



GOV. MSG. NO. 1313

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

July 6, 2021

The Honorable Ronald D. Kouchi,
President
and Members of the Senate
Thirty First State Legislature
State Capitol, Room 409
Honolulu, Hawai'i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty First State Legislature
State Capitol, Room 431
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on July 6, 2021, the following bill was signed into law:

SB0540 SD1 HD2

RELATING TO EMERGENCY RULES.
ACT 185 (21)

Sincerely,

DAVID Y. IGE
Governor, State of Hawai'i

on _____

THE SENATE
THIRTY-FIRST LEGISLATURE, 2021
STATE OF HAWAII

ACT 185

S.B. NO. 540
S.D. 1
H.D. 2

A BILL FOR AN ACT

RELATING TO EMERGENCY RULES.

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

1 SECTION 1. The legislature finds that the coronavirus
2 disease 2019 (COVID-19) pandemic has created great challenges to
3 global health, the economy, and way of life. The governor and
4 county mayors have had to exercise their emergency powers under
5 chapter 127A, Hawaii Revised Statutes, to impose rules aimed to
6 control the spread of COVID-19. The enforcement of these rules
7 is critical to efforts to limit the spread of COVID-19, protect
8 the health and safety of the community, manage medical
9 resources, and restart the economy. To allow for more
10 meaningful and effective enforcement of emergency orders, the
11 governor and mayors need flexibility to adopt a range of lesser
12 penalties for emergency rules.

13 Accordingly, the purpose of this Act is to:

- 14 (1) Allow for lesser emergency period penalties to be
15 adopted by the governor or a mayor;



- 1 (2) Amend the State's existing traffic infraction laws to
- 2 incorporate emergency period infractions so that they
- 3 are adjudicated in the same manner;
- 4 (3) Allow electronic copies of notices of infractions,
- 5 infraction adjudication hearings, and notices of
- 6 infraction judgments to be sent via electronic mail;
- 7 and
- 8 (4) Grant the district court concurrent jurisdiction over
- 9 emergency period rule infractions committed by minors.

10 SECTION 2. Section 127A-29, Hawaii Revised Statutes, is
 11 amended to read as follows:

12 "~~[§]127A-29[§]—Misdemeanors-~~ Emergency period
 13 infractions, violations, petty misdemeanors, and misdemeanors.

14 (a) Any person violating any rule of the governor or mayor
 15 prescribed and [~~promulgated~~] adopted pursuant to this chapter
 16 and having the force and effect of law[7] shall, if it shall be
 17 so stated and designated in the rule, be guilty of a violation,
 18 petty misdemeanor, or misdemeanor. [~~Upon~~] The governor or mayor
 19 may state and designate the penalty applicable to the offense;
 20 provided that if a penalty is not stated and designated, the
 21 person shall be sentenced in accordance with chapter 706. If



1 the offense and penalty are not stated and designated in the
2 rule, the person shall be guilty of a misdemeanor and upon
3 conviction, the person shall be fined [~~not~~] no more than
4 [~~\$5,000, or~~] \$2,000, imprisoned [~~not~~] no more than one year, or
5 both.

6 In lieu of a violation, petty misdemeanor, or misdemeanor,
7 the governor or mayor may state and designate the noncompliance
8 of a rule as an emergency period infraction, as defined in
9 section 291D-2. Any emergency period infraction so stated and
10 designated in the rule shall be adjudicated pursuant to
11 chapter 291D. A person guilty of an emergency period infraction
12 shall be fined \$200 for each occurrence; provided that the
13 governor or mayor may state and designate in the rule a fine of
14 a different amount.

15 (b) [~~Any~~] Notwithstanding subsection (a), any person who
16 intentionally, knowingly, or recklessly destroys, damages, or
17 loses any shelter, protective device, or warning or signal
18 device, shall if the same was installed or constructed by the
19 United States, the State, or a county, or is the property of the
20 United States, the State, or a county, be fined the cost of
21 replacement, [~~or~~] imprisoned [~~not~~] no more than one year, or



1 both. The governor or mayor[7] may, by rule, make further
2 provisions for the protection from misuse of shelters,
3 protective devices, or warning and signal devices."

