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# A BILL FOR AN ACT

RELATING TO YOUTH FEES AND FINES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1 PART I

2 SECTION 1. The legislature finds that charging fees,  
3 fines, and court costs to youth is harmful to young people and  
4 their families. In Hawaii, the consequences of these costs fall  
5 disproportionately on Native Hawaiian, Pacific Islander, and  
6 Black youth, who are more likely to be arrested, detained, and  
7 unable to afford fees and fines. The legislature also finds  
8 that, although existing law authorizes courts to charge youth  
9 and their families a range of fees and fines, judges across the  
10 state rarely impose these costs in practice.

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



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

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

15 Accordingly, the purpose of this Act is to:

16 (1) Prohibit the assessment of any fines, fees, or court  
17 costs against a person who is adjudicated for an  
18 offense committed while the person was a minor under  
19 the age of eighteen years, or against the person's  
20 parent or guardian;



- 1 (2) Limit court-ordered community service for a minor to  
2 not more than seventy-two hours; and  
3 (3) Repeal the statewide curfew for minors.

4 PART II

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

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

8 "(a) Except as provided in [~~subsection~~] subsections (b) [~~7~~]  
9 and (c), any person who violates section 286-102, 286-122,  
10 286-130, 286-131, 286-132, 286-133, or 286-134 shall be fined  
11 [~~no~~] not more than \$1,000 or imprisoned [~~no~~] not more than  
12 thirty days, or both. Any person who violates any other section  
13 in this part shall be fined [~~no~~] not more than \$1,000."

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

15 "(c) Notwithstanding subsections (a) and (b), a minor  
16 under the age of eighteen years under the jurisdiction of the  
17 family court who is subject to this section [~~shall either~~] may  
18 lose the right to drive a motor vehicle until the age of  
19 eighteen [~~or be subject to a fine of \$500.~~] years; provided that  
20 no financial penalty provided for in this section shall be  
21 levied against a person who is adjudicated for an offense



1 committed while the person was a minor under the age of eighteen  
2 years, or against the person's parent or guardian for the  
3 person's offense."

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

6 "**§286G-3 Driver education assessments.** (a) [A] Except as  
7 provided in subsection (e), a driver education assessment of \$7  
8 shall be levied on a finding that a violation of a statute or  
9 county ordinance relating to vehicles or their drivers or owners  
10 occurred, except for~~[÷]~~ offenses:

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

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

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

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

17 (1) \$100 shall be levied on persons convicted under  
18 section 291E-61 or 291E-61.5 to defray costs of  
19 services provided by the driver education and training  
20 program;



1 (2) \$50 shall be levied on persons required to attend a  
2 child passenger restraint system safety class under  
3 section 291-11.5; and

4 (3) \$75 shall be levied on persons convicted under  
5 section 291C-105 to defray costs of services provided  
6 by the driver education and training program.

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

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

17 (e) No financial penalty provided for in this section  
18 shall be levied against a person who is adjudicated for an  
19 offense committed while the person was a minor under the age of  
20 eighteen years, or against the person's parent or guardian for  
21 the person's offense."



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

3 "~~§291C-12~~ **Collisions involving [death-~~or~~] serious bodily**  
4 **injury[-] or death.** (a) The driver of any vehicle involved in  
5 a collision resulting in serious bodily injury to or death of  
6 any person shall immediately stop the vehicle at the scene of  
7 the collision or as close thereto as possible but shall then  
8 forthwith return to and in every event shall remain at the scene  
9 of the collision until the driver has fulfilled the requirements  
10 of section 291C-14. Every stop shall be made without  
11 obstructing traffic more than is necessary.

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

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

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

20 (e) [~~For~~] Except as provided in subsection (f), for any  
21 violation under this section, a surcharge of up to \$500 may be



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

3 (f) No financial penalty provided for in this section  
4 shall be levied against a person who is adjudicated for an  
5 offense committed while the person was a minor under the age of  
6 eighteen years, or against the person's parent or guardian for  
7 the person's offense."

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

10 **"§291C-12.5 Collisions involving substantial bodily**  
11 **injury.** (a) The driver of any vehicle involved in a collision  
12 resulting in substantial bodily injury to any person shall  
13 immediately stop the vehicle at the scene of the collision or as  
14 close thereto as possible but shall then forthwith return to and  
15 in every event shall remain at the scene of the collision until  
16 the driver has fulfilled the requirements of section 291C-14.  
17 Every stop shall be made without obstructing traffic more than  
18 is necessary.

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



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

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

9 (e) No financial penalty provided for in this section  
10 shall be levied against a person who is adjudicated for an  
11 offense committed while the person was a minor under the age of  
12 eighteen years, or against the person's parent or guardian for  
13 the person's offense."

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

16 "**§291C-12.6 Collisions involving bodily injury.** (a) The  
17 driver of any vehicle involved in a collision resulting in  
18 bodily injury to any person shall immediately stop the vehicle  
19 at the scene of the collision or as close thereto as possible  
20 but shall then forthwith return to and in every event shall  
21 remain at the scene of the collision until the driver has



1 fulfilled the requirements of section 291C-14. Every stop shall  
2 be made without obstructing traffic more than is necessary.

3 (b) Any person who violates subsection (a) shall be guilty  
4 of a misdemeanor.

5 (c) [~~For~~] Except as provided in subsection (e), for any  
6 violation under this section, a surcharge of \$100 shall be  
7 imposed, in addition to any other penalties, and shall be  
8 deposited into the neurotrauma special fund.

9 (d) [~~For~~] Except as provided in subsection (e), for any  
10 violation under this section, a surcharge of up to \$100 may be  
11 imposed, in addition to other penalties, [~~which~~] that shall be  
12 deposited into the trauma system special fund.

13 (e) No financial penalty provided for in this section  
14 shall be levied against a person who is adjudicated for an  
15 offense committed while the person was a minor under the age of  
16 eighteen years, or against the person's parent or guardian for  
17 the person's offense."

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

20 "(c) For any violation under this section, a surcharge of  
21 up to \$100 may be imposed, in addition to other penalties,



1 ~~[which]~~ that shall be deposited into the trauma system special  
2 fund~~[-]~~; provided that no financial penalty provided for in this  
3 section shall be levied against a person who is adjudicated for  
4 an offense committed while the person was a minor under the age  
5 of eighteen years, or against the person's parent or guardian  
6 for the person's offense."

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

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



1 nearest police officer. Every stop shall be made without  
2 obstructing traffic more than is necessary.

3 (b) For any violation under this section, a surcharge of  
4 up to \$100 may be imposed, in addition to other penalties, which  
5 shall be deposited into the trauma system special fund[-];  
6 provided that no financial penalty provided for in this section  
7 shall be levied against a person who is adjudicated for an  
8 offense committed while the person was a minor under the age of  
9 eighteen years, or against the person's parent or guardian for  
10 the person's offense."

