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# A BILL FOR AN ACT

RELATING TO FIREWORKS INFRACTIONS.

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

1           SECTION 1. The legislature finds that the enforcement of  
2 the fireworks control law is wanting. The legislature further  
3 finds that enforcement is necessary to protect property from  
4 avoidable fire damage and to protect persons from fire- and  
5 explosion-related injuries, respiratory distress caused by the  
6 air pollution, and retraumatizing afflicted persons with the  
7 loud explosions.

8           The legislature further finds that alternative enforcement  
9 mechanisms should be considered to promote compliance with the  
10 fireworks control law. One alternative enforcement mechanism  
11 would be an expeditious adjudication system for fireworks  
12 infractions, similar to the system for processing traffic  
13 infractions. This system would allow the judiciary to  
14 expediently process violations of the fireworks control law,  
15 allowing the judiciary to reserve resources for the cases that  
16 require the resources.



1           The purpose of this Act is to incorporate the new fireworks  
2 citations into the existing traffic and emergency order citation  
3 system under chapter 291D, Hawaii Revised Statutes.

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

6           "**§291D-1 Purpose.** (a) Act 222, Session Laws of Hawaii  
7 1978, began the process of decriminalizing certain traffic  
8 offenses, not of a serious nature, to the status of violations.  
9 In response to a request by the legislature, the judiciary  
10 prepared a report in 1987 that recommended, among other things,  
11 further decriminalization of traffic offenses, elimination of  
12 most traffic arraignments, disposition of uncontested violations  
13 by mail, and informal hearings where the violation or the  
14 proposed penalty is questioned. The legislature finds that  
15 further decriminalization of certain traffic offenses and  
16 streamlining of the handling of those traffic cases will achieve  
17 a more expeditious system for the judicial processing of traffic  
18 infractions. The system of processing traffic infractions  
19 established by this chapter will:

20           (1) Eliminate the long and tedious arraignment proceeding  
21           for a majority of traffic matters;



- 1           (2) Facilitate and encourage the resolution of many  
2           traffic infractions through the payment of a monetary  
3           assessment;
- 4           (3) Speed the disposition of contested cases through a  
5           hearing, similar to small claims proceedings, in which  
6           the rules of evidence will not apply and the court  
7           will consider as evidence the notice of traffic  
8           infraction, applicable police reports, or other  
9           written statements by the police officer who issued  
10          the notice, any other relevant written material, and  
11          any evidence or statements by the person contesting  
12          the notice of traffic infraction;
- 13          (4) Dispense in most cases with the need for witnesses,  
14          including law enforcement officers, to be present and  
15          for the participation of the prosecuting attorney;
- 16          (5) Allow judicial, prosecutorial, and law enforcement  
17          resources to be used more efficiently and effectively;  
18          and
- 19          (6) Save the taxpayers money and reduce their frustration  
20          with the judicial system by simplifying the traffic  
21          court process.



1 The legislature further finds that this chapter will not require  
2 expansion of the current traffic division of the district  
3 courts, but will achieve greater efficiency through more  
4 effective use of existing resources of the district courts.

5 (b) The legislature finds that the pandemic related to the  
6 coronavirus disease 2019 necessitated the imposition of  
7 emergency period rules in an attempt to control the spread of  
8 the disease in the State. The thousands of violations of the  
9 emergency period rules caused an examination of the ability to  
10 impose infractions for lesser offenses as an alternative to  
11 using the Penal Code and to allow for more efficient use of the  
12 judicial system. The system of processing traffic infractions  
13 under this chapter was enacted in 1993 and has provided a useful  
14 mechanism for handling offenses deemed as infractions and is  
15 well-suited to certain types of violations of emergency period  
16 rules that are designated infractions by the governor or mayor  
17 under the state's emergency management laws.

