
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 while the person was a minor under
19 the age of eighteen, or against the person's parent or
20 guardian;



- 1 (2) Limit court-ordered community service for a minor to
- 2 no more than seventy-two hours; and
- 3 (3) Repeal the statewide curfew for minors.

PART II

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

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

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

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

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



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

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

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

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

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

- 16 (1) \$100 shall be levied on persons convicted under
17 section 291E-61 or 291E-61.5 to defray costs of
18 services provided by the driver education and training
19 program;



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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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

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



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

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

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



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

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

11 "**§291E-7 Trauma system surcharge.** (a) [~~It~~] Except as
12 provided in subsection (d), in addition to any other civil
13 penalties ordered by the court, a person who violates any
14 offense under this part may be ordered to pay a trauma system
15 surcharge[-]; provided that:

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

19 (2) The maximum of which may be \$25 if the violation is an
20 offense under section 291E-61(a)(1), 291E-61(a)(3), or
21 291E-61(a)(4); and



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

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

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

12 (d) The surcharge shall not be levied against a person who
13 is adjudicated for an offense committed while the person was a
14 minor under the age of eighteen, or against the person's parent
15 or guardian for the person's offense."

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

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

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



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

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

12 (1) A lawful arrest; and

13 (2) The person has been informed by a law enforcement
14 officer that the person may refuse to submit to
15 testing under this chapter.

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



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

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

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



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

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

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

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



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

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

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

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



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

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

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

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

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

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

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



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

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

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

13 (B) Revocation of license to operate a vehicle for 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;



- 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:



- 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:



- 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



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,



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 (1), 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 (l), 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) For any person sentenced pursuant to this section for
15 an offense committed while the person was a minor under the age
16 of eighteen:

17 (1) The court shall not order any financial penalties,
18 surcharges, or reimbursements otherwise permitted
19 under this section against the person or the person's
20 parent or guardian for the person's 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 [~~l~~] (m) As used in this section, the term "examiner of
5 drivers" has the same meaning as provided in section 286-2."

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

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

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

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

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



- 1 (B) While under the influence of any drug that
- 2 impairs the person's ability to operate the
- 3 vehicle in a careful and prudent manner;
- 4 (C) With .08 or more grams of alcohol per two hundred
- 5 ten liters of breath; or
- 6 (D) With .08 or more grams of alcohol per one hundred
- 7 milliliters or cubic centimeters of blood.
- 8 (b) Habitually operating a vehicle while under the
- 9 influence of an intoxicant is a class C felony.
- 10 (c) [~~For~~] Except as provided in subsection (h), for a
- 11 conviction under this section, the sentence shall be either:
- 12 (1) An indeterminate term of imprisonment of five years;
- 13 or
- 14 (2) A term of probation of five years, with conditions to
- 15 include:
- 16 (A) Mandatory revocation of license to operate a
- 17 vehicle for a period no less than three years but
- 18 no more than five years, with mandatory
- 19 installation of an ignition interlock device in
- 20 all vehicles operated by the respondent during
- 21 the revocation period;



1 (B) No less than ten days imprisonment, of which at
2 least forty-eight hours shall be served
3 consecutively;

4 (C) A fine of no less than \$2,000 but no more than
5 \$5,000, to be deposited into the state drug and
6 alcohol toxicology testing laboratory special
7 fund;

8 (D) Referral to a certified substance abuse counselor
9 as provided in subsection (e);

10 (E) A surcharge of \$25 to be deposited into the
11 neurotrauma special fund; and

12 (F) A surcharge of up to \$50 to be deposited into the
13 trauma system special fund if the court so
14 orders.

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

18 (d) ~~For~~ Except as provided in subsection (h), for any
19 person who is convicted under this section and was a highly
20 intoxicated driver at the time of the subject incident, the



1 offense shall be a class B felony and the person shall be
2 sentenced to the following:

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

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

6 (A) Permanent revocation of license to operate a
7 vehicle;

8 (B) No less than eighteen months imprisonment;

9 (C) A fine of no less than \$5,000 but no more than
10 \$25,000; and

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

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

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



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

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

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



1 (h) No financial penalty, surcharge, or cost of assessment
2 and treatment provided for in this section shall be ordered
3 against a person who convicted or sentenced under this section
4 while the person was a minor under the age of eighteen, or
5 against the person's parent or guardian for the person's
6 offense.