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

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

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



- 1           (2) ~~[The maximum of which may be]~~ \$25 if the violation is  
2           an offense under section 291E-61(a)(1),  
3           ~~[291E-61(a)]~~(3), or ~~[291E-61(a)]~~(4);
- 4           (3) ~~[The maximum of which may be]~~ \$50 if the violation is  
5           an offense under section 291E-61(a)(2) or 291E-61.5 or  
6           if the offense under section 291E-61(a)(3) or  
7           ~~[291E-61(a)]~~(4) is a second or subsequent offense that  
8           occurred within five years of the first offense.
- 9           (b) The surcharge shall not be ordered ~~[when]~~:
- 10          (1) When the court determines that the defendant is unable  
11          to pay the surcharge~~[-]~~; or
- 12          (2) Against a person who is adjudicated for an offense  
13          committed while the person was a minor under the age  
14          of eighteen years, or against the person's parent or  
15          guardian for the person's offense."

16           SECTION 10. Section 291E-11, Hawaii Revised Statutes, is  
17           amended to read as follows:

18           **"291E-11 Implied consent of operator of vehicle to submit**  
19           **to testing to determine alcohol concentration and drug content.**

20           (a) Any person who operates a vehicle upon a public way,  
21           street, road, or highway or on or in the waters of the State



1 shall be deemed to have given consent, subject to this part, to  
2 a test or tests approved by the director of health of the  
3 person's breath, blood, or urine for the purpose of determining  
4 alcohol concentration or drug content of the person's breath,  
5 blood, or urine, as applicable.

6 (b) The test or tests shall be administered at the request  
7 of a law enforcement officer having probable cause to believe  
8 the person operating a vehicle upon a public way, street, road,  
9 or highway or on or in the waters of the State is under the  
10 influence of an intoxicant or is under the age of twenty-one  
11 years and has consumed a measurable amount of alcohol, only  
12 after:

- 13 (1) A lawful arrest; and  
14 (2) The person has been informed by a law enforcement  
15 officer that the person may refuse to submit to  
16 testing under this chapter.

17 (c) If there is probable cause to believe that a person is  
18 in violation of section 291E-64, as a result of being under the  
19 age of twenty-one years and having consumed a measurable amount  
20 of alcohol, or section 291E-61 or 291E-61.5, as a result of  
21 having consumed alcohol, then the person shall elect to take a



1 breath or blood test, or both, for the purpose of determining  
2 the alcohol concentration.

3 (d) If there is probable cause to believe that a person is  
4 in violation of section 291E-61 or 291E-61.5, as a result of  
5 having consumed any drug, then the person shall elect to take a  
6 blood or urine test, or both, for the purpose of determining the  
7 drug content. Drug content shall be measured by the presence of  
8 any drug or its metabolic products, or both.

9 (e) A person who chooses to submit to a breath test under  
10 subsection (c) also may be requested to submit to a blood or  
11 urine test, if the law enforcement officer has probable cause to  
12 believe that the person was operating a vehicle while under the  
13 influence of any drug under section 291E-61 or 291E-61.5 and the  
14 officer has probable cause to believe that a blood or urine test  
15 will reveal evidence of the person being under the influence of  
16 any drug. The law enforcement officer shall state in the  
17 officer's report the facts upon which that belief is based. The  
18 person shall elect to take a blood or urine test, or both, for  
19 the purpose of determining the person's drug content. Results  
20 of a blood or urine test conducted to determine drug content  
21 also shall be admissible for the purpose of determining the



1 person's alcohol concentration. Submission to testing for drugs  
2 under subsection (d) or this subsection shall not be a  
3 substitute for alcohol tests requested under subsection (c).

4 (f) The use of a preliminary alcohol screening device by a  
5 law enforcement officer shall not replace a breath, blood, or  
6 urine test required under this section. The analysis from the  
7 use of a preliminary alcohol screening device shall only be used  
8 in determining probable cause for the arrest.

9 (g) ~~[Any]~~ Except as provided for in subsection (h), any  
10 person tested pursuant to this section who is convicted or has  
11 the person's license or privilege suspended or revoked pursuant  
12 to this chapter may be ordered to reimburse the county for the  
13 cost of any blood or urine tests, or both, conducted pursuant to  
14 this section. If reimbursement is ~~[se]~~ ordered, the court or  
15 the director, as applicable, shall order the person to make  
16 restitution in a lump sum, or in a series of prorated  
17 installments, to the police department or other agency incurring  
18 the expense of the blood or urine test, or both.

19 (h) A minor under the age of eighteen years or the minor's  
20 parent or guardian shall not be ordered to reimburse the county



1 for the cost of any blood or urine test conducted on the minor  
2 pursuant to this section for the minor's offense."

3 SECTION 11. Section 291E-39, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "**§291E-39 Fees and costs.** [~~The~~] (a) Except as provided  
6 in subsection (b), the director may assess and collect a \$30 fee  
7 from the respondent to cover the costs of processing the  
8 respondent's request for an administrative hearing. These costs  
9 include but shall not be limited to: the cost of photocopying  
10 documents; conditional license permits, temporary permits, and  
11 relicensing forms; interpreter services; and other similar  
12 costs; provided that the costs of issuing subpoenas for  
13 witnesses, including mileage fees, shall be borne by the party  
14 requesting the subpoena. The director may waive the fee in the  
15 case of an indigent respondent, upon an appropriate inquiry into  
16 the financial circumstances of the respondent seeking the waiver  
17 and an affidavit or a certificate signed by the respondent  
18 demonstrating the respondent's financial inability to pay the  
19 fee.

20 (b) The director shall not assess or collect any fee from  
21 a respondent who requests an administrative hearing for a



1 violation that occurred while the respondent was a minor under  
2 the age of eighteen years, or against the respondent's parent or  
3 guardian for the respondent's offense."

4 SECTION 12. Section 291E-61, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 **"291E-61 Operating a vehicle under the influence of an**  
7 **intoxicant.** (a) A person commits the offense of operating a  
8 vehicle under the influence of an intoxicant if the person  
9 operates or assumes actual physical control of a vehicle:

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

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

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

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



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

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

9 (A) A fourteen-hour minimum substance abuse  
10 rehabilitation program, including education and  
11 counseling, or other comparable programs deemed  
12 appropriate by the court;

13 (B) Revocation of license to operate a vehicle for  
14 [~~no~~] not less than one year and [~~no~~] not more  
15 than eighteen months;

16 (C) Installation during the revocation period of an  
17 ignition interlock device on all vehicles  
18 operated by the person;

19 (D) Any one or more of the following:

20 (i) Seventy-two hours of community service work;



- 1 (ii) [~~no~~] Not less than forty-eight hours and  
2 [~~no~~] not more than five days of  
3 imprisonment; or
- 4 (iii) A fine of [~~no~~] not less than \$250 and [~~no~~]  
5 not more than \$1,000;
- 6 (E) A surcharge of \$25 to be deposited into the  
7 neurotrauma special fund; and
- 8 (F) A surcharge, if the court so orders, of up to \$25  
9 to be deposited into the trauma system special fund;
- 10 (2) For an offense that occurs within ten years of a prior  
11 conviction for an offense under this section:
- 12 (A) A substance abuse program of at least thirty-six  
13 hours, including education and counseling, or  
14 other comparable programs deemed appropriate by  
15 the court;
- 16 (B) Revocation of license to operate a vehicle for  
17 [~~no~~] not less than two years and [~~no~~] not more  
18 than three years;
- 19 (C) Installation during the revocation period of an  
20 ignition interlock device on all vehicles  
21 operated by the person;



