

JAN 20 2023

A BILL FOR AN ACT

RELATING TO YOUTH FEES AND FINES.

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

1 PART I

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

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



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

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

15 Accordingly, the purpose of this Act is to:

16 (1) Prohibit the assessment of any fines, fees, or court
17 costs against a person who is adjudicated for an
18 offense committed during the person's minority, or
19 against the person's parent or guardian; and



1 (2) Discharge all outstanding debt obligations for fees,
2 fines, and costs assessed in related cases prior to
3 the effective date of this Act.

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

6 "**§286-136 Penalty.** (a) Except as provided in
7 [~~subsection~~] subsections (b) [~~7~~] and (e), any person who violates
8 section 286-102, 286-122, 286-130, 286-131, 286-132, 286-133, or
9 286-134 shall be fined no more than \$1,000 or imprisoned no more
10 than thirty days, or both. Any person who violates any other
11 section in this part shall be fined no more than \$1,000.

12 (b) Any person who is convicted of violating section
13 286-102, 286-122, 286-130, 286-131, 286-132, 286-133, or 286-134
14 shall be subject to a minimum fine of \$500 and a maximum fine of
15 \$1,000, or imprisoned no more than one year, or both, if the
16 person has two or more prior convictions for the same offense in
17 the preceding five-year period.

18 (c) Notwithstanding subsections (a) [~~and~~], (b), and (e), a
19 minor under the age of eighteen under the jurisdiction of the
20 family court who is subject to this section [~~shall either~~] may



1 lose the right to drive a motor vehicle until the age of
2 eighteen [~~or be subject to a fine of \$500~~].

3 (d) Any person subject to a fine under this section and
4 who fails to timely pay the fine shall be given an opportunity
5 to petition the court to demonstrate that the person's
6 nonpayment or inability to pay is not wilful; provided that if
7 the person petitions the court, the court shall make an
8 individualized assessment of the person's ability to pay based
9 upon the totality of the circumstances, including the person's
10 disposable income, financial obligations, and liquid assets;
11 provided further that if the court determines that the person's
12 nonpayment or inability to pay is not wilful, the court may
13 enter an order that allows additional time for payment; reduces
14 the amount of each installment; revokes the fee or fine, or
15 unpaid portion thereof, in whole or in part; or converts any
16 outstanding fine to community service.

17 (e) No financial penalty provided for in this section
18 shall be levied against a person who is adjudicated for an
19 offense committed during the person's minority, or against the
20 person's parent or guardian for the minor's offense."



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

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

- 8 (1) Offenses relating to stopping (when prohibited),
9 standing, or parking;
- 10 (2) Offenses relating to registration; and
- 11 (3) Offenses by pedestrians.

12 (b) [~~Driver~~] Except as provided in subsection (e),
13 education assessments of:

- 14 (1) \$100 shall be levied on persons convicted under
15 section 291E-61 or 291E-61.5 to defray costs of
16 services provided by the driver education and training
17 program;
- 18 (2) \$50 shall be levied on persons required to attend a
19 child passenger restraint system safety class under
20 section 291-11.5; and



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1 (3) \$75 shall be levied on persons convicted under section
2 291C-105 to defray costs of services provided by the
3 driver education and training program.

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

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

14 (e) No financial penalty provided for in this section
15 shall be levied against a person who is adjudicated for an
16 offense committed during the person's minority, or against the
17 person's parent or guardian for the minor's offense."

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

20 "**§291C-12 Collisions involving death or serious bodily**
21 **injury.** (a) The driver of any vehicle involved in a collision



1 resulting in serious bodily injury to or death of any person
2 shall immediately stop the vehicle at the scene of the collision
3 or as close thereto as possible but shall then forthwith return
4 to and in every event shall remain at the scene of the collision
5 until the driver has fulfilled the requirements of section
6 291C-14. Every stop shall be made without obstructing traffic
7 more than is necessary.

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

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

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

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

20 (f) No financial penalty provided for in this section
21 shall be levied against a person who is adjudicated for an



1 offense committed during the person's minority, or against the
2 person's parent or guardian for the minor's offense."

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

5 **"§291C-12.5 Collisions involving substantial bodily**
6 **injury.** (a) The driver of any vehicle involved in a collision
7 resulting in substantial bodily injury to any person shall
8 immediately stop the vehicle at the scene of the collision or as
9 close thereto as possible but shall then forthwith return to and
10 in every event shall remain at the scene of the collision until
11 the driver has fulfilled the requirements of section 291C-14.
12 Every stop shall be made without obstructing traffic more than
13 is necessary.

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

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

20 (d) [~~For~~] Except as provided in subsection (e), for any
21 violation under this section, a surcharge of up to \$250 may be



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

3 (e) No financial penalty provided for in this section
4 shall be levied against a person who is adjudicated for an
5 offense committed during the person's minority, or against the
6 person's parent or guardian for the minor's offense."

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

9 "**§291C-12.6 Collisions involving bodily injury.** (a) The
10 driver of any vehicle involved in a collision resulting in
11 bodily injury to any person shall immediately stop the vehicle
12 at the scene of the collision or as close thereto as possible
13 but shall then forthwith return to and in every event shall
14 remain at the scene of the collision until the driver has
15 fulfilled the requirements of section 291C-14. Every stop shall
16 be made without obstructing traffic more than is necessary.

17 (b) Any person who violates subsection (a) shall be guilty
18 of a misdemeanor.

19 (c) [~~For~~] Except as provided in subsection (e), for any
20 violation under this section, a surcharge of \$100 shall be



1 imposed, in addition to any other penalties, and shall be
2 deposited into the neurotrauma special fund.

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

7 (e) No financial penalty provided for in this section
8 shall be levied against a person who is adjudicated for an
9 offense committed during the person's minority, or against the
10 person's parent or guardian for the minor's offense."

11 SECTION 7. Section 291C-14, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§291C-14 Duty to give information and render aid.** (a)
14 The driver of any vehicle involved in a collision resulting in
15 injury to or death of any person or damage to any vehicle or
16 other property that is driven or attended by any person shall
17 give the driver's name, address, and the registration number of
18 the vehicle the driver is driving, and shall upon request and if
19 available exhibit the driver's license or permit to drive to any
20 person injured in the collision or to the driver or occupant of
21 or person attending any vehicle or other property damaged in the



1 collision and shall give the information and upon request
2 exhibit the license or permit to any police officer at the scene
3 of the collision or who is investigating the collision and shall
4 render to any person injured in the collision reasonable
5 assistance, including the carrying, or the making of
6 arrangements for the carrying, of the person to a physician,
7 surgeon, or hospital for medical or surgical treatment if it is
8 apparent that treatment is necessary, or if the carrying is
9 requested by the injured person; provided that if the vehicle
10 involved in the collision is a bicycle, the driver of the
11 bicycle need not exhibit a license or permit to drive.

12 (b) In the event that none of the persons specified is in
13 condition to receive the information to which they otherwise
14 would be entitled under subsection (a), and no police officer is
15 present, the driver of any vehicle involved in the collision
16 after fulfilling all other requirements of section 291C-12,
17 291C-12.5, or 291C-12.6, and subsection (a), insofar as possible
18 on the driver's part to be performed, shall forthwith report the
19 collision to the nearest police officer and submit thereto the
20 information specified in subsection (a).



1 (c) ~~[For]~~ Except as provided in subsection (d), for any
2 violation under this section, a surcharge of up to \$100 may be
3 imposed, in addition to other penalties, which shall be
4 deposited into the trauma system special fund.

5 (d) No financial penalty provided for in this section
6 shall be levied against a person who is adjudicated for an
7 offense committed during the person's minority, or against the
8 person's parent or guardian for the minor's offense."

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

11 "**§291C-15 Duty upon striking unattended vehicle or other**
12 **property.** (a) The driver of any vehicle [~~which~~] that collides
13 with or is involved in a collision with any vehicle or other
14 property that is unattended resulting in any damage to the other
15 vehicle or property shall immediately stop and shall then and
16 there either locate and notify the operator or owner of the
17 vehicle or other property of the driver's name, address, and the
18 registration number of the vehicle the driver is driving or
19 shall attach securely in a conspicuous place in or on the
20 vehicle or other property a written notice giving the driver's
21 name, address, and the registration number of the vehicle the



1 driver is driving and shall without unnecessary delay notify the
2 nearest police officer. Every stop shall be made without
3 obstructing traffic more than is necessary. [~~For~~] Except as
4 provided in subsection (b), for any violation under this
5 section, a surcharge of up to \$100 may be imposed, in addition
6 to other penalties, which shall be deposited into the trauma
7 system special fund.

8 (b) No financial penalty provided for in this section
9 shall be levied against a person who is adjudicated for an
10 offense committed during the person's minority, or against the
11 person's parent or guardian for the minor's offense."

