

## ACT 85

S.B. NO. 1529

A Bill for an Act Relating to Traffic Infractions.

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

SECTION 1. Section 291-D<sup>1</sup>, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

**“§291D- U-drive vehicles; traffic infractions.** Notwithstanding any other law to the contrary, except those pertaining to the care and maintenance of the vehicle, if the registered owner of record is the lessor of a rental or U-drive motor vehicle, as defined in section 286-2, pursuant to a written lease agreement, the lessee at the time of the issuance of the traffic infraction shall be responsible for such summons or citation; provided that the lessor shall be responsible for such summons or citation if the lessor does not provide the court having jurisdiction over the summons or citation the name and address of the lessee within forty-five days after a notice containing the date, time, and location of the violation and the license number of the vehicle; provided further that if requested by the lessor in writing within forty-five days of such notice of violation other than for parking citations, the administrative judge of the court having jurisdiction over the citation or summons shall waive the requirement of providing the name and address of the lessee by the lessor and impose an administrative fee of \$5 per citation on the lessor, plus costs and fees not to exceed \$10 in total per violation, notwithstanding section 607-4 or other sections of the law, county ordinance, or any rule to the contrary. In the case of parking citations, the administrative judge of the court having jurisdiction over the citation or summons may waive the requirement of providing the name and address of the lessee by the lessor and impose an administrative fee of five dollars per parking citation on the lessor, plus costs and fees not to exceed \$10 in total per such violation, notwithstanding section 607-4 or other sections of the law, county ordinance, or any rule to the contrary.”

SECTION 2. Section 291D-2, Hawaii Revised Statutes, is amended as follows:

1. By adding three new definitions to be appropriately inserted and to read:

“‘Concurrent trial’ means a trial proceeding held in the district or family court in which the defendant is tried simultaneously in a civil case for any charged traffic infraction and in a criminal case for any related criminal offense, with trials to be held in one court on the same date and at the same time.

“‘Notice of traffic infraction’ includes a notice of parking infraction.

“Related criminal offense” means any criminal violation or crime, committed in the same course of conduct as a traffic infraction, for which the defendant is arrested or charged.”

2. By amending the definitions of “hearing”, “traffic infraction”, and “trial” to read:

““Hearing” means a proceeding conducted by the district court pursuant to section 291D-8 at which [a driver either] the person to whom a notice of traffic infraction was issued either admits to the traffic infraction, contests the notice of traffic infraction, or admits to the traffic infraction but offers an explanation to mitigate the monetary assessment imposed.

“Traffic infraction” means all violations of statutes, ordinances, or rules relating to traffic movement and control, including parking, standing, equipment, and pedestrian offenses, for which the prescribed penalties do not include imprisonment[-] and that are not otherwise specifically excluded from coverage of this chapter.

“Trial” means a trial conducted by the district court pursuant to the [Hawaii Rules of Penal Procedure and] rules of the district court[-] and the Hawaii rules of evidence.”

SECTION 3. Section 291D-3, Hawaii Revised Statutes, is amended to read as follows:

“§291D-3 Applicability. (a) Notwithstanding any other provision of law to the contrary, all traffic infractions, including traffic infractions committed by minors, shall be adjudicated pursuant to this chapter, except as provided in subsection (b). This chapter shall be applied uniformly throughout the State and in all counties. No penal sanction that includes imprisonment shall apply to a violation of a state statute or rule, or county ordinance or rule, that would constitute a traffic infraction under this chapter. No traffic infraction shall be classified as a criminal offense.

(b) [No traffic infraction that involves an accident resulting in personal injury or property damage] Where a defendant is charged with a traffic infraction and the infraction is committed in the same course of conduct as a criminal offense for which the offender is arrested or charged, the traffic infraction shall be adjudicated pursuant to this chapter[-, but shall be adjudicated by]; provided that the court may schedule any initial appearance, hearing, or trial on the traffic infraction at the same date, time, and place as the arraignment, hearing, or trial on the related criminal offense.

Notwithstanding this subsection and subsection (c), the court shall not schedule any initial appearance, hearing, or trial on the traffic infraction at the same date, time, and place as the arraignment, hearing, or trial on the related criminal offense where the related criminal offense is a felony or is a misdemeanor for which the defendant has demanded a jury trial.

