

**ACT 152**

S.B. NO. 2748

A Bill for an Act Relating to Drug Demand Reduction Assessments.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Act 205, Session Laws of Hawaii 1995, as amended by section 1 of Act 7, Session Laws of Hawaii 1996, as amended by section 3 of Act 152,

Session Laws of Hawaii 1998, as amended by section 1 of Act 116, Session Laws of Hawaii 2001, is amended as follows:

1. By amending section 1 to read:

“SECTION 1. Chapter 706, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§706- Drug demand reduction assessments; special fund. (1) In addition to any disposition authorized by chapter 706 or 853, any person ~~[convicted]~~ who is:

- (a) Convicted of [a felony or misdemeanor] an offense under part IV of chapter 712, except [section] sections 712-1250.5[, or any person charged] and 712-1257;
- (b) Convicted under section 707-702.5;
- (c) Convicted of a felony or misdemeanor offense under part IV of chapter 329;
- (d) Convicted under section 291-3.1, 291-3.2, 291-3.3, 291E-61, or 291E-61.5;
- (e) Found in violation of part III of chapter 291E; or
- (f) Charged with [such an] any offense under paragraphs (a) to (d) who has been granted a deferred acceptance of guilty or no contest plea [may];

shall be ordered to pay a monetary assessment under subsection (2), except as provided under subsection (6).

(2) Monetary assessments for individuals subject to subsection (1) shall not [exceeding] exceed the following:

- (a) \$3,000 when the offense is a class A felony;
- (b) \$2,000 when the offense is a class B felony;
- (c) \$1,000 when the offense is a class C felony; ~~[or]~~
- (d) \$500 when the offense is a misdemeanor~~[-]; or~~
- (e) \$250 when the person has been found guilty of an offense under section 712-1249, 291-3.1, 291-3.2, 291-3.3, 291E-61, or has been found in violation of part III of chapter 291E.

Notwithstanding sections 706-640 and 706-641 and any other law to the contrary, the assessments provided by this section shall be in addition to and not in lieu of, and shall not be used to offset or reduce, any fine authorized or required by law.

~~[(2)]~~ (3) There is established a special fund to be known as the “drug demand reduction assessments special fund” to be administered by the department of health. The disbursement of ~~[moneys]~~ money from the drug demand reduction assessments special fund shall be used to supplement ~~[drug]~~ substance abuse treatment and other ~~[drug]~~ substance abuse demand reduction programs.

~~[(3)]~~ (4) All monetary assessments paid and interest accrued on funds collected pursuant to this section shall be deposited into the drug demand reduction assessments special fund.

~~[(4)]~~ (5) Restitution to the victim of a crime enumerated in subsection (1) shall be made, and probation fees and crime victim compensation fees imposed under part III of chapter 706 shall be paid, before payment of the monetary assessment.

~~[(5)]~~ The court shall not order the defendant to pay the monetary assessment unless the defendant is or will be able to pay the monetary assessment.

(6) If the court determines that the person has the ability to pay the monetary assessment and is eligible for probation or will not be sentenced to incarceration, unless otherwise required by law, the court may order the person to undergo a substance abuse treatment program at the person’s expense. If the person undergoes a substance abuse treatment program at the person’s expense, the court may waive or

reduce the amount of the monetary assessment. Upon a showing by the person that the person lacks the financial ability to pay all or part of the monetary assessment, the court may waive or reduce the amount of the monetary assessment.”

2. By amending section 4 to read:

“SECTION 4. This Act shall take effect upon its approval [~~and shall be repealed on June 30, 2004.~~].”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect on June 29, 2004.

(Approved June 29, 2004.)