18 (c) The legislature further finds that the illegal use of  
19 fireworks poses a serious public health and safety hazard. Due  
20 to the high number of fireworks being set off throughout the  
21 State, an expeditious adjudication system for fireworks



1 infractions, such as the system for processing traffic  
2 infractions, will allow the judiciary to expediently process  
3 violations of the fireworks control law. This system will allow  
4 the judiciary to reserve resources for cases that require more  
5 resources."

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

8 1. By adding one new definition to be appropriately  
9 inserted and to read:

10 "Fireworks infraction" means any violation of chapter 132D  
11 that is not explicitly classified as a felony or misdemeanor,  
12 any rule adopted pursuant to chapter 132D, or any county  
13 ordinance or rule enacted pursuant to chapter 132D."

14 2. By amending the definitions of "concurrent trial" and  
15 "hearing" to read:

16 "Concurrent trial" means a trial proceeding held in the  
17 district or family court in which the defendant is tried  
18 simultaneously in a civil case for any charged traffic  
19 infraction [øæ], emergency period infraction, or fireworks  
20 infraction and in a criminal case for any related criminal



1 offense, with trials to be held in one court on the same date  
2 and at the same time.

3 "Hearing" means a proceeding conducted by the district  
4 court pursuant to section 291D-8 at which the person to whom a  
5 notice of traffic infraction [øx], notice of emergency period  
6 infraction, or notice of fireworks infraction was issued either  
7 admits to the infraction, contests the notice of traffic  
8 infraction [øx], notice of emergency period infraction, or  
9 notice of fireworks infraction, or admits to the traffic  
10 infraction [øx], emergency period infraction, or fireworks  
11 infraction but offers an explanation to mitigate the monetary  
12 assessment imposed."

13 3. By amending the definition of "related criminal  
14 offense" to read:

15 ""Related criminal offense" means any criminal violation or  
16 crime, committed in the same course of conduct as a traffic  
17 infraction [øx], emergency period infraction, or fireworks  
18 infraction, for which the defendant is arrested or charged."

19 SECTION 4. Section 291D-3, Hawaii Revised Statutes, is  
20 amended by amending subsections (a) through (e) to read as  
21 follows:



1           "(a) Notwithstanding any other provision of law to the  
2 contrary, all traffic infractions [~~and~~], emergency period  
3 infractions, and fireworks infractions, including infractions  
4 committed by minors, shall be adjudicated pursuant to this  
5 chapter, except as provided in subsection (b). This chapter  
6 shall be applied uniformly throughout the State and in all  
7 counties. No penal sanction that includes imprisonment shall  
8 apply to a violation of a state statute or rule, or county  
9 ordinance or rule, that would constitute a traffic infraction  
10 [~~or~~], an emergency period infraction, or a fireworks infraction  
11 under this chapter. No traffic infraction [~~or~~], emergency  
12 period infraction, or fireworks infraction shall be classified  
13 as a criminal offense.

14           (b) Where a defendant is charged with a traffic infraction  
15 [~~or~~], an emergency period infraction, or a fireworks infraction  
16 and the infraction is committed in the same course of conduct as  
17 a criminal offense for which the offender is arrested or  
18 charged, the traffic infraction [~~or~~], emergency period  
19 infraction, or fireworks infraction shall be adjudicated  
20 pursuant to this chapter; provided that the court may schedule  
21 any initial appearance, hearing, or trial on the traffic



1 infraction [☒], emergency period infraction, or fireworks  
2 infraction at the same date, time, and place as the arraignment,  
3 hearing, or trial on the related criminal offense.

4 Notwithstanding this subsection and subsection (c), the  
5 court shall not schedule any initial appearance, hearing, or  
6 trial on the traffic infraction [☒], emergency period  
7 infraction, or fireworks infraction at the same date, time, and  
8 place as the arraignment, hearing, or trial on the related  
9 criminal offense where the related criminal offense is a felony  
10 or is a misdemeanor for which the defendant has demanded a jury  
11 trial.