- 1 (D) Either one of the following:
- 2 (i) [~~Ne~~] Not less than two hundred forty hours
- 3 of community service work; or
- 4 (ii) [~~Ne~~] Not less than five days and [~~ne~~] not
- 5 more than thirty days of imprisonment, of
- 6 which at least forty-eight hours shall be
- 7 served consecutively;
- 8 (E) A fine of [~~ne~~] not less than \$1,000 and [~~ne~~] not
- 9 more than \$3,000, to be deposited into the drug
- 10 and alcohol toxicology testing laboratory special
- 11 fund;
- 12 (F) A surcharge of \$25 to be deposited into the
- 13 neurotrauma special fund; and
- 14 (G) A surcharge of up to \$50, if the court so orders,
- 15 to be deposited into the trauma system special
- 16 fund;
- 17 (3) In addition to a sentence imposed under paragraphs (1)
- 18 and (2), any person eighteen years of age or older who
- 19 is convicted under this section and who operated a
- 20 vehicle with a passenger, in or on the vehicle, who
- 21 was younger than fifteen years of age, shall be



1 sentenced to an additional mandatory fine of \$500 and  
2 an additional mandatory term of imprisonment of  
3 forty-eight hours; provided that the total term of  
4 imprisonment for a person convicted under this  
5 paragraph shall not exceed the maximum term of  
6 imprisonment provided in paragraph (1) or (2), as  
7 applicable. Notwithstanding paragraphs (1) and (2),  
8 the revocation period for a person sentenced under  
9 this paragraph shall be ~~no~~ not less than two years;

10 (4) In addition to a sentence imposed under paragraph (1),  
11 for a first offense under this section, or an offense  
12 not preceded within a ten-year period by a conviction  
13 for an offense, any person who is convicted under this  
14 section and was a highly intoxicated driver at the  
15 time of the subject incident shall be sentenced to an  
16 additional mandatory term of imprisonment for  
17 forty-eight consecutive hours and an additional  
18 mandatory revocation period of six months; provided  
19 that the total term of imprisonment for a person  
20 convicted under this paragraph shall not exceed the  
21 maximum term of imprisonment provided in



1 paragraph (1). Notwithstanding paragraph (1), the  
2 revocation period for a person sentenced under this  
3 paragraph shall be [~~no~~] not less than eighteen months;

4 (5) In addition to a sentence under paragraph (2), for an  
5 offense that occurs within ten years of a prior  
6 conviction for an offense under this section, any  
7 person who is convicted under this section and was a  
8 highly intoxicated driver at the time of the subject  
9 incident shall be sentenced to an additional mandatory  
10 term of imprisonment of ten consecutive days and an  
11 additional mandatory revocation period of one year;  
12 provided that the total term of imprisonment for a  
13 person convicted under this paragraph shall not exceed  
14 the maximum term of imprisonment provided in paragraph  
15 (2), as applicable. Notwithstanding paragraph (2),  
16 the revocation period for a person sentenced under  
17 this paragraph shall be [~~no~~] not less than three  
18 years;

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



- 1 (A) Was not sentenced to any additional mandatory  
2 revocation period pursuant to paragraph (3) or  
3 (4);
- 4 (B) Actually installed and maintained an ignition  
5 interlock device on all vehicles operated by the  
6 person for a continuous period of six months,  
7 after which the person maintained the ignition  
8 interlock device on all vehicles operated by the  
9 person for a continuous period of three months  
10 without violation;
- 11 (C) Includes with the person's motion for early  
12 termination a certified court abstract  
13 establishing that the person was not sentenced to  
14 any additional mandatory revocation period  
15 pursuant to paragraph (3) or (4);
- 16 (D) Includes with the person's motion for early  
17 termination a certified statement from the  
18 director of transportation establishing that:  
19 (i) The person installed and maintained an  
20 ignition interlock device on all vehicles



1                   operated by the person for a continuous  
2                   period of six months; and  
3                   (ii) After the six-month period, the person  
4                   maintained the ignition interlock device on  
5                   all vehicles operated by the person for a  
6                   continuous period of three months without  
7                   violation; and  
8                   (E) Has complied with all other sentencing  
9                   requirements.

10                   Nothing in this paragraph shall require a court to  
11                   grant early termination of the revocation period if the  
12                   court finds that continued use of the ignition interlock  
13                   device will further the person's rehabilitation or  
14                   compliance with this section;

15                   (7) If the person demonstrates to the court that the  
16                   person:  
17                   (A) Does not own or have the use of a vehicle in  
18                   which the person can install an ignition  
19                   interlock device during the revocation period; or  
20                   (B) Is otherwise unable to drive during the  
21                   revocation period,



1 the person shall be prohibited from driving during the  
2 period of applicable revocation provided in paragraphs  
3 (1) to (5); provided that the person shall be  
4 sentenced to the maximum license revocation period,  
5 the court shall not issue an ignition interlock permit  
6 pursuant to subsection (i), and the person shall be  
7 subject to the penalties provided by section 291E-62  
8 if the person drives during the applicable revocation  
9 period; and

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

11 (A) Providing a sample of .04 or more grams of  
12 alcohol per two hundred ten liters of breath when  
13 starting the vehicle, unless a subsequent test  
14 performed within ten minutes registers a breath  
15 alcohol concentration lower than .02 and the  
16 digital image confirmed the same person provided  
17 both samples;

18 (B) Providing a sample of .04 or more grams of  
19 alcohol per two hundred ten liters of breath on a  
20 rolling retest, unless a subsequent test  
21 performed within ten minutes registers a breath



- 1 alcohol concentration lower than .02 and the  
2 digital image confirms the same person provided  
3 both samples;
- 4 (C) Failing to provide a rolling retest, unless an  
5 acceptable test is performed within ten minutes;
- 6 (D) Violating section 291E-66; or
- 7 (E) Failing to provide a clear photo of the person  
8 when the person blows into the ignition interlock  
9 device.
- 10 (c) Except as provided in sections 286-118.5 and  
11 291E-61.6, the court shall not issue an ignition interlock  
12 permit to[+] a defendant:
- 13 (1) [~~A defendant whose~~] Whose license is expired,  
14 suspended, or revoked as a result of action other than  
15 the instant offense;
- 16 (2) [~~A defendant who~~] Who does not hold a valid license at  
17 the time of the instant offense;
- 18 (3) [~~A defendant who~~] Who holds either a category 4  
19 license under section 286-102(b) or a commercial  
20 driver's license under section 286-239(a), unless the



1 ignition interlock permit is restricted to a category  
2 1, 2, or 3 license under section 286-102(b); or  
3 (4) [~~A defendant who~~] Who holds a license that is a  
4 learner's permit or instruction permit.

5 (d) Except as provided in subsection (c), the court may  
6 issue a separate permit authorizing a defendant to operate a  
7 vehicle owned by the defendant's employer during the period of  
8 revocation without installation of an ignition interlock device  
9 if the defendant is gainfully employed in a position that  
10 requires driving and the defendant will be discharged if  
11 prohibited from driving a vehicle not equipped with an ignition  
12 interlock device.