4 SECTION 3. Chapter 291D, Hawaii Revised Statutes, is
5 amended by amending the title to read as follows:

6 "[+]CHAPTER 291D[+]

7 **ADJUDICATION OF [TRAFFIC] INFRACTIONS"**

8 SECTION 4. Section 291D-1, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[+]§291D-1[+] **Purpose.** (a) Act 222, Session Laws of
11 Hawaii 1978, began the process of decriminalizing certain
12 traffic offenses, not of a serious nature, to the status of
13 violations. In response to a request by the legislature, the
14 judiciary prepared a report in 1987 that recommended, among
15 other things, further decriminalization of traffic offenses,
16 elimination of most traffic arraignments, disposition of
17 uncontested violations by mail, and informal hearings where the
18 violation or the proposed penalty is questioned. The
19 legislature finds that further decriminalization of certain
20 traffic offenses and streamlining of the handling of those
21 traffic cases will achieve a more expeditious system for the



1 judicial processing of traffic infractions. The system of
2 processing traffic infractions established by this chapter will:

- 3 (1) Eliminate the long and tedious arraignment proceeding
4 for a majority of traffic matters;
- 5 (2) Facilitate and encourage the resolution of many
6 traffic infractions through the payment of a monetary
7 assessment;
- 8 (3) Speed the disposition of contested cases through a
9 hearing, similar to small claims proceedings, in which
10 the rules of evidence will not apply and the court
11 will consider as evidence the notice of traffic
12 infraction, applicable police reports, or other
13 written statements by the police officer who issued
14 the notice, any other relevant written material, and
15 any evidence or statements by the person contesting
16 the notice of traffic infraction;
- 17 (4) Dispense in most cases with the need for witnesses,
18 including law enforcement officers, to be present and
19 for the participation of the prosecuting attorney;



1 (5) Allow judicial, prosecutorial, and law enforcement
2 resources to be used more efficiently and effectively;
3 and

4 (6) Save the taxpayers money and reduce their frustration
5 with the judicial system by simplifying the traffic
6 court process.

7 The legislature further finds that this chapter will not require
8 expansion of the current traffic division of the district
9 courts, but will achieve greater efficiency through more
10 effective use of existing resources of the district courts.

11 (b) The legislature finds that the pandemic related to the
12 coronavirus disease 2019 necessitated the imposition of
13 emergency period rules in an attempt to control the spread of
14 the disease in the State. The thousands of violations of the
15 emergency period rules caused an examination of the ability to
16 impose infractions for lesser offenses as an alternative to
17 using the Penal Code and to allow for more efficient use of the
18 judicial system. The system of processing traffic infractions
19 under this chapter was enacted in 1993 and has provided a useful
20 mechanism for handling offenses deemed as infractions and is
21 well-suited to certain types of violations of emergency period



1 rules that are designated infractions by the governor or mayor
2 under the state's emergency management laws."

3 . SECTION 5. Section 291D-2, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By adding one new definition to be appropriately
6 inserted and to read:

7 "Emergency period infraction" means all occurrences of
8 noncompliance with rules adopted by the governor or a mayor
9 pursuant to chapter 127A, which are stated and designated in the
10 rule as being an emergency period infraction."

11 2. By amending the definitions of "concurrent trial" and
12 "hearing" to read:

13 "Concurrent trial" means a trial proceeding held in the
14 district or family court in which the defendant is tried
15 simultaneously in a civil case for any charged traffic
16 infraction or emergency period infraction and in a criminal case
17 for any related criminal offense, with trials to be held in one
18 court on the same date and at the same time.

19 "Hearing" means a proceeding conducted by the district
20 court pursuant to section 291D-8 at which the person to whom a
21 notice of traffic infraction or notice of emergency period



1 infraction was issued either admits to the [~~traffic~~] infraction,
2 contests the notice of traffic infraction[~~7~~] or notice of
3 emergency period infraction, or admits to the traffic infraction
4 or emergency period infraction but offers an explanation to
5 mitigate the monetary assessment imposed."

6 3. By amending the definition of "related criminal
7 offense" to read:

8 ""Related criminal offense" means any criminal violation or
9 crime, committed in the same course of conduct as a traffic
10 infraction[~~7~~] or emergency period infraction, for which the
11 defendant is arrested or charged."

12 SECTION 6. Section 291D-3, Hawaii Revised Statutes, is
13 amended by amending subsections (a) through (e) to read as
14 follows:

15 "(a) Notwithstanding any other provision of law to the
16 contrary, all traffic infractions[~~7~~] and emergency period
17 infractions, including [~~traffic~~] infractions committed by
18 minors, shall be adjudicated pursuant to this chapter, except as
19 provided in subsection (b). This chapter shall be applied
20 uniformly throughout the State and in all counties. No penal
21 sanction that includes imprisonment shall apply to a violation



1 of a state statute or rule, or county ordinance or rule, that
2 would constitute a traffic infraction or an emergency period
3 infraction under this chapter. No traffic infraction or
4 emergency period infraction shall be classified as a criminal
5 offense.