12 (c) If the defendant requests a trial pursuant to section  
13 291D-13, the trial shall be held in the district court of the  
14 circuit in which the traffic infraction [☒], emergency period  
15 infraction, or fireworks infraction was committed. If the court  
16 schedules a concurrent trial pursuant to paragraph (1), the  
17 concurrent trial shall be held in the appropriate district or  
18 family court of the circuit in which the traffic infraction  
19 [☒], emergency period infraction, or fireworks infraction was  
20 committed, whichever has jurisdiction over the related criminal



1 offense charged pursuant to the applicable statute or rule of  
2 court; provided that:

- 3 (1) The district or family court, for the purpose of  
4 trial, may schedule a civil trial on the traffic  
5 infraction [~~or~~], emergency period infraction, or  
6 fireworks infraction on the same date and at the same  
7 time as a criminal trial on the related criminal  
8 offense charged. The court shall enter a civil  
9 judgment as to the traffic infraction [~~or~~], emergency  
10 period infraction, or fireworks infraction and a  
11 judgment of conviction or acquittal as to the related  
12 criminal offense following such concurrent trial; and
- 13 (2) If trial on the traffic infraction [~~or~~], emergency  
14 period infraction, or fireworks infraction is held  
15 separately from and before trial on any related  
16 criminal offense, the following shall be inadmissible  
17 in the prosecution or trial of the related criminal  
18 offense, except as expressly provided by the Hawaii  
19 rules of evidence:



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

4 (B) Any testimony given by the defendant in the trial  
5 on the traffic infraction [~~or~~], emergency period  
6 infraction[-], or fireworks infraction.

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

11 (d) In no event shall section 701-109 preclude prosecution  
12 for a related criminal offense where a traffic infraction [~~or~~],  
13 an emergency period infraction, or a fireworks infraction  
14 committed in the same course of conduct has been adjudicated  
15 pursuant to this chapter.

16 (e) If the defendant fails to appear at any scheduled  
17 court date before the date of trial or concurrent trial and:

18 (1) The defendant's civil liability for the traffic  
19 infraction [~~or~~], emergency period infraction, or  
20 fireworks infraction has not yet been adjudicated  
21 pursuant to section 291D-8, the court shall enter a



1 judgment by default in favor of the State for the  
2 traffic infraction [~~or~~], emergency period infraction,  
3 or fireworks infraction unless the court determines  
4 that good cause or excusable neglect exists for the  
5 defendant's failure to appear; or

- 6 (2) The defendant's civil liability for the traffic  
7 infraction [~~or~~], emergency period infraction, or  
8 fireworks infraction has been adjudicated previously  
9 pursuant to section 291D-8, the judgment earlier  
10 entered in favor of the State shall stand unless the  
11 court determines that good cause or excusable neglect  
12 exists for the defendant's failure to appear."

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

15 "§291D-4 Venue and jurisdiction. (a) All violations of  
16 state law, ordinances, or rules designated as traffic  
17 infractions [~~or~~], emergency period infractions, or fireworks  
18 infractions in this chapter shall be adjudicated in the district  
19 and circuit where the alleged infraction occurred, except as  
20 otherwise provided by law.



1 (b) Except as otherwise provided by law, jurisdiction is  
2 in the district court of the circuit where the alleged traffic  
3 infraction ~~[and]~~, emergency period infraction, or fireworks  
4 infraction occurred. Except as otherwise provided in this  
5 chapter, district court judges shall adjudicate traffic  
6 infractions ~~[and]~~, emergency period infractions, and  
7 fireworks infractions."