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

15 (1) [~~A sworn statement from the~~] The defendant containing  
16 facts establishing that the defendant currently is  
17 employed in a position that requires driving and that  
18 the defendant will be discharged if prohibited from  
19 driving a vehicle not equipped with an ignition  
20 interlock device; and



1           (2) [~~A sworn statement from the~~] The defendant's employer  
2           establishing that the employer will, in fact,  
3           discharge the defendant if the defendant cannot drive  
4           a vehicle that is not equipped with an ignition  
5           interlock device and identifying the specific vehicle  
6           the defendant will drive for purposes of employment  
7           and the hours of the day, not to exceed twelve hours  
8           per day, or the period of the specified assigned hours  
9           of work, the defendant will drive the vehicle for  
10          purposes of employment.

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

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

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

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

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



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

3 (2) Conviction in any other state or federal jurisdiction  
4 for an offense that is comparable to operating or  
5 being in physical control of a vehicle while having  
6 either an unlawful alcohol concentration or an  
7 unlawful drug content in the blood or urine or while  
8 under the influence of an intoxicant or habitually  
9 operating a vehicle under the influence of an  
10 intoxicant; or

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

15 shall be considered a prior conviction for the purposes of  
16 imposing sentence under this section. Any judgment on a verdict  
17 or a finding of guilty, a plea of guilty or nolo contendere, or  
18 an adjudication, in the case of a minor, that at the time of the  
19 offense has not been expunged by pardon, reversed, or set aside  
20 shall be deemed a prior conviction under this section.



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

13 (i) Upon proof that the defendant has:

- 14 (1) Installed an ignition interlock device in any vehicle  
15 the defendant operates pursuant to subsection (b); and  
16 (2) Obtained motor vehicle insurance or self-insurance  
17 that complies with the requirements under either  
18 section 431:10C-104 or section 431:10C-105, the court  
19 shall issue an ignition interlock permit that will  
20 allow the defendant to drive a vehicle equipped with



1 an ignition interlock device during the revocation  
2 period.

3 (j) Notwithstanding any other law to the contrary,  
4 whenever a court revokes a person's driver's license pursuant to  
5 this section, the examiner of drivers shall not grant to the  
6 person a new driver's license until the expiration of the period  
7 of revocation determined by the court. After the period of  
8 revocation is completed, the person may apply for and the  
9 examiner of drivers may grant to the person a new driver's  
10 license.

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



1       (1) For any person sentenced pursuant to this section for  
2 an offense committed while the person was a minor under the age  
3 of eighteen years:

4       (1) The court shall not order any financial penalties,  
5 surcharges, or reimbursements against the person or  
6 the person's parent or guardian for the minor's  
7 offense; and

8       (2) Any sentence of community service shall be limited to  
9 not more than seventy-two hours and shall not  
10 interfere with the person's school or work  
11 commitments.

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

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

16       "**§291E-61.5 Habitually operating a vehicle under the**  
17 **influence of an intoxicant.** (a) A person commits the offense  
18 of habitually operating a vehicle under the influence of an  
19 intoxicant if:

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



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

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

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

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

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

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

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

18 (1) An indeterminate term of imprisonment of five years;  
19 or

20 (2) A term of probation of five years, with conditions to  
21 include:



- 1 (A) Mandatory revocation of license to operate a  
2 vehicle for a period [~~ne~~] not less than three  
3 years but [~~ne~~] not more than five years, with  
4 mandatory installation of an ignition interlock  
5 device in all vehicles operated by the respondent  
6 during the revocation period;
- 7 (B) [~~Ne~~] Not less than ten days imprisonment, of  
8 which at least forty-eight hours shall be served  
9 consecutively;
- 10 (C) A fine of [~~ne~~] not less than \$2,000 but [~~ne~~] not  
11 more than \$5,000, to be deposited into the drug  
12 and alcohol toxicology testing laboratory special  
13 fund;
- 14 (D) Referral to a certified substance abuse counselor  
15 as provided in subsection (e);
- 16 (E) A surcharge of \$25 to be deposited into the  
17 neurotrauma special fund; and
- 18 (F) A surcharge of up to \$50 to be deposited into the  
19 trauma system special fund if the court so  
20 orders.



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

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

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

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

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

14 (B) [~~Not~~] Not less than eighteen months imprisonment;

15 (C) A fine of [~~not~~] not less than \$5,000 but [~~not~~] not  
16 more than \$25,000; and

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

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



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

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

20 (g) ~~[Any]~~ Except as provided in subsection (h), any person  
21 sentenced under this section may be ordered to reimburse the



1 county for the cost of any blood or urine tests conducted  
2 pursuant to section 291E-11. The court shall order the person  
3 to make restitution in a lump sum, or in a series of prorated  
4 installments, to the police department or other agency incurring  
5 the expense of the blood or urine test.

6 (h) No financial penalty, surcharge, or cost of assessment  
7 and treatment provided for in this section shall be ordered  
8 against a person who is adjudicated or sentenced under this  
9 section while the person was a minor under the age of eighteen  
10 years, or against the person's parent or guardian for the  
11 person's offense.

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

13 "Convicted one or more times for offenses of habitually  
14 operating a vehicle under the influence" means that, at the time  
15 of the behavior for which the person is charged under this  
16 section, the person had one or more times within ten years of  
17 the instant offense:

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



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

5 (3) An adjudication of a minor for a law or probation  
6 violation that, if committed by an adult, would  
7 constitute a violation of this section or  
8 section 291-4.4 as that section was in effect on  
9 December 31, 2001,

10 that, at the time of the instant offense, had not been expunged  
11 by pardon, reversed, or set aside. All convictions that have  
12 been expunged by pardon, reversed, or set aside before the  
13 instant offense shall not be deemed prior convictions for the  
14 purposes of proving the person's status as a habitual operator  
15 of a vehicle while under the influence of an intoxicant.

16 "Convicted two or more times for offenses of operating a  
17 vehicle under the influence" means that, at the time of the  
18 behavior for which the person is charged under this section, the  
19 person had two or more times within ten years of the instant  
20 offense:



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

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

7 (3) An adjudication of a minor for a law or probation  
8 violation that, if committed by an adult, would  
9 constitute a violation of section 291E-61 or  
10 707-702.5,

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

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

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



- 1 (1) Two or more times for offenses of operating a vehicle  
2 under the influence; or  
3 (2) One or more times for offenses of habitually operating  
4 a vehicle under the influence."

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

7 **"§291E-64 Operating a vehicle after consuming a measurable**  
8 **amount of alcohol; persons under the age of twenty-one.** (a) It  
9 shall be unlawful for any person under the age of twenty-one  
10 years to operate any vehicle with a measurable amount of  
11 alcohol. A law enforcement officer may arrest a person under  
12 this section when the officer has probable cause to believe the  
13 arrested person is under the age of twenty-one years and had  
14 been operating a vehicle upon a public way, street, road, or  
15 highway or on or in the waters of the State with a measurable  
16 amount of alcohol.