12 SECTION 9. Section 291E-7, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§291E-7 Trauma system surcharge.** (a) [~~In~~] Except as
15 provided in subsection (d), in addition to any other civil
16 penalties ordered by the court, a person who violates any
17 offense under this part may be ordered to pay a trauma system
18 surcharge, provided that:

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



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1 (2) The maximum of which may be \$25 if the violation is an
2 offense under section 291E-61(a)(1), 291E-61(a)(3), or
3 291E-61(a)(4);

4 (3) The maximum of which may be \$50 if the violation is an
5 offense under section 291E-61(a)(2) or 291E-61.5 or if
6 the offense under section 291E-61(a)(3) or 291E-
7 61(a)(4) is a second or subsequent offense that
8 occurred within five years of the first offense.

9 (b) The surcharge shall not be ordered when the court
10 determines that the defendant is unable to pay the surcharge.

11 (c) The person shall pay the surcharge to the clerk of the
12 court. The surcharge shall be deposited with the state director
13 of finance who shall transmit the surcharge to the trauma system
14 special fund pursuant to section 321-22.5.

15 (d) The surcharge provided for in this section shall not
16 be levied against a person who is adjudicated for an offense
17 committed during the person's minority, or against the person's
18 parent or guardian for the minor's offense."

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



1 "§291E-11 Implied consent of operator of vehicle to submit
2 to testing to determine alcohol concentration and drug content.

3 (a) Any person who operates a vehicle upon a public way,
4 street, road, or highway or on or in the waters of the State
5 shall be deemed to have given consent, subject to this part, to
6 a test or tests approved by the director of health of the
7 person's breath, blood, or urine for the purpose of determining
8 alcohol concentration or drug content of the person's breath,
9 blood, or urine, as applicable.

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

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

20 (c) If there is probable cause to believe that a person is
21 in violation of section 291E-64, as a result of being under the



1 age of twenty-one and having consumed a measurable amount of
2 alcohol, or section 291E-61 or 291E-61.5, as a result of having
3 consumed alcohol, then the person shall elect to take a breath
4 or blood test, or both, for the purpose of determining the
5 alcohol concentration.

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

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



1 the purpose of determining the person's drug content. Results
2 of a blood or urine test conducted to determine drug content
3 also shall be admissible for the purpose of determining the
4 person's alcohol concentration. Submission to testing for drugs
5 under subsection (d) or this subsection shall not be a
6 substitute for alcohol tests requested under subsection (c).

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

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



1 (h) A minor under the age of eighteen or the minor's
2 parent or guardian shall not be ordered to reimburse the county
3 for the cost of any blood or urine test conducted on the minor
4 pursuant to this section for the minor's offense."

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

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



1 (b) The director shall not assess or collect any fee from
2 a respondent who is adjudicated for a violation that occurred
3 during the respondent's minority, or against the respondent's
4 parent or guardian for the minor's offense."

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

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

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

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

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

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



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

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

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

13 (B) Revocation of license to operate a vehicle for no
14 less than one year and no more than eighteen
15 months;

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

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

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



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- 1 (ii) No less than forty-eight hours and no more
- 2 than five days of imprisonment; or
- 3 (iii) A fine of no less than \$250 and no more than
- 4 \$1,000;
- 5 (E) A surcharge of \$25 to be deposited into the
- 6 neurotrauma special fund; and
- 7 (F) A surcharge, if the court so orders, of up to \$25
- 8 to be deposited into the trauma system special
- 9 fund;
- 10 (2) For an offense that occurs within ten years of a prior
- 11 conviction for an offense under this section:
- 12 (A) A substance abuse program of at least thirty-six
- 13 hours, including education and counseling, or
- 14 other comparable programs deemed appropriate by
- 15 the court;
- 16 (B) Revocation of license to operate a vehicle for no
- 17 less than two years and no more than three years;
- 18 (C) Installation during the revocation period of an
- 19 ignition interlock device on all vehicles
- 20 operated by the person;
- 21 (D) Either one of the following:



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- 1 (i) No less than two hundred forty hours of
2 community service work; or
- 3 (ii) No less than five days and no more than
4 thirty days of imprisonment, of which at
5 least forty-eight hours shall be served
6 consecutively;
- 7 (E) A fine of no less than \$1,000 and no more than
8 \$3,000, to be deposited into the state drug and
9 alcohol toxicology testing laboratory special
10 fund;
- 11 (F) A surcharge of \$25 to be deposited into the
12 neurotrauma special fund; and
- 13 (G) A surcharge of up to \$50, if the court so orders,
14 to be deposited into the trauma system special
15 fund;
- 16 (3) In addition to a sentence imposed under paragraphs (1)
17 and (2), any person eighteen years of age or older who
18 is convicted under this section and who operated a
19 vehicle with a passenger, in or on the vehicle, who
20 was younger than fifteen years of age, shall be
21 sentenced to an additional mandatory fine of \$500 and



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

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



1 period for a person sentenced under this paragraph
2 shall be no less than eighteen months;

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

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



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



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1 operated by the person for a continuous
2 period of six months; and
3 (ii) After the six-month period, the person
4 maintained the ignition interlock device on
5 all vehicles operated by the person for a
6 continuous period of three months without
7 violation; and
8 (E) Has complied with all other sentencing
9 requirements.
10 Nothing in this paragraph shall require a court to
11 grant early termination of the revocation period if
12 the court finds that continued use of the ignition
13 interlock device will further the person's
14 rehabilitation or compliance with this section;
15 (7) If the person demonstrates to the court that the
16 person:
17 (A) Does not own or have the use of a vehicle in
18 which the person can install an ignition
19 interlock device during the revocation period; or
20 (B) Is otherwise unable to drive during the
21 revocation period,



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

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

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

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



- 1 alcohol concentration lower than .02 and the
2 digital image confirms the same person provided
3 both samples;
- 4 (C) Failing to provide a rolling retest, unless an
5 acceptable test is performed within ten minutes;
- 6 (D) Violating section 291E-66; or
- 7 (E) Failing to provide a clear photo of the person
8 when the person blows into the ignition interlock
9 device.
- 10 (c) Except as provided in sections 286-118.5 and 291E-
11 61.6, the court shall not issue an ignition interlock permit to:
- 12 (1) A defendant whose license is expired, suspended, or
13 revoked as a result of action other than the instant
14 offense;
- 15 (2) A defendant who does not hold a valid license at the
16 time of the instant offense;
- 17 (3) A defendant who holds either a category 4 license
18 under section 286-102(b) or a commercial driver's
19 license under section 286-239(a), unless the ignition
20 interlock permit is restricted to a category 1, 2, or
21 3 license under section 286-102(b); or



1 (4) A defendant who holds a license that is a learner's
2 permit or instruction permit.

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

11 (e) A request made pursuant to subsection (d) shall be
12 accompanied by:

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

19 (2) A sworn statement from the defendant's employer
20 establishing that the employer will, in fact,
21 discharge the defendant if the defendant cannot drive



1 a vehicle that is not equipped with an ignition
2 interlock device and identifying the specific vehicle
3 the defendant will drive for purposes of employment
4 and the hours of the day, not to exceed twelve hours
5 per day, or the period of the specified assigned hours
6 of work, the defendant will drive the vehicle for
7 purposes of employment.

8 (f) A permit issued pursuant to subsection (d) shall
9 include restrictions allowing the defendant to drive:

- 10 (1) Only during specified hours of employment, not to
11 exceed twelve hours per day, or the period of the
12 specified assigned hours of work, and only for
13 activities solely within the scope of the employment;
- 14 (2) Only the vehicle specified; and
- 15 (3) Only if the permit is kept in the defendant's
16 possession while operating the employer's vehicle.

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

- 18 (1) Conviction under this section, section 291E-4(a), or
19 section 291E-61.5;
- 20 (2) Conviction in any other state or federal jurisdiction
21 for an offense that is comparable to operating or



1 being in physical control of a vehicle while having
2 either an unlawful alcohol concentration or an
3 unlawful drug content in the blood or urine or while
4 under the influence of an intoxicant or habitually
5 operating a vehicle under the influence of an
6 intoxicant; or

7 (3) Adjudication of a minor for a law violation that, if
8 committed by an adult, would constitute a violation of
9 this section or an offense under section 291E-4(a), or
10 section 291E-61.5,

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

17 (h) Whenever a court sentences a person pursuant to
18 subsection (b), it also shall require that the offender be
19 referred to the driver's education program for an assessment, by
20 a certified substance abuse counselor deemed appropriate by the
21 court, of the offender's substance abuse or dependence and the



1 need for appropriate treatment. The counselor shall submit a
2 report with recommendations to the court. The court shall
3 require the offender to obtain appropriate treatment if the
4 counselor's assessment establishes the offender's substance
5 abuse or dependence. ~~[All]~~ Except as provided in subsection
6 (m), all costs for assessment and treatment shall be borne by
7 the offender.

