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# A BILL FOR AN ACT

RELATING TO COURT-ORDERED PAYMENTS.

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

1       SECTION 1.   Section 601-17.5, Hawaii Revised Statutes, is  
2   amended to read as follows:

3       **"§601-17.5   Collection of delinquent court-ordered**  
4 **payments.**   The judiciary [~~may~~] shall contract with a collection  
5 agency bonded under chapter 443B or with a licensed attorney to  
6 collect any delinquent court-ordered [~~penalties,~~] fees, fines,  
7 [~~restitution,~~] sanctions, and court costs[, ~~including juvenile~~  
8 ~~monetary assessments~~].   Any fees or costs associated with the  
9 collection efforts shall be added to the amount due and retained  
10 by the collection agency as its payment; provided that no fees  
11 or costs shall exceed fifty per cent of the amount collected."

12       SECTION 2.   Section 706-642, Hawaii Revised Statutes, is  
13 amended to read as follows:

14       **"§706-642   Time and method of payment.**   (1)   When a  
15 defendant is sentenced to pay a fee, fine, or restitution, the  
16 court may grant permission for the payment to be made within a  
17 specified period of time or in specified installments.   If no



1 such permission is embodied in the sentence, the fee, fine, or  
2 restitution shall be payable forthwith by cash, check, or ~~by~~ a  
3 credit card approved by the court.

4 (2) When a defendant sentenced to pay a fee, fine, or  
5 restitution is also sentenced to probation, the court may make  
6 the payment of the fee, fine, or restitution a condition of  
7 probation.

8 (3) When a defendant sentenced to pay a fee or fine is  
9 also ordered to make restitution or reparation to the victim or  
10 victims, or to the person or party who has incurred loss or  
11 damage because of the defendant's crime, the payment of  
12 restitution or reparation shall have priority over the payment  
13 of the fee or fine, pursuant to section 706-651. No fee or fine  
14 shall be collected until the restitution or reparation order has  
15 been satisfied."

16 SECTION 3. Section 706-644, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 **"§706-644 Consequences of nonpayment; imprisonment for**  
19 **contumacious nonpayment; summary collection.** (1) When a  
20 defendant in district court is sentenced pursuant to section  
21 706-605, granted a conditional discharge pursuant to section



1 712-1255, or granted a deferred plea pursuant to chapter 853,  
2 and the defendant is ordered to pay a fee, fine, or restitution,  
3 whether as an independent order, as part of a judgment and  
4 sentence, or as a condition of probation or deferred plea[  
5 and]:

6     (a) If the defendant was ordered to pay restitution, the  
7     court shall set a proof of compliance hearing for the  
8     defendant; provided that the court may further order  
9     that the defendant need not appear for the proof of  
10    compliance hearing if all fees, fines, and restitution  
11    have been paid in full and all other sentencing  
12    requirements have been met before a designated date,  
13    which may be earlier than the proof of compliance  
14    date. At each proof of compliance hearing for a  
15    defendant in district court, if the defendant appears  
16    and is in compliance, but has not yet paid all fees,  
17    fines, and restitution in full, the court shall order  
18    a further proof of compliance hearing within one year  
19    or as soon as practicable until the fees, fines, or  
20    restitution have been paid in full. If the defendant  
21    defaults in the payment thereof [~~or of any~~



1       ~~installment], the court[, upon the motion of the~~  
2       ~~prosecuting attorney or upon its own motion, may]~~  
3       shall require the defendant to show cause why the  
4       defendant's default should not be treated as  
5       contumacious, and ~~[may]~~, if the defendant fails to  
6       appear, the court shall issue a summons or a warrant  
7       of arrest for the defendant's appearance. Unless the  
8       defendant shows that the defendant's default was not  
9       attributable to an intentional refusal to obey the  
10      order of the court, or to a failure on the defendant's  
11      part to make a good faith effort to obtain the funds  
12      required for the payment, the court shall find that  
13      the defendant's default was contumacious and may order  
14      the defendant committed until the fee, fine,  
15      restitution, or a specified part thereof is paid~~[.];~~  
16      provided that for a defendant in district court, if  
17      the fees, fines, and restitution are not paid in full,  
18      the court shall order further proof of compliance  
19      hearings every six months or less until the court is  
20      satisfied that the defendant will appear and remain in  
21      compliance; or



1        (b) If the defendant was ordered to pay fines, fees, or  
2        both, but no restitution, the district court shall  
3        refer the outstanding fines or fees to the collection  
4        agency contracted pursuant to section 601-17.5. A  
5        proof of compliance hearing shall not be required in  
6        cases where no restitution was ordered.