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

- 19 (1) For a first violation or any violation not preceded  
20 within a five-year period by a prior alcohol  
21 enforcement contact:



1           (A) The court shall impose:

2                   (i) A requirement that the person and, if the

3                           person is under the age of eighteen years,

4                           the person's parent or guardian attend an

5                           alcohol abuse education and counseling

6                           program for not more than ten hours; and

7                   (ii) A one hundred eighty-day prompt suspension

8                           of license and privilege to operate a

9                           vehicle with absolute prohibition from

10                           operating a vehicle during the suspension

11                           period, or in the case of a person eighteen

12                           years of age or older, the court may impose,

13                           in lieu of the one hundred eighty-day prompt

14                           suspension of license, a minimum thirty-day

15                           prompt suspension of license with absolute

16                           prohibition from operating a vehicle and,

17                           for the remainder of the one hundred

18                           eighty-day period, a restriction on the

19                           license that allows the person to drive for

20                           limited work-related purposes and to



1                   participate in alcohol abuse education and  
2                   treatment programs; and

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

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

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

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

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

16                   (B) In addition, the court may impose any of the  
17                   following:

18                   (i) Not more than fifty hours of community  
19                   service work; or

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



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

3           (A) The court shall impose revocation of license and  
4 privilege to operate a vehicle for a period of  
5 two years; and

6           (B) In addition, the court may impose any of the  
7 following:

8           (i) Not more than one hundred hours of community  
9 service work; or

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

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

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



1 person to obtain appropriate treatment if the counselor's  
2 assessment establishes the person's alcohol abuse or dependence.  
3 ~~[All]~~ Except as provided in subsection (j), all costs for  
4 assessment and treatment shall be borne by the person ~~[or by the~~  
5 ~~person's parent or guardian, if the person is under the age of~~  
6 ~~eighteen]~~.

7 (e) Notwithstanding section 831-3.2 or any other law to  
8 the contrary, a person convicted of a first-time violation under  
9 subsection (b)(1), who had no prior alcohol enforcement  
10 contacts, may apply to the court for an expungement order upon  
11 attaining the age of twenty-one~~[7]~~ years, or thereafter, if the  
12 person has fulfilled the terms of the sentence imposed by the  
13 court and has had no subsequent alcohol or drug related  
14 enforcement contacts.

15 (f) Notwithstanding any other law to the contrary,  
16 whenever a court revokes a person's driver's license pursuant to  
17 this section, the examiner of drivers shall not grant to the  
18 person an application for a new driver's license for a period to  
19 be determined by the court.

20 (g) ~~[Any]~~ Except as provided in subsection (j), any person  
21 sentenced under this section may be ordered to reimburse the



1 county for the cost of any blood tests conducted pursuant to  
2 section 291E-11. The court shall order the person to make  
3 restitution in a lump sum, or in a series of prorated  
4 installments, to the police department or other agency incurring  
5 the expense of the blood test.

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

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

11 (j) For any person sentenced pursuant to this section for  
12 a violation committed while the person was a minor under the age  
13 of eighteen years:

14 (1) The court shall not order any financial penalties,  
15 surcharges, or reimbursements as permitted by this  
16 section against the person, or the person's parent or  
17 guardian for the person's violation; and

18 (2) Any sentence of community service shall be limited to  
19 not more than seventy-two hours and shall not  
20 interfere with the person's school or work  
21 commitments.





1 ~~the pupil, and the pupil, parent, or guardian have executed a~~  
2 ~~written agreement to make restitution].~~

3 (c) The principal of the school in which the vandalism  
4 occurred shall make or order an investigation of the vandalism.  
5 If after the investigation, the principal has reasonable cause  
6 to believe that a specific pupil is responsible for the  
7 vandalism, the principal shall schedule a conference with the  
8 pupil and the pupil's parents or guardian. Except for the  
9 principal of the school in which the vandalism occurred, the  
10 pupil and the parents or guardian, no other person shall be  
11 permitted to be in the conference for any reason.

12 (d) At the conference, the principal of the school in  
13 which the vandalism occurred shall present the findings of the  
14 investigation [~~and the requirements of restitution]~~ to the pupil  
15 and parents or guardian.

16 If the pupil and the parents or guardian agree with the  
17 findings of the principal and the manner in which [~~restitution~~  
18 ~~is to be made,~~] the pupil is to be held accountable, the  
19 principal and the pupil and parent or guardian shall execute a  
20 written agreement [~~which~~] that shall specify the manner in which  
21 [~~restitution is to be made.~~



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

3        ~~If restitution is made in this fashion, then no] the pupil~~  
4 ~~shall repair any damage caused. This shall include not more~~  
5 ~~than seventy-two hours of community service, which shall be~~  
6 ~~performed in a manner that does not interfere with the pupil's~~  
7 ~~school or work commitments. No information about the~~  
8 ~~investigation, conference, and the actions taken shall be~~  
9 ~~communicated to any person not directly involved in the~~  
10 ~~proceedings.~~

11        If the pupil and parent or guardian do not agree with the  
12 findings made by the principal, the principal shall report the  
13 findings, including all the records and documents regarding the  
14 investigation and conference, to the complex area  
15 superintendent, who shall review the findings and may refer the  
16 matter to the attorney general for any further action pursuant  
17 to section 577-3.

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





1 shall waive the imposition of a compensation fee if the  
2 defendant is unable to pay the compensation fee. Moneys from  
3 the compensation fees shall be deposited into the crime victim  
4 compensation special fund under section 351-62.5.

5 (b) The criteria of section 706-641 may apply to this  
6 section. In setting the amount of the compensation fee to be  
7 imposed, the court shall consider all relevant factors,  
8 including but not limited to:

- 9 (1) The seriousness of the offense;  
10 (2) The circumstances of the commission of the offense;  
11 (3) The economic gain, if any, realized by the defendant;  
12 (4) The number of victims; and  
13 (5) The defendant's earning capacity, including future  
14 earning capacity.

15 (c) The compensation fee shall be considered a civil  
16 judgment.

17 (d) No compensation fee provided for in this section shall  
18 be levied against a person who is adjudicated for an offense  
19 committed while the person was a minor under the age of eighteen  
20 years, or against the person's parent or guardian for that  
21 person's offense."



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

3 "~~[§]~~353G-10~~[§]~~ Drug testing or assessment fees. (a)

4 Except as provided in ~~[subsection]~~ subsections (b) ~~[7]~~ and (e),  
5 the agency responsible for monitoring a person's compliance with  
6 the terms and conditions of parole or other release from a  
7 correctional center or facility shall impose upon the person  
8 reasonable fees to cover the cost of:

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

11 (2) Any assessment of the person required or ordered under  
12 this chapter.

13 The fees shall not be less than the actual and administrative  
14 costs of a drug test or assessment. The fees may be deducted  
15 from any income a person has received as a result of labor  
16 performed in a correctional center or facility or any type of  
17 work release program.

18 (b) Upon a finding of indigence, the agency responsible  
19 for monitoring a person's compliance with the terms and  
20 conditions of parole or other release from a correctional center



1 or facility shall require the person to pay as much of the fee  
2 as is consistent with the person's ability to pay.

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

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

11 (e) No fees provided for in this section shall be levied  
12 against a person for a violation that occurred while the person  
13 was a minor under the age of eighteen years, or against the  
14 person's parent or guardian for that person's violation."