8 (i) Upon proof that the defendant has:

9 (1) Installed an ignition interlock device in any vehicle
10 the defendant operates pursuant to subsection (b); and

11 (2) Obtained motor vehicle insurance or self-insurance
12 that complies with the requirements under either
13 section 431:10C-104 or section 431:10C-105,

14 the court shall issue an ignition interlock permit that will
15 allow the defendant to drive a vehicle equipped with an ignition
16 interlock device during the revocation period.

17 (j) Notwithstanding any other law to the contrary,
18 whenever a court revokes a person's driver's license pursuant to
19 this section, the examiner of drivers shall not grant to the
20 person a new driver's license until the expiration of the period
21 of revocation determined by the court. After the period of



1 revocation is completed, the person may apply for and the
2 examiner of drivers may grant to the person a new driver's
3 license.

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

14 (l) As used in this section, the term "examiner of
15 drivers" has the same meaning as provided in section 286-2.

16 (m) For any person sentenced pursuant to this section for
17 an offense committed during the person's minority:

18 (1) The court shall not order any financial penalties,
19 surcharges, or reimbursements against the person or
20 the person's parent or guardian for the minor's
21 offense; and



1 (2) Any sentence of community service shall be limited to
2 no more than seventy-two hours and shall not interfere
3 with the person's school or work commitments."

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

6 "**§291E-61.5 Habitually operating a vehicle under the**
7 **influence of an intoxicant.** (a) A person commits the offense
8 of habitually operating a vehicle under the influence of an
9 intoxicant if:

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

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

14 (A) While under the influence of alcohol in an amount
15 sufficient to impair the person's normal mental
16 faculties or ability to care for the person and
17 guard against casualty;

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



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

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

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

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

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

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

13 (A) Mandatory revocation of license to operate a
14 vehicle for a period no less than three years but
15 no more than five years, with mandatory
16 installation of an ignition interlock device in
17 all vehicles operated by the respondent during
18 the revocation period;

19 (B) No less than ten days imprisonment, of which at
20 least forty-eight hours shall be served
21 consecutively;



- 1 (C) A fine of no less than \$2,000 but no more than
2 \$5,000, to be deposited into the state drug and
3 alcohol toxicology testing laboratory special
4 fund;
- 5 (D) Referral to a certified substance abuse counselor
6 as provided in subsection (e);
- 7 (E) A surcharge of \$25 to be deposited into the
8 neurotrauma special fund; and
- 9 (F) A surcharge of up to \$50 to be deposited into the
10 trauma system special fund if the court so
11 orders.

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

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

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



- 1 (2) A term of probation of five years, with conditions to
2 include the following:
- 3 (A) Permanent revocation of license to operate a
4 vehicle;
 - 5 (B) No less than eighteen months imprisonment;
 - 6 (C) A fine of no less than \$5,000 but no more than
7 \$25,000; and
 - 8 (D) Referral to a certified substance abuse counselor
9 as provided in subsection (e).

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

13 (e) Whenever a court sentences a person under this
14 section, it shall also require that the offender be referred to
15 the driver's education program for an assessment, by a certified
16 substance abuse counselor, of the offender's substance abuse or
17 dependence and the need for appropriate treatment. The
18 counselor shall submit a report with recommendations to the
19 court. The court shall require the offender to obtain
20 appropriate treatment if the counselor's assessment establishes
21 the offender's substance abuse or dependence. ~~[All]~~ Except as

1 provided in subsection (h), all costs for assessment and
2 treatment shall be borne by the offender.

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

11 (g) ~~Any~~ Except as provided in subsection (h), any person
12 sentenced under this section may be ordered to reimburse the
13 county for the cost of any blood or urine tests conducted
14 pursuant to section 291E-11. The court shall order the person
15 to make restitution in a lump sum, or in a series of prorated
16 installments, to the police department or other agency incurring
17 the expense of the blood or urine test.

18 (h) No financial penalty, surcharge, or cost of assessment
19 and treatment provided for in this section shall be ordered
20 against a person who commits the offense of habitually operating
21 a vehicle under the influence of an intoxicant during the



1 person's minority, or against the person's parent or guardian
2 for the minor's offense.

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

4 "Convicted one or more times for offenses of habitually
5 operating a vehicle under the influence" means that, at the time
6 of the behavior for which the person is charged under this
7 section, the person had one or more times within ten years of
8 the instant offense:

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

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

17 (3) An adjudication of a minor for a law or probation
18 violation that, if committed by an adult, would
19 constitute a violation of this section or section
20 291-4.4 as that section was in effect on December 31,
21 2001,



1 that, at the time of the instant offense, had not been expunged
2 by pardon, reversed, or set aside. All convictions that have
3 been expunged by pardon, reversed, or set aside before the
4 instant offense shall not be deemed prior convictions for the
5 purposes of proving the person's status as a habitual operator
6 of a vehicle while under the influence of an intoxicant.

7 "Convicted two or more times for offenses of operating a
8 vehicle under the influence" means that, at the time of the
9 behavior for which the person is charged under this section, the
10 person had two or more times within ten years of the instant
11 offense:

- 12 (1) A judgment on a verdict or a finding of guilty, or a
13 plea of guilty or nolo contendere, for a violation of
14 section 291E-61 or 707-702.5;
- 15 (2) A judgment on a verdict or a finding of guilty, or a
16 plea of guilty or nolo contendere, for an offense that
17 is comparable to section 291E-61 or 707-702.5; or
- 18 (3) An adjudication of a minor for a law or probation
19 violation that, if committed by an adult, would
20 constitute a violation of section 291E-61 or
21 707-702.5,



1 that, at the time of the instant offense, had not been expunged
2 by pardon, reversed, or set aside. All convictions that have
3 been expunged by pardon, reversed, or set aside before the
4 instant offense shall not be deemed prior convictions for the
5 purposes of proving that the person is a habitual operator of a
6 vehicle while under the influence of an intoxicant.

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

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

11 (1) Two or more times for offenses of operating a vehicle
12 under the influence; or

13 (2) One or more times for offenses of habitually operating
14 a vehicle under the influence."

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

17 **"§291E-64 Operating a vehicle after consuming a measurable**
18 **amount of alcohol; persons under the age of twenty-one.** (a) It
19 shall be unlawful for any person under the age of twenty-one
20 years to operate any vehicle with a measurable amount of
21 alcohol. A law enforcement officer may arrest a person under



1 this section when the officer has probable cause to believe the
2 arrested person is under the age of twenty-one and had been
3 operating a vehicle upon a public way, street, road, or highway
4 or on or in the waters of the State with a measurable amount of
5 alcohol.

6 (b) [A] Except as provided in subsection (k), a person who
7 violates this section shall be sentenced as follows:

8 (1) For a first violation or any violation not preceded
9 within a five-year period by a prior alcohol
10 enforcement contact:

11 (A) The court shall impose:

12 (i) A requirement that the person and, if the
13 person is under the age of eighteen, the
14 person's parent or guardian attend an
15 alcohol abuse education and counseling
16 program for not more than ten hours; and

17 (ii) A one hundred eighty-day prompt suspension
18 of license and privilege to operate a
19 vehicle with absolute prohibition from
20 operating a vehicle during the suspension
21 period, or in the case of a person eighteen



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1 years of age or older, the court may impose,
2 in lieu of the one hundred eighty-day prompt
3 suspension of license, a minimum thirty-day
4 prompt suspension of license with absolute
5 prohibition from operating a vehicle and,
6 for the remainder of the one hundred
7 eighty-day period, a restriction on the
8 license that allows the person to drive for
9 limited work-related purposes and to
10 participate in alcohol abuse education and
11 treatment programs; and

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

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

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

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

20 (A) The court shall impose prompt suspension of
21 license and privilege to operate a vehicle for a



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1 period of one year with absolute prohibition from
2 operating a vehicle during the suspension period;
3 and

4 (B) In addition, the court may impose any of the
5 following:

6 (i) Not more than fifty hours of community
7 service work; or

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

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

12 (A) The court shall impose revocation of license and
13 privilege to operate a vehicle for a period of
14 two years; and

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

17 (i) Not more than one hundred hours of community
18 service work; or

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



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

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

17 (e) Notwithstanding section 831-3.2 or any other law to
18 the contrary, a person convicted of a first-time violation under
19 subsection (b)(1), who had no prior alcohol enforcement
20 contacts, may apply to the court for an expungement order upon
21 attaining the age of twenty-one, or thereafter, if the person



1 has fulfilled the terms of the sentence imposed by the court and
2 has had no subsequent alcohol or drug related enforcement
3 contacts.

4 (f) Notwithstanding any other law to the contrary,
5 whenever a court revokes a person's driver's license pursuant to
6 this section, the examiner of drivers shall not grant to the
7 person an application for a new driver's license for a period to
8 be determined by the court.