(c) If the defendant requests a trial pursuant to section 291D-13, the trial shall be held in the [appropriate] district [or circuit] court of the circuit in which the traffic infraction was committed[-, whichever has jurisdiction pursuant to the applicable statute or rules of court]. If the court schedules a concurrent trial pursuant to paragraph (1), the concurrent trial shall be held in the appropriate district or family court of the circuit in which the traffic infraction was committed, whichever has jurisdiction over the related criminal offense charged pursuant to the applicable statute or rule of court; provided that:

(1) The district or family court, for the purpose of trial, may schedule a civil trial on the traffic infraction on the same date and at the same time

as a criminal trial on the related criminal offense charged. The court shall enter a civil judgment as to the traffic infraction and a judgment of conviction or acquittal as to the related criminal offense following such concurrent trial; and

- (2) If trial on the traffic infraction is held separately from and prior to trial on any related criminal offense, the following shall be inadmissible in the prosecution or trial of the related criminal offense, except as expressly provided by the Hawaii rules of evidence:
- (A) Any written or oral statement made by the defendant in proceedings conducted pursuant to section 291D-7(b); and
  - (B) Any testimony given by the defendant in the trial on the traffic infraction.

Such statements or testimony shall not be deemed a waiver of the defendant's privilege against self-incrimination in connection with any related criminal offense.

(d) In no event shall section 701-109 preclude prosecution for a related criminal offense where a traffic infraction committed in the same course of conduct has been adjudicated pursuant to this chapter.

~~[(e)] (e) If the defendant fails to appear [for a traffic infraction which is committed in the same course of conduct as a criminal offense for which the offender is arrested or charged,] at any scheduled court date prior to the date of trial or concurrent trial and:~~

- (1) The defendant's civil liability for the traffic infraction has not yet been adjudicated pursuant to section 291D-8, the court shall enter a judgment by default in favor of the State for the traffic infraction unless the court determines that good cause or excusable neglect exists for the defendant's failure to appear[-The]; or
- (2) The defendant's civil liability for the traffic infraction has been adjudicated previously pursuant to section 291D-8, the judgment earlier entered in favor of the State shall stand unless the court determines that good cause or excusable neglect exists for the defendant's failure to appear.

(f) If the defendant fails to appear at any scheduled court date prior to concurrent trial or fails to appear for concurrent trial scheduled pursuant to subsection (c)(1), the court shall enter a disposition pursuant to the Hawaii rules of penal procedure for the criminal offense."

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

**"§291D-5 Notice of traffic infraction; form; determination final unless contested.** (a) The notice of traffic infraction for moving violations shall include the [complaint and] summons for the purposes of this chapter. Whenever a notice of traffic infraction is issued to the driver of a motor vehicle, the driver's signature, driver's license number, and current address shall be [affixed to] noted on the notice. If the driver refuses to sign the notice[;] of traffic infraction, the officer shall record this refusal on the notice and issue the notice to the driver. Individuals to whom a notice of traffic infraction is issued under this chapter need not be arraigned before the court, unless required by rule of the supreme court.

(b) The form for the notice of traffic infraction shall be prescribed by rules of the district court which shall be uniform throughout the State[-Except in the case of traffic infractions involving parking, the]; provided that each judicial circuit may include differing statutory, rule, or ordinance provisions on its respective notice of traffic infraction.

(c) A notice of traffic infraction that is generated by the use of electronic equipment or that bears the electronically stored image of any person's signature, or both, shall be valid under this chapter.

(d) The notice of traffic infraction shall include the following:

- (1) A statement of the specific traffic infraction[; including a brief statement of facts,] for which the notice was issued;
- (2) Except in the case of parking-related traffic infractions, a brief statement of the facts;
- [(2)] (3) A statement of the total amount to be paid for each traffic infraction, which amount shall include any fee, surcharge, or cost required by statute, ordinance, or rule, and any monetary assessment, established for the particular traffic infraction pursuant to section 291D-9, to be paid by the driver[;] or registered owner of the vehicle, which shall be uniform throughout the State;
- [(3)] (4) A statement of the options provided in section 291D-6(b) for answering the notice and the procedures necessary to exercise the options;
- [(4)] (5) A statement that the person to whom the notice is issued must answer, choosing one of the options specified in section 291D-6(b), within twenty-one days[;] of issuance of the notice;
- [(5)] (6) A statement that failure to answer the notice of traffic infraction within twenty-one days of issuance shall result in the entry of judgment by default for the State and may result in the assessment of a late penalty, and, that if the [driver] person to whom the notice was issued fails to pay the total amount specified in the default judgment within an additional thirty days or to otherwise take action to set aside the default, notice shall be sent to the director of finance of the appropriate county [that]:
  - (A) That the person to whom the notice of infraction not involving parking was issued shall not be permitted to renew or obtain a driver's license; or[; where]
  - (B) Where the notice was issued to a motor vehicle, that the registered owner shall not be permitted to register, renew the registration of, or transfer title to the motor vehicle until the traffic infraction is finally disposed of pursuant to this chapter[;], except as provided in section 291D-10(b);
- [(6)] (7) A statement that, at a hearing requested to contest the notice of traffic infraction conducted pursuant to section 291D-8 [or in consideration of a written statement contesting the notice of traffic infraction], no officer shall be present unless the driver timely requests the court to have the officer present[. The], and that the standard of proof to be applied by the court is whether a preponderance of the evidence proves that the specified traffic infraction was committed;
- [(7)] (8) A statement that, at a hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the infraction or in consideration of a written request for mitigation, the person shall be considered to have committed the traffic infraction;
- [(8)] (9) A space in which the [driver's] signature[; current address, and driver's license number] of the person to whom the notice was issued may be affixed; and
- [(9)] (10) The date, time, and place at which the [driver] person to whom the notice was issued must appear in court, if the [driver] person is required by the notice to [go to] appear in person at the hearing.

~~[(e)]~~ (e) In the case of traffic infractions involving parking~~[,] or equipment,~~ where the motor vehicle is found parked or stopped without a driver, the notice shall be affixed conspicuously to the vehicle as provided in section 291C-167 and shall include the information required by paragraphs (1) and (3) to ~~[(8)]~~ (9) of subsection ~~[(b)]~~ (d).”

SECTION 5. Section 291D-6, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

“(a) A person who receives a notice of traffic infraction shall answer the notice within twenty-one days of the date of issuance of the notice. There shall be included with the notice of traffic infraction a preaddressed envelope directed to the traffic violations bureau of the applicable district court.

(b) ~~[(b)]~~ Provided that the notice of traffic infraction does not require an appearance in person at hearing as set forth in section 291D-5(b)(10), in answering a notice of traffic infraction, a person shall have the following options:

- (1) Admit the commission of the infraction in one of the following ways:
  - (A) By mail or in person, by completing the appropriate portion of the notice of traffic infraction or preaddressed envelope and submitting it to the authority specified on the notice together with payment of the total amount stated on the notice of traffic infraction. Payment by mail shall be in the form of a check, money order, or by an approved credit or debit card. Payment in person shall be in the form of United States currency, check, money order, or by an approved credit or debit card; or
  - (B) Via the Internet or by telephone, by submitting payment of the total amount stated on the notice of traffic infraction. Payment via the Internet or by telephone shall be by an approved credit or debit card;
- (2) Deny the commission of the infraction and request a hearing to contest the infraction by completing the appropriate portion of the notice of traffic infraction or preaddressed envelope and submitting it, either by mail or in person, to the authority specified on the notice. In lieu of appearing in person at a hearing, the person may submit a written statement of grounds on which the person contests the notice of traffic infraction, which shall be considered by the court as a statement given in court pursuant to section 291D-8(a); or
- (3) Admit the commission of the infraction and request a hearing to explain circumstances mitigating the infraction by completing the appropriate portion of the notice of traffic infraction or preaddressed envelope and submitting it, either by mail or in person, to the authority specified on the notice. In lieu of appearing in person at a hearing, the person may submit a written explanation of the mitigating circumstances, which shall be considered by the court as a statement given in court pursuant to section 291D-8(b).”