15 PART V

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

18 "(c) Informal adjustment under this section may include,  
19 among other suitable methods, programs, and procedures, the  
20 following:



- 1 (1) Participation in restitution projects to obtain  
2 appropriate victim satisfaction;
- 3 (2) Participation in community service projects so as to  
4 establish the child's self value in the community;
- 5 (3) Participation in community-based programs [~~which~~] that  
6 work with the child and family to maintain and  
7 strengthen the family unit so that the child may be  
8 retained in the child's own home;
- 9 (4) Submission to neighborhood courts or panels upon  
10 procedures to be established by the court. As used in  
11 this paragraph "neighborhood courts or panels" are  
12 community organizations designed to settle minor  
13 disputes between parties on a voluntary basis using  
14 mediation or nonbinding arbitration;
- 15 (5) Participation in programs to support, counsel, or  
16 provide work and recreational opportunities to help  
17 prevent delinquency;
- 18 (6) Participation in educational programs or supportive  
19 services designed to help delinquents and to encourage  
20 other youths to remain in elementary and secondary  
21 schools or in alternative learning situations;



- 1 (7) Participation in youth-initiated programs and outreach
  - 2 programs designed to assist youth and families;
  - 3 (8) Appropriate physical and medical examinations,
  - 4 vocational and aptitude testing, examinations for
  - 5 learning disabilities or emotional dysfunctions, and
  - 6 suitable counseling and therapy;
  - 7 (9) Placement with nonsecure or secure shelter facilities;
  - 8 (10) Restitution providing for monetary payment by the
  - 9 parents of the child; or
  - 10 (11) Participation in a restorative justice program where
  - 11 the child and the child's parents or guardian, and
  - 12 other supporters of the child, may meet with the
  - 13 victim harmed by the child's law violation and the
  - 14 victim's supporters[-];
- 15 provided that any treatment or services provided under this
- 16 section shall be provided at no cost to the person whose
- 17 violation occurred while the person was a minor under the age of
- 18 eighteen years, or to the person's parent or guardian for that
- 19 person's violation. Nothing in this section shall prohibit the
- 20 utilization of treatment or services provided or covered by any
- 21 health insurance plan under which the person is already a



1 covered person or beneficiary; provided further that the person  
2 or the person's parent or guardian shall be responsible for all  
3 copayments required by the insurer."

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

6 "**§571-32 Detention; shelter; release; notice.** (a) If a  
7 minor who is believed to come within section 571-11(1) is not  
8 released as provided in section 571-31 and is not deemed  
9 suitable for diversion, then the minor shall be taken without  
10 unnecessary delay to the court or to the place of detention or  
11 shelter designated by the court. If a minor who is believed to  
12 come within section 571-11(2) is not released as provided in  
13 section 571-31, and is not deemed suitable for diversion, then  
14 the minor shall be taken without unnecessary delay to the court  
15 or to the place of shelter designated by the court. If the  
16 court determines that the minor requires care away from the  
17 minor's own home but does not require secure physical  
18 restriction, the minor shall be given temporary care in any  
19 available nonsecure minor caring institution, foster family  
20 home, or other shelter facility.



1           (b) The officer or other person who brings a minor to a  
2 detention or shelter facility shall give notice to the court at  
3 once, stating the legal basis therefor and the reason why the  
4 minor was not released to the minor's parents. If the facility  
5 to which the minor is taken is not an agency of the court, the  
6 person in charge of the facility in which the minor is placed  
7 shall promptly give notice to the court that the minor is in  
8 that person's custody. Before acceptance of the minor for  
9 detention or shelter care, a prompt inquiry shall be made by a  
10 duly authorized staff member of the detention or shelter  
11 facility or officer of the court. Where it is deemed in the  
12 best interests of the minor, the judge, officer, staff member,  
13 or director of detention services may then order the minor to be  
14 released, if possible, to the care of the minor's parent,  
15 guardian, legal custodian, or other responsible adult, or the  
16 judge may order the minor held in the facility subject to  
17 further order or placed in some other appropriate facility.

18           (c) As soon as a minor is detained, the minor's parents,  
19 guardian, or legal custodian shall be informed, by personal  
20 contact or by notice in writing on forms prescribed by the  
21 court, that they may have a prompt hearing held by a circuit



1 judge or district family judge regarding release or detention.  
2 A minor may be released on the order of the judge with or  
3 without a hearing. The director of detention services may order  
4 the release of the minor if an order of detention has not been  
5 made.

6 (d) No minor shall be held in a detention facility for  
7 juveniles or shelter longer than twenty-four hours, excluding  
8 weekends and holidays, unless a petition or motion for  
9 revocation of probation, or motion for revocation of protective  
10 supervision has been filed, or unless the judge orders otherwise  
11 after a court hearing. No ex parte motions shall be considered.  
12 For the purposes of this section:

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

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



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

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

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

9 (i) For processing or release;

10 (ii) While awaiting transfer to a juvenile  
11 facility; or

12 (iii) For a court appearance that occurs within  
13 the period of detention; or

14 (B) [~~A minor accused of a non-status offense who is~~  
15 ~~awaiting~~] Awaiting an initial court appearance  
16 that will occur within forty-eight hours of the  
17 minor being taken into custody, excluding  
18 weekends and holidays, and where the jail or  
19 lockup for adults is in a location:

20 (i) Outside a metropolitan statistical area, as  
21 defined by the Office of Management and



1 Budget, and no acceptable alternative  
2 placement is available;

3 (ii) Where the distance to be traveled or the  
4 lack of highway, road, or transportation  
5 does not allow for court appearances within  
6 forty-eight hours, excluding weekends and  
7 holidays, such that a brief delay of [x] ~~no~~  
8 not more than an additional forty-eight  
9 hours is excusable; or

10 (iii) Where safety concerns exist, such as severe  
11 and life-threatening weather conditions that  
12 do not allow for reasonably safe travel, in  
13 which case the time for an appearance may be  
14 delayed until twenty-four hours after the  
15 time that conditions allow for reasonably  
16 safe travel;

17 provided that the minor shall not have sight or sound  
18 contact with adult inmates; provided further that the State  
19 shall have a policy in effect that requires individuals who  
20 work with both minor and adult inmates in collocated



1 facilities to be trained and certified to work with  
2 juveniles.

3 (e) No minor may be held after the filing of a petition or  
4 motion, as specified in subsection (d), unless an order for  
5 continued detention or shelter has been made by a judge after a  
6 court hearing. If there is probable cause to believe that the  
7 minor comes within section 571-11(1), the minor may be securely  
8 detained, following a court hearing, in a detention facility for  
9 juveniles or may be held in a shelter. If there is probable  
10 cause to believe that the minor comes within section 281-101.5  
11 or 571-11(2), the minor may be held, following a court hearing,  
12 in a shelter but shall not be securely detained in a detention  
13 facility for juveniles for longer than twenty-four hours,  
14 excluding weekends and holidays, unless the minor is subject to  
15 the provisions of chapter 582, Interstate Compact on Juveniles,  
16 or chapter 582D, Interstate Compact for Juveniles, or is  
17 allegedly in or has already been adjudicated for a violation of  
18 a valid court order, as provided under the federal Juvenile  
19 Justice and Delinquency Prevention Act of 1974, as amended.