9 (g) ~~Any~~ Except as provided in subsection (k), any person
10 sentenced under this section may be ordered to reimburse the
11 county for the cost of any blood tests conducted pursuant to
12 section 291E-11. The court shall order the person to make
13 restitution in a lump sum, or in a series of prorated
14 installments, to the police department or other agency incurring
15 the expense of the blood test.

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

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



1 (j) As used in this section, the terms "driver's license"
2 and "examiner of drivers" have the same meanings as provided in
3 section 286-2.

4 (k) For any person sentenced pursuant to this section for
5 a violation committed during the person's minority:

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

10 (2) Any sentence of community service shall be limited to
11 no more than seventy-two hours and shall not interfere
12 with the person's school or work commitments."

13 PART II

14 SECTION 15. Section 302A-1153, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§302A-1153 Vandalism damage to public school property.**

17 (a) Any pupil found to be responsible for an act of vandalism
18 against any public school, building, facility, or ground [~~shall~~
19 ~~make restitution in any manner, including monetary restitution~~
20 ~~by the pupil or pupil's parents, or guardian, or both.~~] may be



1 required to perform community service to repair any damage
2 caused.

3 This section shall be in addition to, and shall in no way
4 limit the provisions of any other law concerning, offenses
5 against property rights.

6 (b) No pupil, parent, or guardian shall be required to
7 make monetary restitution in any manner [~~unless the pupil and~~
8 ~~the parents or guardian have been notified and have been given~~
9 ~~an opportunity to be heard, on any report of vandalism involving~~
10 ~~the pupil, and the pupil, parent, or guardian have executed a~~
11 ~~written agreement to make restitution~~].

12 (c) The principal of the school in which the vandalism
13 occurred shall make or order an investigation of the vandalism.
14 If after the investigation, the principal has reasonable cause
15 to believe that a specific pupil is responsible for the
16 vandalism, the principal shall schedule a conference with the
17 pupil and the pupil's parents or guardian. Except for the
18 principal of the school in which the vandalism occurred, the
19 pupil and the parents or guardian, no other person shall be
20 permitted to be in the conference for any reason.



1 (d) At the conference, the principal of the school in
2 which the vandalism occurred shall present the findings of the
3 investigation [~~and the requirements of restitution~~] to the pupil
4 and parents or guardian.

5 If the pupil and the parents or guardian agree with the
6 findings of the principal and the manner in which [~~restitution~~
7 ~~is to be made,~~] the pupil is to be held accountable, the
8 principal and the pupil and parent or guardian shall execute a
9 written agreement which shall specify the manner in which
10 [~~restitution is to be made.~~] the pupil shall repair any damage
11 caused. This shall include no more than seventy-two hours of
12 community service, which shall be performed in a manner that
13 does not interfere with the pupil's school or work commitments.

14 [~~Agreements shall be made only for damages that do not~~
15 ~~exceed \$3,500.~~

16 [~~If restitution is made in this fashion, then no]~~ No
17 information about the investigation, conference, and the actions
18 taken shall be communicated to any person not directly involved
19 in the proceedings.

20 If the pupil and parent or guardian do not agree with the
21 findings made by the principal, the principal shall report the



1 findings, including all the records and documents regarding the
 2 investigation and conference, to the complex area
 3 superintendent, who shall review the findings and may refer the
 4 matter to the attorney general for any further action pursuant
 5 to section 577-3.

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

10 ~~(f)]~~ (e) Notwithstanding any provisions in this section to
 11 the contrary, the State may elect to bring any appropriate
 12 action for the recovery of all damages to school properties.
 13 Nothing in this section shall limit the right of the State to
 14 bring an action against any person to recover these damages."

PART III

16 SECTION 16. Section 351-62.6, Hawaii Revised Statutes, is
 17 amended to read as follows:

18 "**§351-62.6 Compensation fee.** (a) ~~[The]~~ Except as
 19 provided in subsection (d), the court shall impose a
 20 compensation fee upon every defendant who has been convicted or
 21 who has entered a plea under section 853-1 and who is or will be



1 able to pay the compensation fee. The amount of the
2 compensation fee shall be commensurate with the seriousness of
3 the offense as follows:

- 4 (1) Not less than \$105 nor more than \$505 for a felony;
- 5 (2) \$55 for a misdemeanor; and
- 6 (3) \$30 for a petty misdemeanor.

7 The compensation fee shall be separate from any fine that may be
8 imposed under section 706-640 and shall be in addition to any
9 other disposition under this chapter; provided that the court
10 shall waive the imposition of a compensation fee if the
11 defendant is unable to pay the compensation fee. Moneys from
12 the compensation fees shall be deposited into the crime victim
13 compensation special fund under section 351-62.5.

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

- 18 (1) The seriousness of the offense;
- 19 (2) The circumstances of the commission of the offense;
- 20 (3) The economic gain, if any, realized by the defendant;
- 21 (4) The number of victims; and



1 (5) The defendant's earning capacity, including future
2 earning capacity.

3 (c) The compensation fee shall be considered a civil
4 judgment.

5 (d) No financial penalty or compensation fee provided for
6 in this section shall be levied against a person who is
7 adjudicated for an offense committed during the person's
8 minority, or against the person's parent or guardian for that
9 person's offense."

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

12 "[+]§353G-10[+] **Drug testing or assessment fees.** (a)
13 Except as provided in [~~subsection~~] subsections (b) [~~7~~] and (e),
14 the agency responsible for monitoring a person's compliance with
15 the terms and conditions of parole or other release from a
16 correctional center or facility shall impose upon the person
17 reasonable fees to cover the cost of:

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

20 (2) Any assessment of the person required or ordered under
21 this chapter.



1 The fees shall not be less than the actual and administrative
2 costs of a drug test or assessment. The fees may be deducted
3 from any income a person has received as a result of labor
4 performed in a correctional center or facility or any type of
5 work release program.

6 (b) Upon a finding of indigence, the agency responsible
7 for monitoring a person's compliance with the terms and
8 conditions of parole or other release from a correctional center
9 or facility shall require the person to pay as much of the fee
10 as is consistent with the person's ability to pay.

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

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

19 (e) No fees provided for in this section shall be levied
20 against a person for a violation that occurred during the



1 person's minority, or against the person's parent or guardian
2 for that person's violation."

3 PART IV

4 SECTION 18. Section 571-31, Hawaii Revised Statutes, is
5 amended by amending subsection (d) to read as follows:

6 "(d) If a parent or other responsible custodian fails to
7 produce the child in court or at another designated agency as
8 required by an authorized notice, or when notified by the court,
9 a summons or warrant may be issued for the apprehension of that
10 person or the child or both. The court [~~may~~] shall not assess
11 the cost of the issuance and execution of the summons or warrant
12 against the person."

13 SECTION 19. Section 571-31.4, Hawaii Revised Statutes, is
14 amended by amending subsection (c) to read as follows:

15 "(c) Informal adjustment under this section may include,
16 among other suitable methods, programs, and procedures, the
17 following:

- 18 (1) Participation in restitution projects to obtain
19 appropriate victim satisfaction;
- 20 (2) Participation in community service projects so as to
21 establish the child's self value in the community;

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- 1 (3) Participation in community-based programs which work
2 with the child and family to maintain and strengthen
3 the family unit so that the child may be retained in
4 the child's own home;
- 5 (4) Submission to neighborhood courts or panels upon
6 procedures to be established by the court. As used in
7 this paragraph "neighborhood courts or panels" are
8 community organizations designed to settle minor
9 disputes between parties on a voluntary basis using
10 mediation or nonbinding arbitration;
- 11 (5) Participation in programs to support, counsel, or
12 provide work and recreational opportunities to help
13 prevent delinquency;
- 14 (6) Participation in educational programs or supportive
15 services designed to help delinquents and to encourage
16 other youths to remain in elementary and secondary
17 schools or in alternative learning situations;
- 18 (7) Participation in youth-initiated programs and outreach
19 programs designed to assist youth and families;
- 20 (8) Appropriate physical and medical examinations,
21 vocational and aptitude testing, examinations for



1 learning disabilities or emotional dysfunctions, and
2 suitable counseling and therapy;

3 (9) Placement with nonsecure or secure shelter facilities;

4 (10) Restitution providing for monetary payment by the
5 parents of the child; or

6 (11) Participation in a restorative justice program where
7 the child and the child's parents or guardian, and
8 other supporters of the child, may meet with the
9 victim harmed by the child's law violation and the
10 victim's supporters[-];

11 provided that any treatment or services provided under this
12 section shall be provided at no cost to the person whose
13 violation occurred during the person's minority, or to the
14 person's parent or guardian for that person's violation."