6 (b) Where a defendant is charged with a traffic infraction
7 or an emergency period infraction and the infraction is
8 committed in the same course of conduct as a criminal offense
9 for which the offender is arrested or charged, the traffic
10 infraction or emergency period infraction shall be adjudicated
11 pursuant to this chapter; provided that the court may schedule
12 any initial appearance, hearing, or trial on the traffic
13 infraction or emergency period infraction at the same date,
14 time, and place as the arraignment, hearing, or trial on the
15 related criminal offense.

16 Notwithstanding this subsection and subsection (c), the
17 court shall not schedule any initial appearance, hearing, or
18 trial on the traffic infraction or emergency period infraction
19 at the same date, time, and place as the arraignment, hearing,
20 or trial on the related criminal offense where the related



1 criminal offense is a felony or is a misdemeanor for which the
2 defendant has demanded a jury trial.

3 (c) If the defendant requests a trial pursuant to
4 section 291D-13, the trial shall be held in the district court
5 of the circuit in which the traffic infraction or emergency
6 period infraction was committed. If the court schedules a
7 concurrent trial pursuant to paragraph (1), the concurrent trial
8 shall be held in the appropriate district or family court of the
9 circuit in which the traffic infraction or emergency period
10 infraction was committed, whichever has jurisdiction over the
11 related criminal offense charged pursuant to the applicable
12 statute or rule of court; provided that:

13 (1) The district or family court, for the purpose of
14 trial, may schedule a civil trial on the traffic
15 infraction or emergency period infraction on the same
16 date and at the same time as a criminal trial on the
17 related criminal offense charged. The court shall
18 enter a civil judgment as to the traffic infraction or
19 emergency period infraction and a judgment of
20 conviction or acquittal as to the related criminal
21 offense following such concurrent trial; and



1 (2) If trial on the traffic infraction or emergency period
2 infraction is held separately from and [~~prior to~~]
3 before trial on any related criminal offense, the
4 following shall be inadmissible in the prosecution or
5 trial of the related criminal offense, except as
6 expressly provided by the Hawaii rules of evidence:

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

10 (B) Any testimony given by the defendant in the trial
11 on the traffic infraction[~~-~~] or emergency period
12 infraction.

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

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



1 (e) If the defendant fails to appear at any scheduled
2 court date [~~prior to~~] before the date of trial or concurrent
3 trial and:

4 (1) The defendant's civil liability for the traffic
5 infraction or emergency period infraction has not yet
6 been adjudicated pursuant to section 291D-8, the court
7 shall enter a judgment by default in favor of the
8 State for the traffic infraction or emergency period
9 infraction unless the court determines that good cause
10 or excusable neglect exists for the defendant's
11 failure to appear; or

12 (2) The defendant's civil liability for the traffic
13 infraction or emergency period infraction has been
14 adjudicated previously pursuant to section 291D-8, the
15 judgment earlier entered in favor of the State shall
16 stand unless the court determines that good cause or
17 excusable neglect exists for the defendant's failure
18 to appear."

19 SECTION 7. Section 291D-4, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "~~{}~~§291D-4~~{}~~ **Venue and jurisdiction.** (a) All
2 violations of state law, ordinances, or rules designated as
3 traffic infractions or emergency period infractions in this
4 chapter shall be adjudicated in the district and circuit where
5 the alleged infraction occurred, except as otherwise provided by
6 law.

7 (b) Except as otherwise provided by law, jurisdiction is
8 in the district court of the circuit where the alleged traffic
9 infraction or emergency period infraction occurred. Except as
10 otherwise provided in this chapter, district court judges shall
11 adjudicate traffic infractions~~{-}~~ and emergency period
12 infractions."

13 SECTION 8. Section 291D-5, Hawaii Revised Statutes, is
14 amended by amending its title and subsections (a) through (d) to
15 read as follows:

16 "**§291D-5 Notice of [~~traffie~~] infraction; form;**
17 **determination final unless contested.** (a) The notice of
18 traffic infraction for moving violations, and the notice of
19 emergency period infraction, shall include the summons for the
20 purposes of this chapter. Whenever a notice of traffic
21 infraction or notice of emergency period infraction is issued



1 ~~[to the driver of a motor vehicle, the driver's]~~, the person's
2 signature, driver's license number[7] or state identification
3 number, electronic mail address, and current address shall be
4 noted on the notice. If the ~~[driver]~~ person refuses to sign the
5 notice of traffic infraction[7] or notice of emergency period
6 infraction, the officer shall record this refusal on the notice
7 and issue the notice to the ~~[driver. Individuals]~~ person.
8 Anyone to whom a notice of traffic infraction or notice of
9 emergency period infraction is issued under this chapter need
10 not be arraigned before the court, unless required by rule of
11 the supreme court.