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

“**§291D-7 Court action after answer or failure to answer.** (a) When an admitting answer is received, the court ~~[shall review the driver’s abstract. The court]~~ shall enter judgment in favor of the State in the total amount specified in the notice of traffic infraction. If the total amount is not submitted with the answer, the court ~~[shall]~~ may take action as provided in section 291D-10.

(b) When a denying answer is received, the court shall proceed as follows:

(1) In the case of a traffic infraction [~~that does not involve parking~~] where the person requests a hearing at which the person will appear in person to contest the infraction, the court shall notify the person in writing of the date, time, and place of hearing to contest the notice of traffic infraction. The notice of hearing shall be [sent] mailed to the address stated in the denying answer, or if none is given, to the address stated on the notice of traffic infraction. The notification also shall advise the person that, if the person fails to appear at the hearing, the court shall enter judgment by default in favor of the State, as of the date of the scheduled hearing, that the total amount specified in the default judgment must be paid within thirty days [from notice] of entry of default[;] judgment, and, if it is not paid, that the court shall take action as provided in section 291D-10;

~~[(2) In the case of a traffic infraction that involves parking, the court shall notify the person or registered owner or owners in writing of the date, time, and place of hearing to contest the notice of traffic infraction. The notice of hearing shall be sent to the address stated in the denying answer or, if none is given, to the address at which the vehicle is registered. The notification also shall advise the person that, if the person fails to appear at the hearing, the court shall enter judgment by default in favor of the State, as of the date of the scheduled hearing, that the total amount specified in the default judgment shall be paid within thirty days from notice of default, and, if it is not paid, that the court shall take action as provided in section 291D-10;] and~~

[(3)] (2) When a denying answer is accompanied by a written statement of the grounds on which the person contests the notice of [the] traffic infraction, the court shall proceed as provided in section 291D-8(a) and shall notify the person of its decision, including the total amount assessed, if any, by mailing [it] the notice of entry of judgment within [thirty] forty-five days of the postmarked date of the answer to the address provided by the person in the denying answer, or if none is given, to the address given when the notice of traffic infraction was issued or, in the case of parking violations, [to the address stated in the denying answer or, if none is given,] to the address at which the vehicle is registered. The [decision] notice of entry of judgment also shall advise the person, if it is determined that the infraction was committed[;] and judgment is entered in favor of the State, that the person has the right, within thirty days[;] of entry of judgment, to request a trial and shall specify the procedures for doing so. The notice of [decision] entry of judgment shall also notify the person, if an amount is assessed by the court for [fines,] monetary assessments, fees, surcharges, or costs[; or monetary assessments], that if the person does not request a trial[;] within the time specified in this paragraph, the total amount assessed shall be paid within thirty days[-] of entry of judgment. The notice of entry of judgment shall [warn] inform the person that if the total amount is not paid within thirty days, the court shall take action as provided in section 291D-10.

(c) When an answer admitting commission of the infraction but seeking to explain mitigating circumstances is received, the court shall proceed as follows:

(1) In the case of a traffic infraction [~~which does not involve parking~~] where the person requests a hearing at which the person will appear in person to explain mitigating circumstances, the court shall notify the person in writing of the date, time, and place of hearing to explain

mitigating circumstances. The notice of hearing shall be ~~[sent]~~ mailed to the address stated in the answer, or if none is given, to the address stated on the notice of traffic infraction. The notification also shall advise the person that, if the person fails to appear at the hearing, the court shall enter judgment by default in favor of the State, as of the date of the scheduled hearing, that the total amount stated in the default judgment ~~[shall]~~ must be paid within thirty days ~~[from notice]~~ of entry of default~~[,]~~ judgment, and, if it is not paid, that the court shall take action as provided in section 291D-10;