15 SECTION 20. Section 571-32, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§571-32 Detention; shelter; release; notice.** (a) If a
18 minor who is believed to come within section 571-11(1) is not
19 released as provided in section 571-31 and is not deemed
20 suitable for diversion, then the minor shall be taken without
21 unnecessary delay to the court or to the place of detention or

1 shelter designated by the court. If a minor who is believed to
2 come within section 571-11(2) is not released as provided in
3 section 571-31, and is not deemed suitable for diversion, then
4 the minor shall be taken without unnecessary delay to the court
5 or to the place of shelter designated by the court. If the
6 court determines that the minor requires care away from the
7 minor's own home but does not require secure physical
8 restriction, the minor shall be given temporary care in any
9 available nonsecure minor caring institution, foster family
10 home, or other shelter facility.

11 (b) The officer or other person who brings a minor to a
12 detention or shelter facility shall give notice to the court at
13 once, stating the legal basis therefor and the reason why the
14 minor was not released to the minor's parents. If the facility
15 to which the minor is taken is not an agency of the court, the
16 person in charge of the facility in which the minor is placed
17 shall promptly give notice to the court that the minor is in
18 that person's custody. Before acceptance of the minor for
19 detention or shelter care, a prompt inquiry shall be made by a
20 duly authorized staff member of the detention or shelter
21 facility or officer of the court. Where it is deemed in the



1 best interests of the minor, the judge, officer, staff member,
2 or director of detention services may then order the minor to be
3 released, if possible, to the care of the minor's parent,
4 guardian, legal custodian, or other responsible adult, or the
5 judge may order the minor held in the facility subject to
6 further order or placed in some other appropriate facility.

7 (c) As soon as a minor is detained, the minor's parents,
8 guardian, or legal custodian shall be informed, by personal
9 contact or by notice in writing on forms prescribed by the
10 court, that they may have a prompt hearing held by a circuit
11 judge or district family judge regarding release or detention.
12 A minor may be released on the order of the judge with or
13 without a hearing. The director of detention services may order
14 the release of the minor if an order of detention has not been
15 made.

16 (d) No minor shall be held in a detention facility for
17 juveniles or shelter longer than twenty-four hours, excluding
18 weekends and holidays, unless a petition or motion for
19 revocation of probation, or motion for revocation of protective
20 supervision has been filed, or unless the judge orders otherwise



1 after a court hearing. No ex parte motions shall be considered.

2 For the purposes of this section:

3 (1) Unless a court finds, after a hearing and in writing,
4 that it is in the interest of justice as provided for
5 in subsection (g)(2), a minor believed to come within
6 section 571-11(1), or a minor awaiting trial or
7 another legal process, who is treated as an adult for
8 purposes of prosecution in criminal court and housed
9 in a secure facility shall not:

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

11 or

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

14 (2) Detention in a jail or lockup for adults may be
15 permitted for:

16 (A) A minor accused of a non-status offense who is
17 held for a period not to exceed six hours;
18 provided that the minor is being held:

19 (i) For processing or release;

20 (ii) While awaiting transfer to a juvenile
21 facility; or



- 1 (iii) For a court appearance that occurs within
- 2 the period of detention; or
- 3 (B) A minor accused of a non-status offense who is
- 4 awaiting an initial court appearance that will
- 5 occur within forty-eight hours of the minor being
- 6 taken into custody, excluding weekends and
- 7 holidays, and where the jail or lockup for adults
- 8 is in a location:
- 9 (i) Outside a metropolitan statistical area, as
- 10 defined by the Office of Management and
- 11 Budget, and no acceptable alternative
- 12 placement is available;
- 13 (ii) Where the distance to be traveled or the
- 14 lack of highway, road, or transportation
- 15 does not allow for court appearances within
- 16 forty-eight hours, excluding weekends and
- 17 holidays, such that a brief delay of no more
- 18 than an additional forty-eight hours is
- 19 excusable; or
- 20 (iii) Where safety concerns exist, such as severe
- 21 and life-threatening weather conditions that



1 do not allow for reasonably safe travel, in
2 which case the time for an appearance may be
3 delayed until twenty-four hours after the
4 time that conditions allow for reasonably
5 safe travel;

6 provided that the minor shall not have sight or sound
7 contact with adult inmates; provided further that the
8 State shall have a policy in effect that requires
9 individuals who work with both minor and adult inmates
10 in collocated facilities to be trained and certified
11 to work with juveniles.

12 (e) No minor may be held after the filing of a petition or
13 motion, as specified in subsection (d), unless an order for
14 continued detention or shelter has been made by a judge after a
15 court hearing. If there is probable cause to believe that the
16 minor comes within section 571-11(1), the minor may be securely
17 detained, following a court hearing, in a detention facility for
18 juveniles or may be held in a shelter. If there is probable
19 cause to believe that the minor comes within section 281-101.5
20 or 571-11(2), the minor may be held, following a court hearing,
21 in a shelter but shall not be securely detained in a detention



1 facility for juveniles for longer than twenty-four hours,
2 excluding weekends and holidays, unless the minor is subject to
3 the provisions of chapter 582, Interstate Compact on Juveniles,
4 or chapter 582D, Interstate Compact for Juveniles, or is
5 allegedly in or has already been adjudicated for a violation of
6 a valid court order, as provided under the federal Juvenile
7 Justice and Delinquency Prevention Act of 1974, as amended.

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

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

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

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

16 or

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

20 (2) In determining whether it is in the interest of
21 justice to permit a minor to be held in any jail or



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- 1 lockup for adults, or to have sight or sound contact
2 with adult inmates, a court shall consider:
- 3 (A) The age of the minor;
 - 4 (B) The physical and mental maturity of the minor;
 - 5 (C) The present mental state of the minor, including
6 whether the minor presents an imminent risk of
7 self-harm;
 - 8 (D) The nature and circumstances of the alleged
9 offense;
 - 10 (E) The minor's history of prior delinquent acts;
 - 11 (F) The relative ability of the available adult and
12 juvenile detention facilities to meet the
13 specific needs of the minor and protect the
14 safety of the public as well as other detained
15 minors; and
 - 16 (G) Any other relevant factor; and
- 17 (3) If a court determines that it is in the interest of
18 justice to permit a minor to be held in any jail or
19 lockup for adults, or to have sight or sound contact
20 with adult inmates:



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1 (A) The court shall hold a hearing no less frequently
2 than once every thirty days, or in the case of a
3 rural jurisdiction, no less frequently than once
4 every forty-five days, to review whether it
5 remains in the interest of justice to permit the
6 minor to be held in a jail or lockup for adults
7 or to have sight or sound contact with adult
8 inmates; and

9 (B) The minor shall not be held in any jail or lockup
10 for adults, or permitted to have sight or sound
11 contact with adult inmates, for more than one
12 hundred eighty days, unless the court, in
13 writing, determines there is good cause for an
14 extension, or the minor expressly waives this
15 limitation.

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

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

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- 1 (A) The behavior poses an immediate and substantial
2 risk of danger to the minor's self or another
3 individual, or a serious and immediate threat to
4 the safety and orderly operation of the facility;
5 provided that any decision to hold a minor in
6 room confinement due to a mental health emergency
7 shall be made by a mental health professional and
8 based upon the mental health professional's
9 examination of the minor; or
- 10 (B) The minor is an imminent escape risk;
- 11 (2) Because of the potential impact on a minor's mental or
12 physical health, room confinement may only be used for
13 the minimum time necessary for the minor to regain
14 self-control, and only after less restrictive options
15 or techniques, including de-escalation, conflict and
16 behavioral management techniques, and intervention by
17 a mental health professional, have been attempted,
18 exhausted, and failed;
- 19 (3) If a minor is placed in room confinement, the reasons
20 for the room confinement shall be explained to the
21 minor. The minor shall also be informed that release



1 from room confinement will occur immediately when the
2 minor exhibits self-control and is no longer deemed a
3 threat to the minor's safety or the safety of others;

4 (4) If a minor is placed in room confinement, the
5 following individuals shall be notified on the next
6 business day and provided the reasons for the room
7 confinement as well as the location and duration of
8 the confinement:

- 9 (A) The senior judge of the family court;
- 10 (B) The presiding judge who ordered the minor to be
11 held at the facility;
- 12 (C) The deputy chief court administrator; and
- 13 (D) The social services manager of the juvenile
14 client services branch for the circuit court of
15 the first circuit;

16 (5) Room confinement shall not be used for purposes of
17 punishment or disciplinary sanction, coercion,
18 convenience, or retaliation, or to address staffing
19 shortages at the facility;

20 (6) A minor may be held in room confinement for no more
21 than three hours unless the minor is a danger to



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1 themselves or another, or the on-call judge grants an
2 extension of no more than three additional hours of
3 confinement. Thereafter, the minor shall be returned
4 to the general population; provided that if a minor is
5 held in room confinement for more than three hours, a
6 hearing shall be held before the family court on the
7 next business day, at which time the minor shall be
8 provided legal representation;