8 SECTION 6. Section 291D-5, Hawaii Revised Statutes, is  
9 amended by amending subsections (a) through (d) to read as  
10 follows:

11 "(a) The notice of traffic infraction for moving  
12 violations, ~~[and]~~ the notice of emergency period infraction, and  
13 the notice of fireworks infraction, shall include the summons  
14 for the purposes of this chapter. Whenever a notice of traffic  
15 infraction ~~[and]~~, notice of emergency period infraction, or  
16 notice of fireworks infraction is issued, the person's  
17 signature, driver's license number or state identification  
18 number, electronic mail address, and current address shall be  
19 noted on the notice. If the person refuses to sign the notice  
20 of traffic infraction ~~[and]~~, notice of emergency period  
21 infraction, or notice of fireworks infraction, the officer shall



1 record this refusal on the notice and issue the notice to the  
2 person. Anyone to whom a notice of traffic infraction [~~or~~],  
3 notice of emergency period infraction, or notice of fireworks  
4 infraction is issued under this chapter need not be arraigned  
5 before the court, unless required by rule of the supreme court.

6 (b) The forms for the notice of traffic infraction [~~and~~],  
7 notice of emergency period infraction, and notice of fireworks  
8 infraction shall be prescribed by rules of the district court,  
9 which shall be uniform throughout the State; provided that each  
10 judicial circuit may include differing statutory, rule, or  
11 ordinance provisions on its respective notice of traffic  
12 infraction [~~or~~], notice of emergency period infraction[-], or  
13 notice of fireworks infraction.

14 (c) A notice of traffic infraction [~~or~~], notice of  
15 emergency period infraction, or notice of fireworks infraction  
16 that is generated by the use of electronic equipment or that  
17 bears the electronically stored image of any person's signature,  
18 or both, shall be valid under this chapter.

19 (d) The notice of traffic infraction [~~or~~], notice of  
20 emergency period infraction, or notice of fireworks infraction  
21 shall include the following:



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



1 of judgment by default for the State and may result in  
2 the assessment of a late penalty;

3 (7) A statement that, at a hearing requested to contest  
4 the notice, pursuant to section 291D-8, no officer  
5 shall be present unless the person to whom the notice  
6 was issued timely requests the court to have the  
7 officer present, and that the standard of proof to be  
8 applied by the court is whether a preponderance of the  
9 evidence proves that the specified infraction was  
10 committed;

11 (8) A statement that, at a hearing requested for the  
12 purpose of explaining mitigating circumstances  
13 surrounding the commission of the infraction or in  
14 consideration of a written request for mitigation, the  
15 person shall be considered to have committed the  
16 infraction;

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

19 (10) The date, time, and place at which the person to whom  
20 the notice was issued shall appear in court, if the



1 person is required by the notice to appear in person  
2 at the hearing."

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

5 "**§291D-6 Answer required.** (a) A person who receives a  
6 notice of traffic infraction [~~or~~], notice of emergency period  
7 infraction, or notice of fireworks infraction shall answer the  
8 notice within twenty-one days of the date of issuance of the  
9 notice. There shall be included with the notice of traffic  
10 infraction [~~or~~], notice of emergency period infraction, or  
11 notice of fireworks infraction a preaddressed envelope directed  
12 to the traffic and emergency period violations bureau of the  
13 applicable district court.

14 (b) Provided that the notice of traffic infraction [~~or~~],  
15 notice of emergency period infraction, or notice of fireworks  
16 infraction does not require an appearance in person at a hearing  
17 as set forth in section 291D-5(d)(10), in answering a notice of  
18 traffic infraction [~~or~~], notice of emergency period infraction,  
19 or notice of fireworks infraction, a person shall have the  
20 following options:



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

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



1 telephone shall be by an approved credit or debit  
2 card;

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

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



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

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

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

16 **"§291D-7 Court action after answer or failure to answer.**

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



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



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

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

15 (1) In the case of a traffic infraction [~~or~~], emergency  
16 period infraction, or fireworks infraction where the  
17 person requests a hearing at which the person will  
18 appear in person to explain mitigating circumstances,  
19 the court shall notify the person in writing of the  
20 date, time, and place of hearing to explain mitigating  
21 circumstances. The notice of hearing shall be mailed