12 (b) The ~~[form]~~ forms for the notice of traffic infraction
13 and notice of emergency period infraction shall be prescribed by
14 rules of the district court, which shall be uniform throughout
15 the State; provided that each judicial circuit may include
16 differing statutory, rule, or ordinance provisions on its
17 respective notice of traffic infraction[7] or notice of
18 emergency period infraction.

19 (c) A notice of traffic infraction or notice of emergency
20 period infraction that is generated by the use of electronic



1 equipment or that bears the electronically stored image of any
2 person's signature, or both, shall be valid under this chapter.

3 (d) The notice of traffic infraction or notice of
4 emergency period infraction shall include the following:

- 5 (1) A statement of the specific [~~traffic~~] infraction for
6 which the notice was issued;
- 7 (2) Except in the case of parking-related traffic
8 infractions, a brief statement of the facts;
- 9 (3) A statement of the total amount to be paid for each
10 [~~traffic~~] infraction, which amount shall include any
11 fee, surcharge, or cost required by statute,
12 ordinance, or rule, and any monetary assessment,
13 established for the particular [~~traffic~~] infraction
14 pursuant to section 291D-9, to be paid by the [~~driver~~
15 ~~or registered owner of the vehicle,~~] person to whom
16 the notice was issued, which shall be uniform
17 throughout the State;
- 18 (4) A statement of the options provided in
19 section 291D-6(b) for answering the notice and the
20 procedures necessary to exercise the options;



- 1 (5) A statement that the person to whom the notice is
2 issued [~~must~~] shall answer, choosing one of the
3 options specified in section 291D-6(b), within
4 twenty-one days of issuance of the notice;
- 5 (6) A statement that failure to answer the notice [~~of~~
6 ~~traffic infraction~~] within twenty-one days of issuance
7 shall result in the entry of judgment by default for
8 the State and may result in the assessment of a late
9 penalty;
- 10 (7) A statement that, at a hearing requested to contest
11 the notice [~~of traffic infraction conducted~~], pursuant
12 to section 291D-8, no officer shall be present unless
13 the [~~driver~~] person to whom the notice was issued
14 timely requests the court to have the officer present,
15 and that the standard of proof to be applied by the
16 court is whether a preponderance of the evidence
17 proves that the specified [~~traffic~~] infraction was
18 committed;
- 19 (8) A statement that, at a hearing requested for the
20 purpose of explaining mitigating circumstances
21 surrounding the commission of the infraction or in



1 consideration of a written request for mitigation, the
2 person shall be considered to have committed the
3 [~~traffie~~] infraction;

4 (9) A space in which the signature of the person to whom
5 the notice was issued may be affixed; and

6 (10) The date, time, and place at which the person to whom
7 the notice was issued [~~must~~] shall appear in court, if
8 the person is required by the notice to appear in
9 person at the hearing."

10 SECTION 9. Section 291D-6, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§291D-6 Answer required.** (a) A person who receives a
13 notice of traffic infraction or notice of emergency period
14 infraction shall answer the notice within twenty-one days of the
15 date of issuance of the notice. There shall be included with
16 the notice of traffic infraction or notice of emergency period
17 infraction a preaddressed envelope directed to the traffic and
18 emergency period violations bureau of the applicable district
19 court.

20 (b) Provided that the notice of traffic infraction or
21 notice of emergency period infraction does not require an



1 appearance in person at [f]a[+] hearing as set forth in
2 section [f]291D-5(d)(10)[+], in answering a notice of traffic
3 infraction[-] or notice of emergency period infraction, a person
4 shall have the following options:

5 (1) Admit the commission of the infraction in one of the
6 following ways:

7 (A) By mail or in person, by completing the
8 appropriate portion of the notice of traffic
9 infraction, notice of emergency period
10 infraction, or preaddressed envelope and
11 submitting it to the authority specified on the
12 notice together with payment of the total amount
13 stated on the notice of traffic infraction[-] or
14 notice of emergency period infraction. Payment
15 by mail shall be in the form of a check, money
16 order, or by an approved credit or debit card.
17 Payment in person shall be in the form of United
18 States currency, check, money order, or by an
19 approved credit or debit card; or