9 (7) A minor shall not be returned to room confinement
10 immediately after returning to the general population
11 from room confinement for the purposes of evading the
12 reporting requirements and room confinement
13 restrictions pursuant to this section;

14 (8) If the minor is not returned to the general population
15 following a hearing pursuant to paragraph (6), the
16 minor shall be transferred to a location where
17 services may be provided to the minor without the need
18 for room confinement; provided that if a mental health
19 professional determines that the level of crisis
20 service needed is not presently available at the
21 location, the superintendent or deputy superintendent



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- 1 of the facility shall initiate a referral to a
2 facility that can meet the needs of the minor;
- 3 (9) All rooms used for room confinement shall have
4 adequate and operational lighting, ventilation for the
5 comfort of the minor, and shall be clean and resistant
6 to suicide and self-harm;
- 7 (10) The minor shall have access to drinking water, toilet
8 facilities, hygiene supplies, and reading materials
9 approved by a mental health professional;
- 10 (11) The minor shall have the same access as provided to
11 minors in the general population of the facility to
12 meals, contact with parents or legal guardians, legal
13 assistance, educational programs, and medical and
14 mental health services;
- 15 (12) The minor shall be continuously monitored by facility
16 staff; and
- 17 (13) The judiciary shall post quarterly on the judiciary's
18 website a report of its detention center detailing
19 their compliance with this section. Each report shall
20 include:



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- 1 (A) The number of incidents of room confinement every
- 2 year;
- 3 (B) The number of minors impacted;
- 4 (C) The age, gender identity, and race of minors
- 5 impacted;
- 6 (D) Any alternative strategies employed before the
- 7 use of room confinement, the reasons those
- 8 alternative strategies failed, and why room
- 9 confinement was necessary; and
- 10 (E) The incidence of mental illness.

11 For the purposes of this subsection:

12 "Mental health professional" means a qualified mental
13 health professional or mental health professional supervised by
14 a qualified mental health professional.

15 "Room confinement" means the placement of a minor in a
16 room, cell, or area with minimal or no contact with persons
17 other than court staff and attorneys. "Room confinement" does
18 not include confinement of a minor in a single-person room or
19 cell for brief periods of locked room time as necessary for
20 required institutional operations and does not include
21 confinement during sleep hours.



1 (i) Provisions regarding bail shall not be applicable to
2 minors detained in accordance with this chapter, except that
3 bail may be allowed after a minor has been transferred for
4 criminal prosecution pursuant to waiver of family court
5 jurisdiction.

6 (j) The official in charge of a facility for the detention
7 of adult offenders or persons charged with crime shall inform
8 the court immediately when a minor who is or appears to be under
9 eighteen years of age is received at the facility.

10 (k) Any other provision of law to the contrary
11 notwithstanding, any person otherwise subject to proceedings
12 under chapter 832 and who is under the age of eighteen may be
13 confined in a detention facility or correctional facility by
14 order of a judge for the purposes set forth in section 832-12,
15 832-15, or 832-17.

16 (l) The department of human services through the office of
17 youth services shall certify police station cellblocks and
18 community correctional centers that provide sight and sound
19 separation between minors and adults in secure custody. Only
20 cellblocks and centers certified under this subsection shall be
21 authorized to detain juveniles pursuant to section 571-32(d).



1 The office of youth services may develop sight and sound
2 separation standards, issue certifications, monitor and inspect
3 facilities for compliance, cite facilities for violations,
4 withdraw certifications, and require certified facilities to
5 submit data and information as requested. In addition, the
6 office of youth services may monitor and inspect all cellblocks
7 and centers for compliance with section 571-32(d).

8 (m) Any costs associated with the detention of a minor
9 shall be borne by the court. The court shall not seek
10 reimbursement for costs incurred pursuant to this section from a
11 person adjudicated under sections 571-11(1), 571-11(2), 571-13,
12 571-22, or 571-41(f), or from the person's parent or guardian."

13 SECTION 21. Section 571-33, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§571-33 Detention and shelter facilities.** Provisions
16 shall be made for the temporary detention of children or minors
17 in a detention home, to be conducted as an agency of the court;
18 or the court may arrange for the care and custody of such
19 children or minors temporarily in private homes subject to the
20 supervision of the court, or may arrange with any institution or



1 agency to receive for temporary care and custody children or
2 minors within the jurisdiction of the court.

3 When a detention home is established as an agency of the
4 court, the judge may appoint a director of detention services
5 and other necessary employees for such home in the same manner
6 as is provided by law for the appointment of other employees of
7 the court.

8 A detention home established in any circuit may be used for
9 the temporary detention of children or minors ordered to be
10 detained by the court of another circuit. The use shall be
11 subject to the approval of the judge of the court of the circuit
12 in which the detention home is situated, upon such terms and
13 conditions as may be established by the judge.

14 The family court shall also provide nonsecure shelter
15 facilities separate from detention facilities. In referring
16 minors to a nonsecure shelter, the court shall consider the
17 minor's background, degree of involvement in illegal and
18 antisocial activities, current behavioral patterns, and any
19 other relevant criteria to determine placement.

20 Any costs associated with the detention, placement, or care
21 of a minor who is subject to this section shall be borne by the



1 court. The court shall not seek reimbursement for costs
2 incurred pursuant to this section from a person adjudicated
3 under sections 571-11(1), 571-11(2), 571-13, 571-22, or
4 571-41(f), or from the person's parent or guardian."

5 SECTION 22. Section 571-48, Hawaii Revised Statutes, is
6 amended to read as follows:

7 **"§571-48 Decree, if informal adjustment or diversion to a**
8 **private or community agency or program has not been effected.**

9 When a child is found by the court to come within section
10 571-11, the court shall so decree and in its decree shall make a
11 finding of the facts upon which the court exercises its
12 jurisdiction over the child. Upon the decree the court, by
13 order duly entered, shall proceed as follows:

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

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

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

17 (ii) In the custody of a suitable person or
18 facility elsewhere, upon conditions
19 determined by the court.

20 An order by the court placing a child on
21 probation under this subparagraph shall include a



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1 definite term of probation stated in months or
2 years, subject to extension or modification by
3 the court pursuant to section 571-50. When
4 conditions of probation include custody in a
5 youth correctional facility, the custody shall be
6 for a term not to exceed one year, after which
7 time the child shall be allowed to reside in the
8 community subject to additional conditions as may
9 be imposed by the court;

10 (B) The court may vest legal custody of the child,
11 after prior consultation with the agency or
12 institution:

13 (i) In a Hawaii youth correctional facility if
14 the child has been adjudicated for a
15 felony-level offense or a violation or
16 revocation of probation, or is committed to
17 the facility from juvenile drug court or
18 girls court on a court order. For a child
19 eligible for placement in a Hawaii youth
20 correctional facility, the court shall enter
21 a finding of fact in the record stating the



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1 reasons the child is a public safety risk
2 warranting placement in the correctional
3 facility. No such finding of fact shall be
4 required if the child is adjudicated for a
5 felony against a person or a sex offense;

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

7 (iii) In any private institution or agency
8 authorized by the court to care for
9 children; or

10 (iv) In a private home.

11 If legal custody of the child is vested in a
12 private agency or institution in another state,
13 the court shall select one that is approved by
14 the family or juvenile court of the other state
15 or by that state's department of social services
16 or other appropriate department;

17 (C) The court may place a child on administrative
18 monitoring, as defined in section 571-2, pending
19 completion of conditions as may be imposed by the
20 court, to preempt the need for disposition to a
21 full probation term, and to afford the child the



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1 opportunity to demonstrate behavior adjustments.
2 Upon completion of the court-ordered conditions,
3 the court shall discharge the child pursuant to
4 section 571-50. If a child fails to complete the
5 court-ordered conditions, the court may extend or
6 modify the order pursuant to section 571-50, or
7 dispose the child to probation status under
8 paragraph (1)(A); or

9 (D) ~~[The court may fine the child for]~~ For a
10 violation which would be theft in the third
11 degree by shoplifting if committed by an adult~~[-~~
12 ~~The]~~, the court may require the child to perform
13 public services [in lieu of the fine,] of not
14 more than seventy-two hours; provided that the
15 community service shall not interfere with the
16 child's school or work commitments. The court
17 shall not impose a fine on the child or the
18 child's parent or guardian;

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

20 (A) The court may place the child under protective
21 supervision, as hereinabove defined, in the



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1 child's own home, or in the custody of a suitable
2 person or agency elsewhere, upon conditions
3 determined by the court; or

4 (B) The court may vest legal custody of the child,
5 after prior consultation with the agency or
6 institution, in a local governmental agency or
7 institution licensed or approved by the State to
8 care for children, with the exception of an
9 institution authorized by the court to care for
10 children. If legal custody of the child is
11 vested in a private agency or institution in
12 another state, the court shall select one that is
13 approved by the family or juvenile court of the
14 other state or by that state's department of
15 social services or other appropriate department;
16 provided that the child may not be committed to a
17 public or private institution operated solely for
18 the treatment of law violators;

