest in the protection, welfare, or treatment of the minor.

Reports of social and clinical studies or examinations made pursuant to this chapter shall be withheld from public inspection, except that information from such reports may be furnished, in a manner determined by the judge, to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare, and treatment of the minor.

No information obtained or social records prepared in the discharge of official duty by an employee of the court shall be disclosed directly or indirectly to anyone other than the judge or others entitled under this chapter to receive such information, unless and until otherwise ordered by the judge.

Without the consent of the judge, neither the fingerprints nor a photograph shall be taken of any child in police custody, unless the case is transferred for criminal proceedings. Except for the immediate use in such criminal case, any photograph or fingerprint taken upon such transfer shall not be used or circulated for any other purpose and shall be subject to all rules and standards provided for in section 333-35.

The records of any police department, and of any juvenile crime prevention bureau thereof, relating to any proceedings authorized under the provisions of section 333-8 hereof shall be confidential and shall be open to inspection only by persons whose official duties are concerned with the provisions of this chapter, except as otherwise ordered by the court. Any such police records concerning traffic accidents in which a child or minor coming within the provisions of subsection (a) of section 333-8 hereof is involved shall, after the termination of any proceeding under the provisions of subsection (a)

of section 333-8 arising out of any such accident, or in any event after six months from the date of such accident, be available for inspection by the parties directly concerned in such accident, or their duly licensed attorneys acting under written authority signed by either party. Any person who may sue because of death resulting from any such accident shall be deemed a party concerned.

Evidence given in proceedings under the provisions of subsection (a) or (b) of section 333-8 shall not in any civil, criminal or other cause be lawful or proper evidence against the child or minor therein involved for any purpose whatever, except in subsequent proceedings involving the same child under the provisions of said subsection (a) or (b) of section 333-8.

Sec. 333-40. Authority of probation officers; additional probation officers. Within the scope of their duties, probation officers appointed under the provisions of this chapter shall have the powers and privileges of a police officer. In addition to the probation officers appointed under the provisions of section 333-6, the judges of the family courts may appoint special probation officers who shall serve without pay but shall be entitled to be reimbursed for any cost or expense incurred by them in connection with the performance of their duties as defined by the judge.

Sec. 333-41. Cooperation. It is hereby made the duty of every public official or department to render all assistance and cooperation within his or its jurisdictional power which may further the objects of this chapter. The court is authorized to seek the cooperation of organizations whose object is to protect or aid children and family life.

Sec. 333-42. Laws repealed. All laws and portions of laws relating to juvenile courts or any other subject dealt with in this chapter, and which are in conflict with the provisions of this chapter, are hereby repealed. The term "juvenile court" as set forth in any existing state statute shall be deemed to mean the family court created hereby.

Sec. 333-43. Constitutionality. If any section, subsection, or clause of this chapter shall be held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the chapter.

Sec. 333-44. Short title. This chapter may be cited as the family court act."

SECTION 2. This Act shall take effect on July 1, 1966. It shall govern all proceedings filed or sought to be filed after that date, and also all further actions taken in proceedings then pending if and to the extent that each family court shall so determine.

(Approved July 6, 1965.) **H.B. 879.**