20 (B) Via the Internet or by telephone, by submitting
21 payment of the total amount stated on the notice



1 of traffic infraction[-] or notice of emergency
2 period infraction. Payment via the Internet or
3 by telephone shall be by an approved credit or
4 debit card;

5 (2) Deny the commission of the infraction and request a
6 hearing to contest the infraction by completing the
7 appropriate portion of the notice of traffic
8 infraction, notice of emergency period infraction, or
9 preaddressed envelope and submitting it, either by
10 mail or in person, to the authority specified on the
11 notice. In lieu of appearing in person at a hearing,
12 the person may submit a written statement of grounds
13 on which the person contests the notice of traffic
14 infraction[-] or notice of emergency period
15 infraction, which shall be considered by the court as
16 a statement given in court pursuant to
17 section 291D-8(a); or

18 (3) Admit the commission of the infraction and request a
19 hearing to explain circumstances mitigating the
20 infraction by completing the appropriate portion of
21 the notice of traffic infraction, notice of emergency



1 period infraction, or preaddressed envelope and
2 submitting it, either by mail or in person, to the
3 authority specified on the notice. In lieu of
4 appearing in person at a hearing, the person may
5 submit a written explanation of the mitigating
6 circumstances, which shall be considered by the court
7 as a statement given in court pursuant to
8 section 291D-8(b).

9 (c) When answering the notice of traffic infraction[~~7~~] or
10 notice of emergency period infraction, the person shall affix
11 the person's signature to the answer and shall state the address
12 at which the person will accept future mailings from the court.
13 No other response shall constitute an answer for purposes of
14 this chapter."

15 SECTION 10. Section 291D-7, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§291D-7 Court action after answer or failure to answer.**

18 (a) When an admitting answer is received, the court shall enter
19 judgment in favor of the State in the total amount specified in
20 the notice of traffic infraction[~~7~~] or notice of emergency
21 period infraction.



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

3 (1) In the case of a traffic infraction or emergency
4 period infraction where the person requests a hearing
5 at which the person will appear in person to contest
6 the infraction, the court shall notify the person in
7 writing of the date, time, and place of hearing to
8 contest the notice of traffic infraction[+] or notice
9 of emergency period infraction. The notice of hearing
10 shall be mailed to the address stated in the denying
11 answer, or if none is given, to the address stated on
12 the notice of traffic infraction[+] or notice of
13 emergency period infraction. An electronic copy of
14 the notice of hearing may be sent to the electronic
15 mail address stated on the notice of infraction. The
16 notification also shall advise the person that, if the
17 person fails to appear at the hearing, the court shall
18 enter judgment by default in favor of the State, as of
19 the date of the scheduled hearing, that the total
20 amount specified in the default judgment [~~must~~] shall



1 be paid within thirty days of entry of default
2 judgment; and
3 (2) When a denying answer is accompanied by a written
4 statement of the grounds on which the person contests
5 the notice of traffic infraction[7] or notice of
6 emergency period infraction, the court shall proceed
7 as provided in section 291D-8(a) and shall notify the
8 person of its decision, including the total amount
9 assessed, if any, by mailing the notice of entry of
10 judgment within forty-five days of the postmarked date
11 of the answer to the address provided by the person in
12 the denying answer, or if none is given, to the
13 address given when the notice of traffic infraction or
14 notice of emergency period infraction was issued or,
15 in the case of parking violations, to the address at
16 which the vehicle is registered. An electronic copy
17 of the notice of entry of judgment may be sent to the
18 electronic mail address stated on the notice of
19 infraction. The notice of entry of judgment also
20 shall advise the person, if it is determined that the
21 infraction was committed and judgment is entered in



1 favor of the State, that the person has the right,
2 within thirty days of entry of judgment, to request a
3 trial and shall specify the procedures for doing so.
4 The notice of entry of judgment shall also notify the
5 person, if an amount is assessed by the court for
6 monetary assessments, fees, surcharges, or costs, that
7 if the person does not request a trial within the time
8 specified in this paragraph, the total amount assessed
9 shall be paid within thirty days of entry of judgment.