19 (3) An order vesting legal custody of a minor in an
20 individual, agency, or institution under section
21 571-11(2) shall be for an indeterminate period but



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1 shall not remain in force or effect beyond three years
2 from the date entered, except that the individual,
3 institution, or agency may file with the court a
4 petition for renewal of the order and the court may
5 renew the order if it finds such renewal necessary to
6 safeguard the welfare of the child or the public
7 interest. The court, after notice to the parties, may
8 conduct a hearing on the petition. Renewal may be
9 periodic during minority, but no order shall have any
10 force or effect beyond the period authorized by
11 section 571-13. An agency granted legal custody shall
12 be subject to prior approval of the court in any case
13 in which the child is to reside without the
14 territorial jurisdiction of the court and may be
15 subject to prior approval in other cases. An
16 individual granted legal custody shall exercise the
17 rights and responsibilities personally unless
18 otherwise authorized by the court;

- 19 (4) Whenever the court commits a child to the care of the
20 director of human services or executive director of
21 the office of youth services, or vests legal custody



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1 of a child in an institution or agency, it shall
2 transmit with the order copies of the clinical
3 reports, social study, results of the risk and needs
4 assessment conducted by the court, and other
5 information pertinent to the care and treatment of the
6 child, and the institution or agency shall give to the
7 court any information concerning the child that the
8 court may at any time require. An institution or
9 agency receiving a child under this paragraph shall
10 inform the court whenever the status of the child is
11 affected through temporary or permanent release,
12 discharge, or transfer to other custody. An
13 institution to which a child is committed under
14 section 571-11(1) or (2) shall not transfer custody of
15 the child to an institution for the correction of
16 adult offenders, except as authorized in this chapter
17 and under chapter 352;

- 18 (5) The court may order, for any child within its
19 jurisdiction, whatever care or treatment is authorized
20 by law;



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1 (6) In placing a child under the guardianship or custody
2 of an individual or of a private agency or private
3 institution, the court shall give primary
4 consideration to the welfare of the child;

5 (7) In support of any order or decree under section
6 571-11(1) or (2), the court may require the parents or
7 other persons having custody of the child, or any
8 other person who has been found by the court to be
9 encouraging, causing, or contributing to the acts or
10 conditions which bring the child within the purview of
11 this chapter and who are parties to the proceeding, to
12 do or to omit doing any acts required or forbidden by
13 law, when the judge deems this requirement necessary
14 for the welfare of the child. The court may also make
15 appropriate orders concerning the parents or other
16 persons having custody of the child and who are
17 parties to the proceeding. If such persons fail to
18 comply with the requirement or with the court order,
19 the court may proceed against them for contempt of
20 court;



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- 1 (8) In support of any order or decree for custody or
2 support, the court may make an order of protection
3 setting forth reasonable conditions of behavior to be
4 observed for a specified time, binding upon both
5 parents or either of them. This order may require
6 either parent to stay away from the home or from the
7 other parent or children, may permit the other to
8 visit the children at stated periods, or may require a
9 parent to abstain from offensive conduct against the
10 children or each other;
- 11 (9) The court may dismiss the petition or otherwise
12 terminate its jurisdiction at any time;
- 13 (10) In any other case of which the court has jurisdiction,
14 the court may make any order or judgment authorized by
15 law;
- 16 (11) The court may order any person adjudicated pursuant to
17 section 571-11(1) to make restitution of money or
18 services to any victim who suffers loss as a result of
19 the child's action, or to render community service[+]
20 of not more than seventy-two hours; provided that the



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1 community service shall not interfere with the child's
2 school or work commitments;

3 (12) The court may order any person adjudicated pursuant to
4 section 571-11(2) to participate in community
5 service[+] of not more than seventy-two hours;
6 provided that the community service shall not
7 interfere with the child's school or work commitments;
8 and

9 (13) The court may order the parents of an adjudicated
10 child to make restitution of money or services to any
11 victim, person, or party who has incurred a loss or
12 damages as a result of the child's action.

13 (14) Notwithstanding paragraph (13), the court shall not
14 impose any financial penalties or seek reimbursement
15 for costs against the adjudicated child or the child's
16 parent or guardian."

17 SECTION 23. Section 571-51, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§571-51 Support of minor committed for study or care.**

20 Whenever legal custody of a minor is given by the court to
21 someone other than the minor's parents, or when a minor is given



1 medical, psychological, or psychiatric study or treatment under
2 order of the court, and no provision is otherwise made by law
3 for the support of the minor or for payment for such treatment,
4 compensation for the study and treatment of the minor, when
5 approved by order of the court, shall~~[, if necessary,]~~ be paid
6 out of such moneys as may be appropriated for the expenses of
7 the court. ~~[After giving the parent a reasonable opportunity to
8 be heard, the court may order and decree that the parent shall
9 pay, in such manner as the court may direct, a reasonable sum
10 that will cover in whole or in part the support and treatment of
11 the minor given after the decree is entered. If the parent
12 wilfully fails or refuses to pay such sum, the court may proceed
13 against the parent as for contempt, or the order may be filed
14 and shall have the effect of a civil judgment.] The court shall
15 not order the parent or guardian of a person adjudicated under
16 sections 571-11(1), 571-11(2), 571-13, 571-22, or 571-41(f) to
17 pay for the person's support and treatment.~~

18 Compensation may be made to a nongovernmental agency,
19 provided that it shall make periodic reports to the court or to
20 an agency designated by the court concerning the care and
21 treatment the minor is receiving and the minor's response to



1 such treatment. These reports shall be made as frequently as
2 the court deems necessary and shall be made with respect to
3 every such minor at intervals not exceeding six months. The
4 agency shall also afford an opportunity for a representative of
5 the court or of an agency designated by the court to visit,
6 examine, or consult with the minor as frequently as the court
7 deems necessary."

8 SECTION 24. Section 571-83, Hawaii Revised Statutes, is
9 amended to read as follows:

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

15 (b) No witness fees shall be allowed to, any party to a
16 petition. No officer of the State or of any political
17 subdivision thereof shall be entitled to receive any fee for the
18 service of process or for attendance in court in any such
19 proceedings except as otherwise provided in this chapter. All
20 other persons acting under orders of the court may be paid for
21 service of process and attendance or service as witnesses, the



1 fees provided by law to be paid from the proper appropriation
2 when the allowances are certified to by the judge."

3 SECTION 25. Section 571-87, Hawaii Revised Statutes, is
4 amended by amending subsection (a) to read as follows:

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



1 litem in proceedings under sections 571-11(1), 571-11(2),
2 571-13, 571-22, or 571-41(f)."

3 SECTION 26. Section 577-3.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§577-3.5 Property damage, parental responsibility.** (a)

6 The parents or legal guardians of a minor child shall be jointly
7 and severally liable for graffiti damage caused by the minor to
8 real or personal property, whether publicly or privately owned.

9 As used in this section, "graffiti" means any unauthorized
10 drawing, inscription, figure, or marking created by paint, ink,
11 chalk, dye, or similar substances.

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

15 (1) Require the minor, the parents, or the legal guardians
16 to remove the graffiti from the affected property
17 within sixty days of the order [~~and pay for the cost~~
18 ~~of paint and materials; or if appropriate, pay for the~~
19 ~~actual cost of having the damaged property repaired or~~
20 ~~replaced~~]; and



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1 (2) Order the minor to perform [~~a minimum of eighty hours~~
2 ~~of community service to remove graffiti from other~~
3 ~~properties.~~] no more than seventy-two hours of
4 community service; provided that the community service
5 shall not interfere with the minor's school or work
6 commitments.

7 (c) Nothing in this section shall affect the right of any
8 person to maintain a civil action arising out of graffiti damage
9 to property."

10 SECTION 27. Section 577-21, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§577-21 Curfew ordinances, effect.** Each of the counties
13 may enact and enforce ordinances regulating the presence of
14 children in public places and on public streets and roads during
15 certain hours at night.

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



1 SECTION 28. Section 577-26, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§577-26 Alcohol or drug abuse relating to minors;**
4 **diagnosis, counseling, and related activities.** (a) A
5 counselor, certified, licensed, or otherwise authorized by law
6 to engage in the practice of counseling services in either or
7 both the public and private sector, may inform the spouse,
8 parent, custodian, or guardian of any minor who requests, is
9 referred for, or received counseling services relating to
10 alcohol or drug abuse.