1 to the address stated in the answer, or if none is  
2 given, to the address stated on the notice of traffic  
3 infraction [~~or~~], notice of emergency period  
4 infraction[-], or fireworks infraction. An electronic  
5 copy of the notice of hearing may be sent to the  
6 electronic mail address stated on the notice of  
7 infraction. The notification also shall advise the  
8 person that, if the person fails to appear at the  
9 hearing, the court shall enter judgment by default in  
10 favor of the State, as of the date of the scheduled  
11 hearing, and that the total amount stated in the  
12 default judgment shall be paid within thirty days of  
13 entry of default judgment; and

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



1 the judgment. If the court assesses an amount for  
2 monetary assessments, fees, surcharges, or costs, the  
3 court shall also notify the person that the total  
4 amount shall be paid within thirty days of entry of  
5 judgment.

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

10 (e) Whenever judgment by default in favor of the State is  
11 entered, the court shall mail a notice of entry of default  
12 judgment to the address provided by the person when the notice  
13 of traffic infraction [~~or~~], notice of emergency period  
14 infraction, or notice of fireworks infraction was issued or, in  
15 the case of parking infractions, to the address stated in the  
16 answer, if any, or the address at which the vehicle is  
17 registered. An electronic copy of the notice of entry of  
18 default judgment may be sent to the electronic mail address  
19 stated on the notice of infraction. The notice of entry of  
20 default judgment shall advise the person that the total amount  
21 specified in the default judgment shall be paid within thirty



1 days of entry of default judgment and shall explain the  
2 procedure for setting aside a default judgment. Judgment by  
3 default for the State entered pursuant to this chapter may be  
4 set aside pending final disposition of the traffic infraction  
5 ~~[or]~~, emergency period infraction, or fireworks infraction upon  
6 written application of the person and posting of an appearance  
7 bond equal to the amount of the total amount specified in the  
8 default judgment and any other assessment imposed pursuant to  
9 section 291D-9. The application shall show good cause or  
10 excusable neglect for the person's failure to take action  
11 necessary to prevent entry of judgment by default. Thereafter,  
12 the court shall determine whether good cause or excusable  
13 neglect exists for the person's failure to take action necessary  
14 to prevent entry of judgment by default. If so, the application  
15 to set aside default judgment shall be granted, the default  
16 judgment shall be set aside, and the notice of traffic  
17 infraction ~~[or]~~, notice of emergency period infraction, or  
18 notice of fireworks infraction shall be disposed of pursuant to  
19 this chapter. If not, the application to set aside default  
20 judgment shall be denied, the appearance bond shall be forfeited  
21 and applied to satisfy amounts due under the default judgment,



1 and the notice of traffic infraction [~~or~~], notice of emergency  
2 period infraction, or notice of fireworks infraction shall be  
3 finally disposed. In either case, the court shall determine the  
4 existence of good cause or excusable neglect and notify the  
5 person of its decision on the application in writing."

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

8 "**§291D-8 Hearings.** (a) In proceedings to contest a  
9 notice of traffic infraction [~~or~~], notice of emergency period  
10 infraction, or notice of fireworks infraction where the person  
11 to whom the notice was issued has timely requested a hearing and  
12 appears at such hearing:

13 (1) In lieu of the personal appearance by the officer who  
14 issued the notice of traffic infraction [~~or~~], notice  
15 of emergency period infraction, or notice of fireworks  
16 infraction, the court shall consider the notice of  
17 traffic infraction [~~or~~], notice of emergency period  
18 infraction, or notice of fireworks infraction, and any  
19 other written report made by the officer, if provided  
20 to the court by the officer, together with any oral or  
21 written statement by the person to whom the notice of