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

13 (1) In the case of a traffic infraction or emergency
14 period infraction where the person requests a hearing
15 at which the person will appear in person to explain
16 mitigating circumstances, the court shall notify the
17 person in writing of the date, time, and place of
18 hearing to explain mitigating circumstances. The
19 notice of hearing shall be mailed to the address
20 stated in the answer, or if none is given, to the
21 address stated on the notice of traffic infraction[=]



1 or notice of emergency period infraction. An
2 electronic copy of the notice of hearing may be sent
3 to the electronic mail address stated on the notice of
4 infraction. The notification also shall advise the
5 person that, if the person fails to appear at the
6 hearing, the court shall enter judgment by default in
7 favor of the State, as of the date of the scheduled
8 hearing, and that the total amount stated in the
9 default judgment [~~must~~] shall be paid within thirty
10 days of entry of default judgment; and

- 11 (2) If a written explanation is included with an answer
12 admitting commission of the infraction, the court
13 shall enter judgment for the State and, after
14 reviewing the explanation, determine the total amount
15 of the monetary assessments, fees, surcharges, or
16 costs to be assessed, if any. The court shall then
17 notify the person of the total amount to be paid for
18 the infraction, if any. There shall be no appeal from
19 the judgment. If the court assesses an amount for
20 monetary assessments, fees, surcharges, or costs, the
21 court shall also notify the person that the total



1 amount shall be paid within thirty days of entry of
2 judgment.

3 (d) If the person fails to answer within twenty-one days
4 of issuance of the notice of traffic infraction[7] or notice of
5 emergency period infraction, the court shall take action as
6 provided in subsection (e).

7 (e) Whenever judgment by default in favor of the State is
8 entered, the court shall mail a notice of entry of default
9 judgment to the address provided by the person when the notice
10 of traffic infraction or notice of emergency period infraction
11 was issued or, in the case of parking infractions, to the
12 address stated in the answer, if any, or the address at which
13 the vehicle is registered. An electronic copy of the notice of
14 entry of default judgment may be sent to the electronic mail
15 address stated on the notice of infraction. The notice of entry
16 of default judgment shall advise the person that the total
17 amount specified in the default judgment shall be paid within
18 thirty days of entry of default judgment and shall explain the
19 procedure for setting aside a default judgment. Judgment by
20 default for the State entered pursuant to this chapter may be
21 set aside pending final disposition of the traffic infraction or



1 emergency period infraction upon written application of the
2 person and posting of an appearance bond equal to the amount of
3 the total amount specified in the default judgment and any other
4 assessment imposed pursuant to section 291D-9. The application
5 shall show good cause or excusable neglect for the person's
6 failure to take action necessary to prevent entry of judgment by
7 default. Thereafter, the court shall determine whether good
8 cause or excusable neglect exists for the person's failure to
9 take action necessary to prevent entry of judgment by default.
10 If so, the application to set aside default judgment shall be
11 granted, the default judgment shall be set aside, and the notice
12 of traffic infraction or notice of emergency period infraction
13 shall be disposed of pursuant to this chapter. If not, the
14 application to set aside default judgment shall be denied, the
15 appearance bond shall be forfeited and applied to satisfy
16 amounts due under the default judgment, and the notice of
17 traffic infraction or notice of emergency period infraction
18 shall be finally disposed. In either case, the court shall
19 determine the existence of good cause or excusable neglect and
20 notify the person of its decision on the application in
21 writing."



1 SECTION 11. Section 291D-8, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§291D-8 Hearings. (a) In proceedings to contest a
4 notice of traffic infraction or notice of emergency period
5 infraction where the person to whom the notice was issued has
6 timely requested a hearing and appears at such hearing:

7 (1) In lieu of the personal appearance by the officer who
8 issued the notice of traffic infraction~~[7]~~ or notice
9 of emergency period infraction, the court shall
10 consider the notice of traffic infraction or notice of
11 emergency period infraction, and any other written
12 report made by the officer, if provided to the court
13 by the officer, together with any oral or written
14 statement by the person to whom the notice of
15 infraction was issued, or in the case of traffic
16 infractions involving parking or equipment, the
17 operator or registered owner of the motor vehicle;

18 (2) The court may compel by subpoena the attendance of the
19 officer who issued the notice of traffic infraction or
20 notice of emergency period infraction, and other
21 witnesses from whom it may wish to hear;



- 1 (3) The standard of proof to be applied by the court shall
2 be whether, by a preponderance of the evidence, the
3 court finds that the traffic infraction or emergency
4 period infraction was committed; and
- 5 (4) After due consideration of the evidence and arguments,
6 if any, the court shall determine whether commission
7 of the traffic infraction or emergency period
8 infraction has been established. Where the commission
9 of the traffic infraction or emergency period
10 infraction has not been established, judgment in favor
11 of the defendant, dismissing the notice of traffic
12 infraction or notice of emergency period infraction or
13 any count therein with prejudice, shall be entered in
14 the record. Where it has been established that the
15 traffic infraction or emergency period infraction was
16 committed, the court shall enter judgment in favor of
17 the State and shall assess a monetary assessment
18 pursuant to section 291D-9, together with any fees,
19 surcharges, or costs. The court also shall inform the
20 person of the right to request a trial pursuant to
21 section 291D-13. If the person requests a trial at



1 the time of the hearing, the court shall provide the
2 person with the trial date as soon as practicable.