- (2) ~~In the case of a traffic infraction which involves parking, the court shall notify the person in writing of the date, time, and place of the hearing. The notice shall be sent to the address at which the vehicle is registered. The notice of hearing on mitigating circumstances shall advise the person that the court shall enter judgment for the State and the hearing shall be limited to an explanation of the mitigating circumstances. The notice of hearing also shall state that if the person fails to appear at the hearing, the total amount specified in the default judgment shall be paid within thirty days of the scheduled hearing. The notice of hearing shall warn the person that if the total amount is not paid within thirty days, the court shall take action as provided in section 291D-10;~~ and
- (3) (2) If a written explanation is included with an answer admitting commission of the infraction, the court shall enter judgment for the State and, after reviewing the explanation, determine the total amount of the ~~[fines,]~~ monetary assessments, fees, surcharges, or costs~~[, or monetary assessments]~~ to be assessed, if any. The court shall then notify the person of the total amount to be paid for the infraction, if any. There shall be no appeal from the ~~[order.]~~ judgment. If the court assesses an amount for ~~[fines,]~~ monetary assessments, fees, surcharges, or costs~~[, or monetary assessments]~~, the court shall also notify the person that the total amount shall be paid within thirty days of ~~[the postmarked date of the decision.]~~ entry of judgment. The notice of entry of judgment also shall ~~[warn]~~ inform the person that if the total amount is not paid within thirty days, the court shall take action as provided in section 291D-10.

(d) If the person fails to answer within twenty-one days of issuance of the notice of traffic infraction, the court shall take action as provided in subsection (e).

(e) Whenever judgment by default in favor of the State is entered, the court shall mail a notice of entry of default judgment ~~[of default]~~ to the address provided by the person when the notice of traffic infraction was issued or, in the case of parking ~~[violations,]~~ infractions, to the address stated in the answer, if any, or the address at which the vehicle is registered. The notice of entry of default judgment shall advise the person that the total amount specified in the default judgment shall be paid within thirty days of entry of default judgment and shall explain the procedure for setting aside a default judgment. The notice of entry of default judgment shall also ~~[warn]~~ inform the person that if the total amount is not paid within thirty days, the court shall take action as provided in section 291D-10. Judgment by default for the State entered pursuant to this chapter may be set aside pending final disposition of the traffic infraction upon written application of the person and posting of an appearance bond equal to the amount of the total amount specified in the default judgment and any other assessment imposed pursuant to section 291D-9. The application shall show good cause or excusable neglect for the person's failure to take action necessary to prevent entry of judgment by default. Upon receipt of the application~~[,]~~ and required appearance bond, the court shall take action to remove the restriction placed on the person's driver's license or the motor

vehicle's registration and title imposed pursuant to section 291D-10. Thereafter, the court shall determine whether good cause or excusable neglect exists for the person's failure to take action necessary to prevent entry of judgment by default. If so, the application to set aside default judgment shall be granted, the default judgment shall be set aside, and the notice of traffic infraction shall be disposed of pursuant to this chapter. If not, the application to set aside default judgment shall be denied, the appearance bond shall be forfeited and applied to satisfy amounts due under the default judgment, and the notice of traffic infraction shall be finally disposed. In either case, the court~~[, within thirty days,]~~ shall determine the existence of good cause or excusable neglect and notify the person of its decision on the application in writing."

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

**“§291D-8 Hearings.** (a) In proceedings to contest ~~[the issuance of]~~ a notice of traffic ~~[infractions:]~~ infraction where the person to whom the notice was issued has timely requested a hearing and appears at such hearing:

- (1) In lieu of the personal appearance by the officer who issued the notice of traffic infraction, the court shall consider the notice of traffic infraction and any other written report made by the officer, if provided to the court by the officer, together with any oral or written statement by the [driver,] person to whom the notice of infraction was issued, or in the case of traffic infractions involving parking[.] or equipment, the operator or registered owner of the motor vehicle;
- (2) The court may compel by subpoena the attendance of the officer who issued the notice of traffic infraction and other witnesses from whom it may wish to hear;
- (3) The standard of proof to be applied by the court shall be whether, by a preponderance of the evidence [proves that], the court finds that the traffic infraction was committed; and
- (4) After due consideration of the evidence and arguments, if any, the court shall determine whether commission of the traffic infraction has been established. Where the commission of the traffic infraction has not been established, [an order] judgment in favor of the defendant, dismissing the notice of traffic infraction or any count therein with prejudice, shall be entered in the ~~[records-] record~~. Where it has been established that the traffic infraction was committed, the court shall enter judgment ~~[for] in favor of~~ the State and ~~[may] shall~~ assess a monetary assessment pursuant to section 291D-9~~[,]~~, together with any fees, surcharges, or costs. The court also shall inform the person of the right to request~~[, within thirty days,]~~ a trial pursuant to section 291D-13. If the person requests a trial at the time of the hearing, the court shall provide the person with the trial date ~~[forthwith. If trial is elected, arraignment and plea shall be held at the time of trial.]~~ as soon as practicable.