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



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

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

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

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

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

15 (A) The age of the minor;

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

17 (C) The present mental state of the minor, including  
18 whether the minor presents an imminent risk of  
19 self-harm;

20 (D) The nature and circumstances of the alleged  
21 offense;



- 1 (E) The minor's history of prior delinquent acts;
- 2 (F) The relative ability of the available adult and
- 3 juvenile detention facilities to meet the
- 4 specific needs of the minor and protect the
- 5 safety of the public as well as other detained
- 6 minors; and
- 7 (G) Any other relevant factor; and
- 8 (3) If a court determines that it is in the interest of
- 9 justice to permit a minor to be held in any jail or
- 10 lockup for adults, or to have sight or sound contact
- 11 with adult inmates:
  - 12 (A) The court shall hold a hearing no less frequently
  - 13 than once every thirty days, or in the case of a
  - 14 rural jurisdiction, no less frequently than once
  - 15 every forty-five days, to review whether it
  - 16 remains in the interest of justice to permit the
  - 17 minor to be held in a jail or lockup for adults
  - 18 or to have sight or sound contact with adult
  - 19 inmates; and
  - 20 (B) The minor shall not be held in any jail or lockup
  - 21 for adults, or permitted to have sight or sound



1 contact with adult inmates, for more than one  
2 hundred eighty days, unless the court, in  
3 writing, determines there is good cause for an  
4 extension, or the minor expressly waives this  
5 limitation.

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

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

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

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



- 1           (2) Because of the potential impact on a minor's mental or  
2           physical health, room confinement may only be used for  
3           the minimum time necessary for the minor to regain  
4           self-control, and only after less restrictive options  
5           or techniques, including de-escalation, conflict and  
6           behavioral management techniques, and intervention by  
7           a mental health professional, have been attempted,  
8           exhausted, and failed;
- 9           (3) If a minor is placed in room confinement, the reasons  
10          for the room confinement shall be explained to the  
11          minor. The minor shall also be informed that release  
12          from room confinement will occur immediately when the  
13          minor exhibits self-control and is no longer deemed a  
14          threat to the minor's safety or the safety of others;
- 15          (4) If a minor is placed in room confinement, the  
16          following individuals shall be notified on the next  
17          business day and provided the reasons for the room  
18          confinement as well as the location and duration of  
19          the confinement:
- 20          (A) The senior judge of the family court;



- 1 (B) The presiding judge who ordered the minor to be  
2 held at the facility;
- 3 (C) The deputy chief court administrator; and
- 4 (D) The social services manager of the juvenile  
5 client services branch for the circuit court of  
6 the first circuit;
- 7 (5) Room confinement shall not be used for purposes of  
8 punishment or disciplinary sanction, coercion,  
9 convenience, or retaliation, or to address staffing  
10 shortages at the facility;
- 11 (6) A minor may be held in room confinement for [~~no~~] not  
12 more than three hours unless the minor is a danger to  
13 themselves or another, or the on-call judge grants an  
14 extension of [~~no~~] not more than three additional hours  
15 of confinement. Thereafter, the minor shall be  
16 returned to the general population; provided that if a  
17 minor is held in room confinement for more than three  
18 hours, a hearing shall be held before the family court  
19 on the next business day, at which time the minor  
20 shall be provided legal representation;



1 (7) A minor shall not be returned to room confinement  
2 immediately after returning to the general population  
3 from room confinement for the purposes of evading the  
4 reporting requirements and room confinement  
5 restrictions pursuant to this section;

6 (8) If the minor is not returned to the general population  
7 following a hearing pursuant to paragraph (6), the  
8 minor shall be transferred to a location where  
9 services may be provided to the minor without the need  
10 for room confinement; provided that if a mental health  
11 professional determines that the level of crisis  
12 service needed is not presently available at the  
13 location, the superintendent or deputy superintendent  
14 of the facility shall initiate a referral to a  
15 facility that can meet the needs of the minor;

16 (9) All rooms used for room confinement shall have  
17 adequate and operational lighting, ventilation for the  
18 comfort of the minor, and shall be clean and resistant  
19 to suicide and self-harm;



- 1           (10) The minor shall have access to drinking water, toilet  
2           facilities, hygiene supplies, and reading materials  
3           approved by a mental health professional;
- 4           (11) The minor shall have the same access as provided to  
5           minors in the general population of the facility to  
6           meals, contact with parents or legal guardians, legal  
7           assistance, educational programs, and medical and  
8           mental health services;
- 9           (12) The minor shall be continuously monitored by facility  
10          staff; and
- 11          (13) The judiciary shall post quarterly on the judiciary's  
12          website a report of its detention center detailing  
13          their compliance with this section. Each report shall  
14          include:
- 15                (A) The number of incidents of room confinement every  
16                year;
- 17                (B) The number of minors impacted;
- 18                (C) The age, gender identity, and race of minors  
19                impacted;
- 20                (D) Any alternative strategies employed before the  
21                use of room confinement, the reasons those



1 alternative strategies failed, and why room  
2 confinement was necessary; and

3 (E) The incidence of mental illness.

4 For the purposes of this subsection:

5 "Mental health professional" means a qualified mental  
6 health professional or mental health professional supervised by  
7 a qualified mental health professional.

8 "Room confinement" means the placement of a minor in a  
9 room, cell, or area with minimal or no contact with persons  
10 other than court staff and attorneys. "Room confinement" does  
11 not include confinement of a minor in a single-person room or  
12 cell for brief periods of locked room time as necessary for  
13 required institutional operations and does not include  
14 confinement during sleep hours.

15 (i) Provisions regarding bail shall not be applicable to  
16 minors detained in accordance with this chapter, except that  
17 bail may be allowed after a minor has been transferred for  
18 criminal prosecution pursuant to waiver of family court  
19 jurisdiction.

20 (j) The official in charge of a facility for the detention  
21 of adult offenders or persons charged with crime shall inform



1 the court immediately when a minor who is or appears to be under  
2 eighteen years of age is received at the facility.

3 (k) [~~Any other provision of law to the contrary~~  
4 ~~notwithstanding,~~] Notwithstanding any other law to the contrary,  
5 any person otherwise subject to proceedings under chapter 832  
6 and who is under the age of eighteen years may be confined in a  
7 detention facility or correctional facility by order of a judge  
8 for the purposes set forth in section 832-12, 832-15, or 832-17.

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



1       (m) Any costs associated with the detention of a minor  
2 shall be borne by the court. The court shall not seek  
3 reimbursement for costs incurred pursuant to this section from a  
4 person adjudicated under section 571-11(1) or (2), 571-13,  
5 571-22, or 571-41(f), or from the person's parent or guardian."

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

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

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



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

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

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

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



1           "§571-48 Decree, if informal adjustment or diversion to a  
2 private or community agency or program has not been effected.

3 When a child is found by the court to come within section  
4 571-11, the court shall so decree and in its decree shall make a  
5 finding of the facts upon which the court exercises its  
6 jurisdiction over the child. Upon the decree the court, by  
7 order duly entered, shall proceed as follows:

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

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

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

11                   (ii) In the custody of a suitable person or  
12                                facility elsewhere, upon conditions  
13                                determined by the court.