3 (b) In proceedings to explain mitigating circumstances
4 where the person to whom the notice of traffic infraction or
5 notice of emergency period infraction was issued has timely
6 requested a hearing and appears at such hearing:

7 (1) The procedure shall be limited to the issue of
8 mitigating circumstances. A person who requests to
9 explain the circumstances shall not be permitted to
10 contest the notice of traffic infraction[+] or notice
11 of emergency period infraction;

12 (2) After the court has received the explanation, the
13 court shall enter judgment in favor of the State and
14 may assess a monetary assessment pursuant to
15 section 291D-9, together with any fees, surcharges, or
16 costs;

17 (3) The court, after receiving the explanation, may vacate
18 the admission and enter judgment in favor of the
19 defendant, dismissing the notice of traffic
20 infraction, notice of emergency period infraction, or
21 any count therein with prejudice, where the



1 explanation establishes that the infraction was not
2 committed; and

3 (4) There shall be no appeal from the judgment.

4 (c) If a person for whom a hearing has been scheduled, to
5 contest the notice of traffic infraction or notice of emergency
6 period infraction, or to explain mitigating circumstances, fails
7 to appear at the hearing, the court shall enter judgment by
8 default for the State and take action as provided in
9 section 291D-7(e)."

10 SECTION 12. Section 291D-9, Hawaii Revised Statutes, is
11 amended by amending subsections (a) through (c) to read as
12 follows:

13 "(a) A person found to have committed a traffic infraction
14 or emergency period infraction shall be assessed a monetary
15 assessment not to exceed the maximum fine specified in the
16 [~~statute~~] law or rule defining the traffic infraction[~~]~~ or
17 emergency period infraction.

18 (b) Notwithstanding section 291C-161 or any other law to
19 the contrary, the district court of each circuit shall prescribe
20 a schedule of monetary assessments for all traffic
21 infractions[~~]~~ and emergency period infractions, and any



1 additional assessments to be imposed pursuant to subsection (c).
2 The particular assessment to be entered on the notice of traffic
3 infraction or notice of emergency period infraction pursuant to
4 section 291D-5 shall correspond to the schedule prescribed by
5 the district court. Except after proceedings conducted pursuant
6 to section 291D-8 or a trial conducted pursuant to
7 section 291D-13, monetary assessments assessed pursuant to this
8 chapter shall not vary from the schedule prescribed by the
9 district court having jurisdiction over the traffic
10 infraction[~~7~~] or emergency period infraction.

11 (c) In addition to any monetary assessment imposed for a
12 traffic infraction[~~7~~] or an emergency period infraction, the
13 court may impose additional assessments for:

- 14 (1) Failure to pay a monetary assessment by the scheduled
15 date of payment; or
16 (2) The cost of service of a penal summons issued pursuant
17 to this chapter."

18 SECTION 13. Section 291D-12, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "§291D-12 Powers of the district court judge sitting in
21 the traffic and emergency period division. (a) A district



1 court judge sitting in the traffic and emergency period division
2 and hearing cases pursuant to this chapter shall have all the
3 powers of a district court judge under chapter 604, including
4 the following powers:

- 5 (1) To conduct traffic infraction and emergency period
6 infraction hearings and to impose monetary
7 assessments;
- 8 (2) To permit deferral of monetary assessment or impose
9 community service in lieu thereof;
- 10 (3) To dismiss a notice of traffic infraction[7] or notice
11 of emergency period infraction, with or without
12 prejudice, or to set aside a judgment for the State;
- 13 (4) To order temporary driver's license suspension or
14 driver's license reinstatement;
- 15 (5) To approve the issuance or renewal of a driver's
16 license or instruction permit pursuant to
17 section 286-109(c);
- 18 (6) To issue penal summonses and bench warrants and
19 initiate contempt of court proceedings in proceedings
20 conducted pursuant to section 291D-13;



1 (7) To issue penal summonses and bench warrants and
2 initiate failure to appear proceedings in proceedings
3 conducted pursuant to section 291D-5(d)(10); and

4 (8) To exercise other powers the court finds necessary and
5 appropriate to carry out the purposes of this chapter.