11 (b) If a minor consents to receive counseling services for
12 alcohol or drug abuse, the spouse, parent, custodian, or
13 guardian of the minor shall not be liable for the legal
14 obligations resulting from the furnishing of [~~such~~] the
15 counseling services provided by the counselor. A minor who
16 consents to the provision of counseling services under this
17 section shall [~~assume financial responsibility for the costs of~~
18 ~~such services, if any.~~] not be financially responsible for the
19 costs of the services.

20 (c) [~~Notwithstanding any other law to the contrary, no~~] No
21 spouse, parent, custodian, or guardian[~~, whose consent has not~~



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1 ~~been obtained or who has no prior knowledge that the minor has~~
2 ~~consented to the provision of such counseling services for~~
3 ~~alcohol or drug abuse]~~ shall be liable for the costs [~~incurred~~
4 ~~by virtue of the minor's consent.~~] of counseling services for
5 alcohol or drug abuse.

6 [~~(d)~~ ~~Notwithstanding any other law to the contrary, any~~
7 ~~action to recover any debt founded upon any contract, obligation~~
8 ~~or liability under this section shall not commence until a minor~~
9 ~~has reached the age of majority; provided that said action shall~~
10 ~~commence within two years of date a minor reaches the age of~~
11 ~~majority.~~

12 ~~(e)]~~ (d) The consent to the provision of furnishing
13 counseling services for alcohol or drug abuse by the counselor
14 when executed by a minor who is or professes to suffer from
15 alcohol or drug abuse, shall be valid and binding as if the
16 minor had achieved the minor's majority; that is, the minor who
17 is or professes to suffer from alcohol or drug abuse, shall be
18 deemed to have, and shall have the same legal capacity, the
19 infancy of the minor and any contrary provisions of law
20 notwithstanding, and [~~such~~] the consent shall not be subject to
21 later disaffirmance by reason of such minority; and the consent



1 of no other person (including but not limited to a spouse,
2 parent, custodian, or guardian) shall be necessary in order to
3 authorize such counseling services to such a minor.

4 [~~f~~] (e) In the provision of counseling services for
5 alcohol or drug abuse, the counselor shall seek to open the
6 lines of communication between the minor and the spouse, parent,
7 custodian, or guardian; provided [~~such~~] this action is deemed
8 beneficial in achieving the desired counseling objectives."

9 SECTION 29. Section 582-6, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§582-6 Reimbursement of public funds expended.** Any
12 public funds expended for the return of a delinquent juvenile
13 shall be deemed spent for the maintenance of the delinquent
14 juvenile [~~and the parents or legal guardian of the juvenile may~~
15 ~~be ordered to reimburse the proper governmental agencies~~
16 ~~pursuant to section 571-24.~~] The compact administrator shall
17 determine the division of costs between departments in cases
18 where public funds are to be expended. The court shall not
19 order the parent or guardian of the delinquent juvenile to
20 reimburse the costs associated with the maintenance of the
21 delinquent juvenile."



1 SECTION 30. Section 577-18, Hawaii Revised Statutes, is
2 repealed.

3 [~~"§577-18 Parents allowing children in street, prohibited~~
4 ~~when; penalty.~~ Any parent or guardian having the care, custody,
5 and control of a child under sixteen years of age, who, except
6 in case of necessity, knowingly, and voluntarily suffers or
7 permits such child to go or remain on any public street, highway
8 or public place after ten o'clock in the evening and before four
9 o'clock in the morning, unaccompanied by an adult person thereto
10 authorized by such parent or guardian, shall be fined not more
11 than \$100 or imprisoned not more than twenty days."]

12 SECTION 31. Section 577-23, Hawaii Revised Statutes, is
13 repealed.

14 [~~"§577-23 Parent et al. responsibility, penalty.~~ Any
15 parent, guardian, or other person having the care, custody, or
16 control of an unmarried minor, who knowingly permits such minor
17 to violate section 577-22, shall be fined not more than \$50 or
18 imprisoned not more than thirty days."]

19 SECTION 32. Section 577-24, Hawaii Revised Statutes, is
20 repealed.



1 ~~["§577-24 Escort's responsibility, penalty. Any person~~
 2 ~~who knowingly takes, escorts, or accompanies any unmarried minor~~
 3 ~~to a dance hall which the minor is prohibited from attending by~~
 4 ~~section 577-22, or who invites or encourages the minor to attend~~
 5 ~~such dance hall, shall be fined not more than \$100 or imprisoned~~
 6 ~~not more than ninety days."]~~

PART V

8 SECTION 33. Section 706-651, Hawaii Revised Statutes, is
 9 amended to read as follows:

10 " ~~[+]§706-651[+]~~ **Payments by defendant; order of priority.**

11 ~~[When]~~ Notwithstanding section 34 of Act _____, Session Laws of
 12 Hawaii 2023, when a defendant is ordered to make payments
 13 pursuant to chapters 351, 706, 846F, and 853, or as otherwise
 14 provided by law, payments shall be made in the following order
 15 of priority:

- 16 (1) Restitution;
- 17 (2) Crime victims compensation fee;
- 18 (3) Probation services fee;
- 19 (4) Human trafficking victim services fee;



- 1 (5) Other fees, including but not limited to internet
- 2 crimes against children fee and drug demand reduction
- 3 assessment fee;
- 4 (6) DNA analysis monetary assessment; and
- 5 (7) Fines."

6 PART VI

7 SECTION 34. (a) As of the effective date of this Act, any

8 outstanding court-ordered fees, fines, or administrative costs

9 ordered against a person who was adjudicated for offenses

10 committed during the person's minority, or pursuant to sections

11 571-11(1), 571-11(2), 571-13, 571-22, or 571-41(f), Hawaii

12 Revised Statutes, shall be void and not collectable, including

13 any interest, penalties, or collection expenses on the judgment,

14 order, agreement, or other legally enforceable encumbrance.

15 This Act shall apply to dual status children for purposes of

16 delinquency jurisdiction.

17 (b) Within a reasonable time but no later than one hundred

18 eighty days after the effective date of this Act, the court

19 shall vacate all judgments, orders, agreements, or other legally

20 enforceable encumbrances directing a person who was adjudicated

21 for an offense committed during the person's minority, or the



1 person's parent or guardian, to pay any fees, fines, or
2 administrative costs.

3 (c) No later than ninety days after the effective date of
4 this Act:

5 (1) The clerk of the circuit court shall provide written
6 notice to all collection agencies to inform them of
7 any outstanding balances or unpaid fees, fines, or
8 administrative costs that were referred to the
9 collection agencies but are void and not collectable
10 pursuant to this Act; and

11 (2) The probation officer, if applicable, or any other
12 designated person from the juvenile probation
13 department and the clerk of the circuit court shall
14 provide written notice to any relevant persons, or the
15 person's parents or guardians, that all payment
16 obligations are discharged for any pending or
17 outstanding fees, fines, or administrative costs made
18 not collectable by this Act.

19 (d) If, on or after the effective date of this Act, a
20 payment is made by a person or the person's parent or guardian
21 toward any fees, fines, or costs made void by this Act, the



1 clerk of the circuit court shall immediately reimburse the
2 payment.

3 (e) No later than twenty days prior to the regular session
4 of 2024, the office of the administrative director of the courts
5 shall report to the legislature:

6 (1) The number of judgments, orders, agreements, or other
7 legally enforceable encumbrances vacated pursuant to
8 this Act in each judicial district; and

9 (2) The total amount of fees, fines, and administrative
10 costs voided in each judicial district.

11 PART VII

12 SECTION 35. If any provision of this Act, or the
13 application thereof to any person or circumstance, is held
14 invalid, the invalidity does not affect other provisions or
15 applications of the Act that can be given effect without the
16 invalid provision or application, and to this end the provisions
17 of this Act are severable.

18 SECTION 36. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.


20 SECTION 37. This Act shall take effect upon its approval;
21 provided that the amendments made to section 291E-61, Hawaii

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1 Revised Statutes, by section 12 of this Act shall not be
2 repealed when that section is reenacted on June 30, 2026,
3 pursuant to section 4 of Act 196, Session Laws of Hawaii 2021;
4 provided further that the amendments made to section 291E-61.5,
5 Hawaii Revised Statutes, by section 13 of this Act shall not be
6 repealed when that section is reenacted on June 30, 2026,
7 pursuant to section 5 of Act 196, Session Laws of Hawaii 2021.

8

INTRODUCED BY: _____

A handwritten signature in black ink, consisting of a large, stylized initial 'R' followed by a horizontal line that extends to the right, ending at the end of the line under 'INTRODUCED BY:'.

S.B. NO. 470

Report Title:

Juvenile Justice; Court Fees; Fines; Penalties; Prohibited; Report

Description:

Prohibits the assessment of any fines, fees, or court costs against a person who was adjudicated for an offense committed during the person's minority, or against the person's parent or guardian, and discharges all related debt obligations assessed prior to the effective date of the Act. Requires the Office of the Administrative Director of the Courts to submit a report to the Legislature.

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