7        (2) When a fee, fine, or restitution is imposed on a  
8        corporation or unincorporated association, it ~~[is]~~ shall be the  
9        duty of the person or persons authorized to make disbursement  
10       from the assets of the corporation or association to pay it from  
11       those assets, and their failure to do so may be held  
12       contumacious unless they make the showing required in  
13       subsection (1).

14       (3) The term of imprisonment for nonpayment of fee, fine,  
15       or restitution shall be specified in the order of commitment,  
16       and shall not exceed one day for each \$250 of the fee or fine,  
17       thirty days if the fee or fine was imposed upon conviction of a  
18       violation or a petty misdemeanor, or one year in any other case,  
19       whichever is the shorter period. A person committed for  
20       nonpayment of a fee or fine shall be given credit toward payment



1 of the fee or fine for each day of imprisonment, at the rate of  
2 \$250 per day.

3 (4) If it appears that the defendant's default in the  
4 payment of a fee, fine, or restitution is not contumacious, the  
5 court may make an order allowing the defendant additional time  
6 for payment, reducing the amount of each installment, or  
7 revoking the fee, fine, or the unpaid portion thereof in whole  
8 or in part, or converting the unpaid portion of the fee or fine  
9 to community service. A defendant shall not be discharged from  
10 an order to pay restitution until the full amount of the  
11 restitution has actually been collected or accounted for.

12 (5) Unless discharged by payment or, in the case of a fee  
13 or fine, service of imprisonment pursuant to subsection (3), an  
14 order to pay a fee, fine, or restitution, whether as an  
15 independent order, as a part of a judgment and sentence, or as a  
16 condition of probation or deferred plea pursuant to chapter 853,  
17 may be collected in the same manner as a judgment in a civil  
18 action. The State or the victim named in the order may collect  
19 the restitution, including costs, interest, and attorney's fees,  
20 pursuant to section 706-646. The State may collect the fee or



1 fine, including costs, interest, and attorney's fees, pursuant  
2 to section 706-647.

3 (6) Attorney's fees, costs, and interest shall not be  
4 deemed part of the penalty, and no person shall be imprisoned  
5 under this section in default of payment of attorney's fees,  
6 costs, and interest.

7 (7) For purposes of this section, "default" means failure  
8 to pay a fee, fine, or restitution within a period of time  
9 specified by the court pursuant to section 706-642, or failure  
10 to pay three consecutive installments of a fee, fine, or  
11 restitution, whichever occurs first."

12 SECTION 4. Section 806-73, Hawaii Revised Statutes, is  
13 amended by amending subsection (b) to read as follows:

14 "(b) All adult probation records shall be confidential and  
15 shall not be deemed to be public records. As used in this  
16 section, ~~[the term]~~ "records" includes but is not limited to all  
17 records made by any adult probation officer in the course of  
18 performing the probation officer's official duties. The  
19 records, or the content of the records, shall be divulged only  
20 as follows:



1 (1) A copy of any adult probation case record or of a  
2 portion of it, or the case record itself, upon  
3 request, may be provided to:

4 (A) An adult probation officer, a court officer, a  
5 social worker of a Hawaii state adult probation  
6 unit, or a family court officer who is preparing  
7 a report for the courts; or

8 (B) A state or federal criminal justice agency, or  
9 state or federal court program that~~[+]~~ is:

10 (i) ~~[Is providing]~~ Providing supervision of a  
11 defendant or offender convicted and  
12 sentenced by the courts of Hawaii; or

13 (ii) ~~[Is responsible]~~ Responsible for the  
14 preparation of a report for a court;

15 (2) The residence address, work address, home telephone  
16 number, or work telephone number of a current or  
17 former defendant shall be provided only to:

18 (A) A law enforcement officer as defined in section  
19 710-1000 to locate the probationer for the  
20 purpose of serving a summons or bench warrant in





1 a civil, criminal, or deportation hearing, or for  
2 the purpose of a criminal investigation; or

3 (B) A collection agency or licensed attorney  
4 contracted by the judiciary to collect any  
5 delinquent court-ordered [~~penalties,~~] fees,  
6 fines, [~~restitution,~~] sanctions, and court costs  
7 pursuant to section 601-17.5;

8 (3) A copy of a presentence report or investigative report  
9 shall be provided only to:

10 (A) The persons or entities named in section 706-604;

11 (B) The Hawaii paroling authority;

12 (C) Any psychiatrist, psychologist, or other  
13 treatment practitioner who is treating the  
14 defendant pursuant to a court order or parole  
15 order for that treatment;

16 (D) The intake service centers;

17 (E) In accordance with applicable law, persons or  
18 entities doing research; and