(b) In proceedings to explain mitigating circumstances~~[:]~~ where the person to whom the notice of traffic infraction was issued has timely requested a hearing and appears at such hearing:

- (1) The procedure ~~[shall be informal and]~~ shall be limited to the issue of mitigating circumstances. A person who requests to explain the circumstances shall not be permitted to contest the ~~[issuance of]~~ the notice of traffic infraction; ~~[and]~~

- (2) After the court has received the explanation, the court shall enter judgment ~~[for]~~ in favor of the State and may assess a monetary assessment~~;~~ pursuant to section 291D-9~~;~~ ~~and~~, together with any fees, surcharges, or costs;
- (3) The court, after receiving the explanation, may vacate the admission and ~~[dismiss]~~ enter judgment in favor of the defendant, dismissing the notice of traffic infraction or any count therein with prejudice, where the explanation establishes that the infraction was not committed; and
- (4) There shall be no appeal from the ~~[order.]~~ judgment.
- (c) If a person for whom a hearing has been scheduled, to contest the notice of traffic infraction or ~~[a hearing]~~ to explain mitigating circumstances, fails to appear at the hearing, the court shall enter judgment by default for the State and take action as provided in section 291D-7(e). If the total amount of the monetary assessment, fees, surcharges, or costs is not paid within thirty days~~;~~ of entry of default judgment, the court shall take action as provided in section 291D-10.”

SECTION 8. Section 291D-12, Hawaii Revised Statutes, is amended to read as follows:

**“§291D-12 Powers of the district court judge sitting in the traffic division.** A district court judge sitting in the traffic division and hearing cases pursuant to this chapter shall have all the powers of a district court judge under chapter 604, including the following powers:

- (1) To conduct traffic infraction hearings and to impose monetary assessments;
  - (2) To permit deferral of monetary assessment or impose community service in lieu thereof;
  - (3) To dismiss a notice of traffic infraction, with or without prejudice, or to set aside a judgment for the State;
  - (4) To order temporary driver’s license suspension or driver’s license reinstatement;
  - (5) To order the director of finance not to issue or renew the driver’s license, or to register, renew the registration of, or issue title to a motor vehicle, of any person who has not paid a monetary assessment ~~[or]~~, has not performed community service in lieu thereof~~;~~, or has not otherwise satisfied a judgment for the State entered pursuant to this chapter;
  - (6) To approve the issuance or renewal of a driver’s license or instruction permit pursuant to section 286-109(c);
  - (7) To issue penal summonses and bench warrants and initiate contempt of court proceedings in proceedings conducted pursuant to section 291D-13; ~~[and]~~
  - (8) To issue penal summonses and bench warrants and initiate failure to appear proceedings in proceedings conducted pursuant to section 291D-5(d)(10); and
- [~~(8)~~] (9) To exercise other powers the court finds necessary and appropriate to carry out the purposes of this chapter.”

SECTION 9. Section 291D-13, Hawaii Revised Statutes, is amended to read as follows:

**“§291D-13 Trial~~[-]~~ and concurrent trial.** (a) There shall be no right to trial unless the defendant contests the notice of traffic infraction pursuant to section 291D-8. If, after proceedings to contest the notice of traffic infraction, a deter-

mination is made that ~~[a person]~~ the defendant committed the traffic infraction, ~~[the person]~~ judgment shall enter in favor of the State. The defendant may request~~[-, within thirty days of the determination,]~~ a trial pursuant to the ~~[rules of penal procedure]~~ Hawaii rules of evidence and the rules of the district court~~[-, provided that arraignment and plea for such trial shall be held at the time of trial,]; provided that any request for trial shall be made within thirty days of entry of judgment.~~ If, after appearing in person at a hearing to contest the notice of traffic infraction, the person requests a trial at the conclusion of the ~~[proceedings to contest the notice of traffic infraction,]~~ hearing, the court shall provide the person with the trial date ~~[forthwith. A notice of traffic infraction shall not be adjudicated pursuant to this section until proceedings pursuant to section 291D-8 have been completed.]~~ as soon as practicable.