1           infraction was issued, or in the case of traffic  
2           infractions involving parking or equipment, the  
3           operator or registered owner of the motor vehicle;  
4       (2) The court may compel by subpoena the attendance of the  
5           officer who issued the notice of traffic infraction  
6           ~~[e]~~, notice of emergency period infraction, or notice  
7           of fireworks infraction, and other witnesses from whom  
8           it may wish to hear;  
9       (3) The standard of proof to be applied by the court shall  
10          be whether, by a preponderance of the evidence, the  
11          court finds that the traffic infraction ~~[e]~~,  
12          emergency period infraction, or fireworks infraction  
13          was committed; and  
14       (4) After due consideration of the evidence and arguments,  
15          if any, the court shall determine whether commission  
16          of the traffic infraction ~~[e]~~, emergency period  
17          infraction, or fireworks infraction has been  
18          established. Where the commission of the traffic  
19          infraction ~~[e]~~, emergency period infraction, or  
20          fireworks infraction has not been established,  
21          judgment in favor of the defendant, dismissing the



1 notice of traffic infraction [~~or~~], notice of emergency  
 2 period infraction, or notice of fireworks infraction  
 3 or any count therein with prejudice, shall be entered  
 4 in the record. Where it has been established that the  
 5 traffic infraction [~~or~~] emergency period infraction,  
 6 or fireworks infraction was committed, the court shall  
 7 enter judgment in favor of the State and shall assess  
 8 a monetary assessment pursuant to section 291D-9,  
 9 together with any fees, surcharges, or costs. The  
 10 court also shall inform the person of the right to  
 11 request a trial pursuant to section 291D-13. If the  
 12 person requests a trial at the time of the hearing,  
 13 the court shall provide the person with the trial date  
 14 as soon as practicable.

15 (b) In proceedings to explain mitigating circumstances  
 16 where the person to whom the notice of traffic infraction [~~or~~],  
 17 notice of emergency period infraction, or notice of fireworks  
 18 infraction was issued has timely requested a hearing and appears  
 19 at such hearing:

20 (1) The procedure shall be limited to the issue of  
 21 mitigating circumstances. A person who requests to



1 explain the circumstances shall not be permitted to  
2 contest the notice of traffic infraction [~~or~~], notice  
3 of emergency period infraction[~~or~~], or notice of  
4 fireworks infraction;

5 (2) After the court has received the explanation, the  
6 court shall enter judgment in favor of the State and  
7 may assess a monetary assessment pursuant to section  
8 291D-9, together with any fees, surcharges, or costs;

9 (3) The court, after receiving the explanation, may vacate  
10 the admission and enter judgment in favor of the  
11 defendant, dismissing the notice of traffic  
12 infraction, notice of emergency period infraction,  
13 notice of firework infraction, or any count therein  
14 with prejudice, where the explanation establishes that  
15 the infraction was not committed; and

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

17 (c) If a person for whom a hearing has been scheduled, to  
18 contest the notice of traffic infraction [~~or~~], notice of  
19 emergency period infraction, or notice of fireworks infraction,  
20 or to explain mitigating circumstances, fails to appear at the



1 hearing, the court shall enter judgment by default for the State  
2 and take action as provided in section 291D-7(e)."

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

6 "(a) A person found to have committed a traffic infraction  
7 [~~or~~], emergency period infraction, or fireworks infraction shall  
8 be assessed a monetary assessment not to exceed the maximum fine  
9 specified in the law or rule defining the traffic infraction  
10 [~~or~~], emergency period infraction[-], or fireworks infraction.  
11 The court shall consider a person's financial circumstances, if  
12 disclosed, in determining the monetary assessment.

13 (b) Notwithstanding section 291C-161 or any other law to  
14 the contrary, the district court of each circuit shall prescribe  
15 a schedule of monetary assessments for all traffic infractions  
16 [~~and~~], emergency period infractions, and fireworks infractions,  
17 and any additional assessments to be imposed pursuant to  
18 subsection (c). The particular assessment to be entered on the  
19 notice of traffic infraction [~~or~~], notice of emergency period  
20 infraction, or notice of fireworks infraction pursuant to  
21 section 291D-5 shall correspond to the schedule prescribed by



1 the district court. Except after proceedings conducted pursuant  
2 to section 291D-8 or a trial conducted pursuant to section  
3 291D-13, monetary assessments assessed pursuant to this chapter  
4 shall not vary from the schedule prescribed by the district  
5 court having jurisdiction over the traffic infraction [~~or~~],  
6 emergency period infraction[-], or fireworks infraction.