19 (F) Any Hawaii state adult probation officer or adult  
20 probation officer of another state or federal  
21 jurisdiction who[+] is engaged in the:



- 1                   (i) ~~[Is engaged in the supervision]~~ Supervision  
2                   of a defendant or offender convicted and  
3                   sentenced in the courts of Hawaii; or  
4                   (ii) ~~[Is engaged in the preparation]~~ Preparation  
5                   of a report for a court regarding a  
6                   defendant or offender convicted and  
7                   sentenced in the courts of Hawaii;  
8       (4) Access to adult probation records by a victim, as  
9       defined in section 706-646 to enforce an order filed  
10      pursuant to section 706-647, shall be limited to the:  
11      (A) Name and contact information of the defendant's  
12      adult probation officer;  
13      (B) Compliance record of the defendant with  
14      court-ordered payments;  
15      (C) Amounts paid by the defendant;  
16      (D) Dates of the payments made by the defendant;  
17      (E) Payee of payments made by the defendant; and  
18      (F) Remaining unpaid balance,  
19      without the assessment of a filing fee or surcharge;  
20      (5) Upon written request, the victim, or the parent or  
21      guardian of a minor victim or incapacitated victim, of



1 a defendant who has been placed on probation for an  
2 offense under section 580-10(d)(1), 586-4(e),  
3 586-11(a), or 709-906 may be notified by the  
4 defendant's probation officer when the probation  
5 officer has any information relating to the safety and  
6 welfare of the victim;

7 (6) Notwithstanding paragraph (3) and upon notice to the  
8 defendant, records and information relating to the  
9 defendant's risk assessment and need for treatment  
10 services; information related to the defendant's past  
11 treatment and assessments, with the prior written  
12 consent of the defendant for information from a  
13 treatment service provider; provided that ~~[for]~~ any  
14 substance abuse records ~~[such]~~ release shall be  
15 subject to title 42 Code of Federal Regulations part  
16 2, relating to the confidentiality of alcohol and drug  
17 abuse patient records; and information that has  
18 therapeutic or rehabilitative benefit, may be provided  
19 to:

20 (A) A case management, assessment, or treatment  
21 service provider assigned by adult probation to



1 service the defendant; provided that [~~such~~] the  
2 information shall be given only upon the  
3 acceptance or admittance of the defendant into a  
4 treatment program;

5 (B) Correctional case manager, correctional unit  
6 manager, and parole officers involved with the  
7 defendant's treatment or supervision; and

8 (C) In accordance with applicable law, persons or  
9 entities doing research;

10 (7) Probation drug test results may be released with prior  
11 written consent of a defendant to the defendant's  
12 treating physician when test results indicate  
13 substance use [~~which~~] that may be compromising the  
14 defendant's medical care or treatment;

15 (8) Records obtained pursuant to section 704-404(9) may be  
16 made available as provided in that section;

17 (9) Any person, agency, or entity receiving records, or  
18 contents of records, pursuant to this subsection shall  
19 be subject to the same restrictions on disclosure of  
20 the records as Hawaii state adult probation offices;  
21 and



1 (10) Any person who uses the information covered by this  
2 subsection for purposes inconsistent with the intent  
3 of this subsection or outside of the scope of the  
4 person's official duties shall be fined no more than  
5 \$500."

6 SECTION 5. There is appropriated out of the general  
7 revenues of the State of Hawaii the sum of \$ or so  
8 much thereof as may be necessary for fiscal year 2025-2026 and  
9 the same sum or so much thereof as may be necessary for fiscal  
10 year 2026-2027 for the purposes of this Act, including the  
11 hiring of necessary staff.

12 The sums appropriated shall be expended by the judiciary  
13 for the purposes of this Act.

14 SECTION 6. This Act does not affect rights and duties that  
15 matured, penalties that were incurred, and proceedings that were  
16 begun before its effective date.

17 SECTION 7. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 8. This Act shall take effect on July 1, 3000.



**Report Title:**

Penal Code; Fees, Fines, and Restitution; Collections;  
Consequences of Nonpayment; Appropriations

**Description:**

Requires the Judiciary to contract with a collection agency or licensed attorney to collect delinquent court-ordered fees, fines, sanctions, and court costs. Repeals the authority of the Judiciary to contract with a collection agency or licensed attorney to collect delinquent restitution. Expressly allows courts to specify a period of time or installments for payment of fees and restitution. Requires district courts to hold payment compliance hearings once per year or as soon as practicable, until all fees, fines, and restitution are fully paid, and requires a defendant in district court to appear and show cause if the defendant fails to pay in full within a time specified by the court or fails to pay three consecutive installments. Makes conforming amendments to related statutes. Appropriates funds. Effective 7/1/3000. (HD2)

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