(b) ~~[The result of the final determination or any admission made pursuant to section 291D-6 shall not be admissible in any trial conducted pursuant to section 291D-13.]~~ At the time of trial, the State shall be represented by a prosecuting attorney of the county in which the infraction occurred. The prosecuting attorney shall orally recite the charged civil traffic infraction in court prior to commencement of the trial. Proof of the defendant's commission of the traffic infraction shall be by a preponderance of the evidence.

(c) If trial on the traffic infraction is held prior to trial on any related criminal offense, the following shall be inadmissible in the subsequent prosecution or trial of the related criminal offense:

(1) Any written or oral statement made by the defendant in proceedings conducted pursuant to section 291D-7(b); and

(2) Any testimony given by the defendant in the traffic infraction trial.

The statement or testimony, or both, shall not be deemed a waiver of the defendant's privilege against self-incrimination in connection with any related criminal offense.

(d) In any concurrent trial, the State shall be represented by a prosecuting attorney of the county in which the infraction and related crime occurred. Proof of the defendant's commission of the infraction shall be by a preponderance of the evidence, and proof of the related criminal offense shall be by proof beyond a reasonable doubt. The concurrent trial shall be conducted pursuant to the rules of the appropriate court, the Hawaii rules of evidence, and the Hawaii rules of penal procedure."

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

"[H]§291D-14[.] Rules. (a) The supreme court may adopt rules of procedure for the conduct of all proceedings pursuant to this chapter.

(b) Chapter 626 shall not apply in proceedings conducted pursuant to this chapter, except for the rules governing privileged communications, and proceedings conducted under section 291D-13.

(c) Notwithstanding section 604-17, while the court is sitting in any matter pursuant to this chapter, the court shall not be required to preserve the testimony or proceedings, except proceedings conducted pursuant to section 291D-13~~[-]~~ and proceedings in which the traffic infraction is heard on the same date and time as any related criminal offense.

(d) The prosecuting attorney shall not participate in traffic infraction proceedings conducted pursuant to this chapter, except proceedings pursuant to section 291D-13~~[-]~~ and proceedings in which a related criminal offense is scheduled for arraignment, hearing, or concurrent trial.

(e) Chapter 91 shall not apply in proceedings before the court.

(f) Except as otherwise provided in section 291D-3, chapter 571, and the Hawaii family court rules shall not apply in any proceedings conducted pursuant to this chapter.’’

SECTION 11. Section 437D-17.5, Hawaii Revised Statutes, is amended to read as follows:

‘‘~~[(§437D-17.5)] Rental agreements; unpaid [parking citations] traffic infractions.~~ Pursuant to section ~~[291C-168.5;]~~ 291D- , or other sections of the law and except for summons, citations, or violations relating to the care and maintenance of a rental motor vehicle, the lessor, as the registered owner of the rental motor vehicle, may be responsible for fines ~~[or],~~ costs, penalties, fees, or other charges related to ~~[parking citations.]~~ traffic infractions of a motor vehicle while being leased or rented to a lessee. The lessor may adopt a policy of charging the lessee the actual ~~[cost of the parking citation]~~ amount paid for the traffic infractions to the court or other state government agency or county government plus an administrative fee not to exceed ~~[\$20;]~~ out-of-pocket expenses documented by receipts plus up to four hours of work multiplied by Hawaii’s prevailing minimum wage relating to research of files and communications with the court, county government or governmental agencies and lessee; ~~provided[, however;]~~ that every rental agreement of a lessor adopting the policy must disclose, at a minimum, in plain language and in at least ten-point bold typeface print:

- (1) The maximum estimated amount of the administrative fee to be charged; and
- (2) Language encouraging the lessee to pay directly to the court, county government or other appropriate government agency the ~~[parking citation directly.]~~ applicable fines, costs, monetary assessments, penalties, fees, surcharges, or other charges.’’

SECTION 12. Section 291C-168.5, Hawaii Revised Statutes, is repealed.

SECTION 13. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>2</sup>

SECTION 14. This Act shall take effect on January 1, 2008.

(Approved May 22, 2007.)

#### Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.