6 (b) A district court judge sitting in the traffic and
7 emergency period division and hearing cases pursuant to this
8 chapter shall not order the director of finance to withhold
9 issuing or renewing the driver's license, or registering,
10 renewing the registration of, or issuing the title to a motor
11 vehicle, of any person who has not paid a monetary assessment,
12 has not performed community service in lieu thereof, or has not
13 otherwise satisfied a judgment for the State entered pursuant to
14 this chapter."

15 SECTION 14. Section 291D-13, Hawaii Revised Statutes, is
16 amended by amending subsections (a) through (c) to read as
17 follows:

18 "(a) There shall be no right to trial unless the defendant
19 contests the notice of traffic infraction or notice of emergency
20 period infraction pursuant to section 291D-8. If, after
21 proceedings to contest the notice of traffic infraction[7] or



1 emergency period infraction, a determination is made that the
2 defendant committed the traffic infraction[7] or emergency
3 period infraction, judgment shall enter in favor of the State.
4 The defendant may request a trial pursuant to the Hawaii rules
5 of evidence and the rules of the district court; provided that
6 any request for trial shall be made within thirty days of entry
7 of judgment. If, after appearing in person at a hearing to
8 contest the notice of traffic infraction[7] or notice of
9 emergency period infraction, the person requests a trial at the
10 conclusion of the hearing, the court shall provide the person
11 with the trial date as soon as practicable.

12 (b) At the time of trial, the State shall be represented
13 by a prosecuting attorney of the county in which the infraction
14 occurred. The prosecuting attorney shall orally recite the
15 charged civil traffic infraction or emergency period infraction
16 in court [~~prior to~~] before commencement of the trial. Proof of
17 the defendant's commission of the traffic infraction or
18 emergency period infraction shall be by a preponderance of the
19 evidence.

20 (c) If trial on the traffic infraction or emergency period
21 infraction is held [~~prior to~~] before trial on any related



1 criminal offense, the following shall be inadmissible in the
2 subsequent prosecution or trial of the related criminal offense:

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

6 (2) Any testimony given by the defendant in the traffic
7 infraction or emergency period infraction trial.

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

11 SECTION 15. Section 291D-14, Hawaii Revised Statutes, is
12 amended by amending subsections (c) and (d) to read as follows:

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

20 (d) The prosecuting attorney shall not participate in
21 traffic infraction or emergency period infraction proceedings



1 conducted pursuant to this chapter, except proceedings pursuant
2 to section 291D-13 and proceedings in which a related criminal
3 offense is scheduled for arraignment, hearing, or concurrent
4 trial."

5 SECTION 16. Section 571-41, Hawaii Revised Statutes, is
6 amended by amending subsection (f) to read as follows:

7 "(f) The judge, or the senior judge if there is more than
8 one, may by order confer concurrent jurisdiction on a district
9 court created under chapter 604 to hear and dispose of cases of
10 violation of traffic laws [~~or~~], ordinances, or emergency period
11 rules by children, provision to the contrary in section 571-11
12 or elsewhere notwithstanding. The exercise of jurisdiction over
13 children by district courts shall, nevertheless, be considered
14 noncriminal in procedure and result in the same manner as though
15 the matter had been adjudicated and disposed of by a family
16 court."

17 SECTION 17. Sections 286-109, 286-245, 287-3, 291C-225,
18 and 431:10C-117, Hawaii Revised Statutes, are amended by
19 substituting the phrase "traffic and emergency period violations
20 bureau", or similar phrase, wherever the phrase "traffic



1 violations bureau", or similar phrase, appears, as the context
2 requires.

3 . SECTION 18. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 19. This Act shall take effect upon its approval.

APPROVED this 06 day of JUL, 2021




GOVERNOR OF THE STATE OF HAWAII

THE SENATE OF THE STATE OF HAWAI‘I

Date: April 16, 2021
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-First Legislature of the State of Hawai‘i, Regular Session of 2021.


President of the Senate


Clerk of the Senate

THE HOUSE OF REPRESENTATIVES OF THE
STATE OF HAWAII

Date: April 13, 2021
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Third Reading in the House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session of 2021.



Scott K. Saiki
Speaker
House of Representatives



Brian L. Takeshita
Chief Clerk
House of Representatives