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

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

15 SECTION 11. Section 291D-12, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "**§291D-12 Powers of the district court judge sitting in**  
18 **the traffic [~~and~~], emergency period, and fireworks division.**

19 (a) A district court judge sitting in the traffic [~~and~~],  
20 emergency period, and fireworks division and hearing cases



1 pursuant to this chapter shall have all the powers of a district  
2 court judge under chapter 604, including the following powers:

- 3 (1) To conduct traffic infraction [~~and~~], emergency period  
4 infraction, and fireworks infraction hearings and to  
5 impose monetary assessments;
- 6 (2) To permit deferral of monetary assessment or impose  
7 community service in lieu thereof;
- 8 (3) To dismiss a notice of traffic infraction [~~or~~], notice  
9 of emergency period infraction, or fireworks  
10 infraction, with or without prejudice, or to set aside  
11 a judgment for the State;
- 12 (4) To order temporary driver's license suspension or  
13 driver's license reinstatement;
- 14 (5) To approve the issuance or renewal of a driver's  
15 license or instruction permit pursuant to section  
16 286-109(c);
- 17 (6) To issue penal summonses and bench warrants and  
18 initiate contempt of court proceedings in proceedings  
19 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, and fireworks division and hearing cases  
8 pursuant to this chapter shall not order the director of finance  
9 to withhold issuing or renewing the driver's license, or  
10 registering, renewing the registration of, or issuing the title  
11 to a motor vehicle, of any person who has not paid a monetary  
12 assessment, has not performed community service in lieu thereof,  
13 or has not otherwise satisfied a judgment for the State entered  
14 pursuant to this chapter."

15 SECTION 12. 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  
20 emergency period infraction, or fireworks infraction pursuant to  
21 section 291D-8. If, after proceedings to contest the notice of



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

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



1 fireworks infraction shall be by a preponderance of the  
2 evidence.

3 (c) If trial on the traffic infraction [~~or~~] emergency  
4 period infraction, or fireworks infraction is held before trial  
5 on any related criminal offense, the following shall be  
6 inadmissible in the subsequent prosecution or trial of the  
7 related criminal offense:

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

11 (2) Any testimony given by the defendant in the traffic  
12 infraction [~~or~~], emergency period infraction, or  
13 fireworks infraction trial.

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

17 SECTION 13. Section 291D-14, Hawaii Revised Statutes, is  
18 amended by amending subsections (c) and (d) to read as follows:

19 "(c) Notwithstanding section 604-17, while the court is  
20 sitting in any matter pursuant to this chapter, the court shall  
21 not be required to preserve the testimony or proceedings, except



1 proceedings conducted pursuant to section 291D-13 and  
2 proceedings in which the traffic infraction [~~or~~], emergency  
3 period infraction, or fireworks infraction is heard on the same  
4 date and time as any related criminal offense.

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

11 SECTION 14. Section 132D-14, Hawaii Revised Statutes, is  
12 amended by amending its title and subsections (a) and (b) to  
13 read as follows:

14 "~~§132D-14 Penalty[-]; fireworks infractions.~~ (a) Any  
15 person:

16 (1) Importing aerial devices, display fireworks, or  
17 articles pyrotechnic without having a valid license  
18 under section 132D-7 shall be guilty of a class C  
19 felony;

20 (2) Purchasing, possessing, setting off, igniting, or  
21 discharging aerial devices, display fireworks, or



1 articles pyrotechnic without a valid permit under  
2 sections 132D-10 and 132D-16, or storing, selling, or  
3 possessing aerial devices, display fireworks, or  
4 articles pyrotechnic without a valid license under  
5 section 132D-7, or allowing an individual to possess,  
6 set off, ignite, or otherwise cause to explode any  
7 aerial device in violation of section 132D-14.5:

8 (A) If the total weight of the aerial devices,  
9 display fireworks, or articles pyrotechnic is  
10 twenty-five pounds or more, shall be guilty of a  
11 class C felony; or

12 (B) If the total weight of the aerial devices,  
13 display fireworks, or articles pyrotechnic is  
14 more than five pounds but less than twenty-five  
15 pounds, shall be guilty of a misdemeanor;

16 (3) Who transfers or sells aerial devices, display  
17 fireworks, or articles pyrotechnic to a person who  
18 does not have a valid permit under sections 132D-10  
19 and 132D-16, shall be guilty of a class C felony; and

20 (4) Who removes or extracts the pyrotechnic contents from  
21 any fireworks or articles pyrotechnic and uses the



1 contents to construct fireworks, articles pyrotechnic,  
2 or a fireworks or articles pyrotechnic related device  
3 shall be guilty of a misdemeanor.

4 (b) Except as provided in subsection (a) or as otherwise  
5 specifically provided for in this chapter, any person violating  
6 any other provision of this chapter, shall be fined [~~not more~~  
7 ~~than \$2,000 for each violation.~~] \$500, subject to the  
8 adjudication proceedings under chapter 291D. Notwithstanding  
9 any provision to the contrary in this section, any person  
10 violating section 132D-14.5 shall be fined [~~at least~~] \$500 [~~and~~  
11 ~~no more than \$2,000.~~], subject to the adjudication proceedings  
12 under chapter 291D."

13 SECTION 15. Section 571-41, Hawaii Revised Statutes, is  
14 amended by amending subsection (f) to read as follows:

15 "(f) The judge, or the senior judge if there is more than  
16 one, may by order confer concurrent jurisdiction on a district  
17 court created under chapter 604 to hear and dispose of cases of  
18 violation of traffic laws, ordinances, fireworks infractions, or  
19 emergency period rules by children, provision to the contrary in  
20 section 571-11 or elsewhere notwithstanding. The exercise of  
21 jurisdiction over children by district courts shall,



1 nevertheless, be considered noncriminal in procedure and result  
2 in the same manner as though the matter had been adjudicated and  
3 disposed of by a family court."

4 SECTION 16. Section 601-3.7, Hawaii Revised Statutes, is  
5 amended by amending subsection (a) to read as follows:

6 "(a) There is established in the state treasury a special  
7 fund to be known as the judiciary computer system special fund,  
8 which shall contain the following:

- 9 (1) Moneys collected from administrative fees pursuant to  
10 section 287-3(a);
- 11 (2) Fees prescribed by the supreme court by rule of court  
12 for electronic document certification, electronic  
13 copies of documents, and for providing bulk access to  
14 electronic court records and compilations of data; and
- 15 (3) Fees pursuant to sections 607-4(b)(10) and  
16 607-5(c)(32) [~~-~~]; and
- 17 (4) Fees pursuant to section 291D-9 for fireworks  
18 infractions. For the purposes of this paragraph,  
19 "fireworks infraction" has the same meaning as defined  
20 under section 291D-2."



1 SECTION 17. There is appropriated out of the general  
2 revenues of the State of Hawaii the sum of \$ or so  
3 much thereof as may be necessary for fiscal year 2022-2023 to  
4 update the judiciary information management system to implement  
5 the adjudications process established by this Act.

6 The sum appropriated shall be expended by the judiciary for  
7 the purposes of this Act.

8 SECTION 18. This Act does not affect rights and duties  
9 that matured, penalties that were incurred, and proceedings that  
10 were begun before its effective date.

11 SECTION 19. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 20. This Act shall take effect upon its approval;  
14 provided that section 17 shall take effect on July 1, 2022.



**Report Title:**

Fireworks; Fireworks Infractions; Adjudication; Fines;  
Judiciary; Appropriation

**Description:**

Incorporates the new fireworks citations into the existing traffic and emergency order citation system under Chapter 291D, Hawaii Revised Statutes. Appropriates funds. (SD1)

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