14           An order by the court placing a child on  
15           probation under this subparagraph shall include a  
16           definite term of probation stated in months or  
17           years, subject to extension or modification by  
18           the court pursuant to section 571-50. When  
19           conditions of probation include custody in a  
20           youth correctional facility, the custody shall be  
21           for a term not to exceed one year, after which



1 time the child shall be allowed to reside in the  
2 community subject to additional conditions as may  
3 be imposed by the court;

4 (B) The court may vest legal custody of the child,  
5 after prior consultation with the agency or  
6 institution:

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

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



1 (iii) In any private institution or agency  
2 authorized by the court to care for  
3 children; or

4 (iv) In a private home.

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

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



1 dispose the child to probation status under  
2 paragraph (1) (A); or  
3 (D) [~~The court may fine the child for~~] For a  
4 violation [~~which~~] that would be theft in the  
5 third degree by shoplifting if committed by an  
6 adult[~~.—The~~], the court may require the child to  
7 perform [~~public services in lieu of the fine;~~]  
8 community service of not more than seventy-two  
9 hours; provided that the community service shall  
10 not interfere with the child's school or work  
11 commitments. The court shall not impose a fine  
12 on the child or the child's parent or guardian;

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

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

19 (B) The court may vest legal custody of the child,  
20 after prior consultation with the agency or  
21 institution, in a local governmental agency or



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

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



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

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



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

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

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

19 (7) In support of any order or decree under  
20 section 571-11(1) or (2), the court may require the  
21 parents or other persons having custody of the child,



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

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



1 parent to abstain from offensive conduct against the  
2 children or each other;

3 (9) The court may dismiss the petition or otherwise  
4 terminate its jurisdiction at any time;

5 (10) In any other case of which the court has jurisdiction,  
6 the court may make any order or judgment authorized by  
7 law;

8 (11) The court may order any person adjudicated pursuant to  
9 section 571-11(1) to make restitution of money or  
10 services to any victim who suffers loss as a result of  
11 the child's action, or to render community service[~~+~~]  
12 of not more than seventy-two hours; provided that the  
13 community service shall not interfere with the child's  
14 school or work commitments;

15 (12) The court may order any person adjudicated pursuant to  
16 section 571-11(2) to participate in community  
17 service[~~+~~~~and~~] of not more than seventy-two hours;  
18 provided that the community service shall not  
19 interfere with the child's school or work commitments;

20 (13) The court may order the parents of an adjudicated  
21 child to make restitution of money or services to any



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

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

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

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



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

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



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

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

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

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



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

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



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

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

6 (1) Require the minor, ~~[the]~~ parents, or ~~[the]~~ legal  
7 guardians to remove the graffiti from the affected  
8 property within sixty days of the order ~~[and pay for~~  
9 ~~the cost of paint and materials;]~~ or if appropriate,  
10 pay for the actual cost of having the damaged property  
11 repaired or replaced; and

12 (2) Order the minor to perform ~~[a minimum of eighty hours~~  
13 ~~of community service to remove graffiti from other~~  
14 ~~properties.]~~ not more than seventy-two hours of  
15 community service; provided that the community service  
16 shall not interfere with the minor's school or work  
17 commitments."

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

20 "**§577-21 Curfew ordinances, effect.** Each of the counties  
21 may enact and enforce ordinances regulating the presence of



1 children in public places and on public streets and roads during  
2 certain hours at night.

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

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

10       "**§577-26 Alcohol or drug abuse relating to minors;**  
11 **diagnosis, counseling, and related activities.** (a) A  
12 counselor, certified, licensed, or otherwise authorized by law  
13 to engage in the practice of counseling services in either or  
14 both the public and private sector, may inform the spouse,  
15 parent, custodian, or guardian of any minor who requests, is  
16 referred for, or received counseling services relating to  
17 alcohol or drug abuse.

18       (b) If a minor consents to receive counseling services for  
19 alcohol or drug abuse, the spouse, parent, custodian, or  
20 guardian of the minor shall not be liable for the legal  
21 obligations resulting from the furnishing of [~~such~~] the



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

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

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

20 ~~(e)]~~ (d) The consent to the provision of furnishing  
21 counseling services for alcohol or drug abuse by the counselor



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

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

18       (f) Nothing in this section shall prohibit the utilization  
19 of alcohol or drug abuse counseling services provided or covered  
20 by any health insurance plan under which the minor is a covered  
21 person or beneficiary; provided that the minor or the minor's



1 parent or guardian shall be responsible for all copayments  
2 required by the insurer."

3 SECTION 28. Section 577-18, Hawaii Revised Statutes, is  
4 repealed.

5 [~~"§577-18 Parents allowing children in street, prohibited~~  
6 ~~when; penalty.~~ Any parent or guardian having the care, custody,  
7 and control of a child under sixteen years of age, who, except  
8 in case of necessity, knowingly, and voluntarily suffers or  
9 permits such child to go or remain on any public street, highway  
10 or public place after ten o'clock in the evening and before four  
11 o'clock in the morning, unaccompanied by an adult person thereto  
12 authorized by such parent or guardian, shall be fined not more  
13 than \$100 or imprisoned not more than twenty days."]

14 SECTION 29. Section 577-23, Hawaii Revised Statutes, is  
15 repealed.

16 [~~"§577-23 Parent et al. responsibility, penalty.~~ Any  
17 parent, guardian, or other person having the care, custody, or  
18 control of an unmarried minor, who knowingly permits such minor  
19 to violate section 577-22, shall be fined not more than \$50 or  
20 imprisoned not more than thirty days."]



1 SECTION 30. Section 577-24, Hawaii Revised Statutes, is  
2 repealed.

3 [~~"§577-24 Escort's responsibility; penalty. Any person  
4 who knowingly takes, escorts, or accompanies any unmarried minor  
5 to a dance hall which the minor is prohibited from attending by  
6 section 577-22, or who invites or encourages the minor to attend  
7 such dance hall, shall be fined not more than \$100 or imprisoned  
8 not more than ninety days."~~]

9 PART VI

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

20 (b) If, on or after the effective date of this Act, a  
21 payment is made by a person or the person's parent or guardian



1 toward any fees, fines, or costs made void by this Act, the  
2 payment shall be reimbursed within a reasonable time.

3 PART VII

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

10 SECTION 33. Statutory material to be repealed is bracketed  
11 and stricken. New statutory material is underscored.

12 SECTION 34. This Act shall take effect upon its approval;  
13 provided that the amendments made to sections 291E-61 and 291E-  
14 61.5, Hawaii Revised Statutes, by sections 12 and 13,  
15 respectively, of this Act shall not be repealed when those  
16 sections are reenacted on June 30, 2028, pursuant to section 11  
17 of Act 196, Session Laws of Hawaii 2021, as amended by section 8  
18 of Act 148, Session Laws of Hawaii 2023.



**Report Title:**

Juvenile Justice; Court Fees; Fines; Penalties; Prohibited

**Description:**

Prohibits the assessment of any fines, fees, or court costs against a person who was adjudicated for an offense committed while the person was a minor under the age of eighteen years, or against the person's parent or guardian. Discharges all related debt obligations assessed prior to the effective date of the Act. Limits court ordered community service for minors to seventy-two hours. Repeals the statewide curfew for minors.  
(SD1)

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