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

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

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

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



1 (3) An adjudication of a minor for a law or probation
2 violation that, if committed by an adult, would
3 constitute a violation of this section or section
4 291-4.4 as that section was in effect on December 31,
5 2001,

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

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

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



1 (2) A judgment on a verdict or a finding of guilty, or a
2 plea of guilty or nolo contendere, for an offense that
3 is comparable to section 291E-61 or 707-702.5; or
4 (3) An adjudication of a minor for a law or probation
5 violation that, if committed by an adult, would
6 constitute a violation of section 291E-61 or
7 707-702.5,
8 that, at the time of the instant offense, had not been expunged
9 by pardon, reversed, or set aside. All convictions that have
10 been expunged by pardon, reversed, or set aside before the
11 instant offense shall not be deemed prior convictions for the
12 purposes of proving that the person is a habitual operator of a
13 vehicle while under the influence of an intoxicant.

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

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

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

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



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

3 **"§291E-64 Operating a vehicle after consuming a measurable**
4 **amount of alcohol; persons under the age of twenty-one.** (a) It
5 shall be unlawful for any person under the age of twenty-one
6 years to operate any vehicle with a measurable amount of
7 alcohol. A law enforcement officer may arrest a person under
8 this section when the officer has probable cause to believe the
9 arrested person is under the age of twenty-one and had been
10 operating a vehicle upon a public way, street, road, or highway
11 or on or in the waters of the State with a measurable amount of
12 alcohol.

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

15 (1) For a first violation or any violation not preceded
16 within a five-year period by a prior alcohol
17 enforcement contact:

18 (A) The court shall impose:

19 (i) A requirement that the person and, if the
20 person is under the age of eighteen, the
21 person's parent or guardian attend an



1 alcohol abuse education and counseling
2 program for not more than ten hours; and
3 (ii) A one hundred eighty-day prompt suspension
4 of license and privilege to operate a
5 vehicle with absolute prohibition from
6 operating a vehicle during the suspension
7 period, or in the case of a person eighteen
8 years of age or older, the court may impose,
9 in lieu of the one hundred eighty-day prompt
10 suspension of license, a minimum thirty-day
11 prompt suspension of license with absolute
12 prohibition from operating a vehicle and,
13 for the remainder of the one hundred
14 eighty-day period, a restriction on the
15 license that allows the person to drive for
16 limited work-related purposes and to
17 participate in alcohol abuse education and
18 treatment programs; and
19 (B) In addition, the court may impose any one or more
20 of the following:



- 1 (i) Not more than thirty-six hours of community
- 2 service work; or
- 3 (ii) A fine of not less than \$150 but not more
- 4 than \$500;
- 5 (2) For a violation that occurs within five years of a
- 6 prior alcohol enforcement contact:
- 7 (A) The court shall impose prompt suspension of
- 8 license and privilege to operate a vehicle for a
- 9 period of one year with absolute prohibition from
- 10 operating a vehicle during the suspension period;
- 11 and
- 12 (B) In addition, the court may impose any of the
- 13 following:
- 14 (i) Not more than fifty hours of community
- 15 service work; or
- 16 (ii) A fine of not less than \$300 but not more
- 17 than \$1,000; and
- 18 (3) For a violation that occurs within five years of two
- 19 prior alcohol enforcement contacts:



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

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

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

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

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

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



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

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

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

18 (g) ~~[Any]~~ Except as provided in subsection (j), any person
19 sentenced under this section may be ordered to reimburse the
20 county for the cost of any blood tests conducted pursuant to
21 section 291E-11. The court shall order the person to make



1 restitution in a lump sum, or in a series of prorated
2 installments, to the police department or other agency incurring
3 the expense of the blood test.

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

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

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

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

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

19 [~~j~~] (k) As used in this section, the terms "driver's
20 license" and "examiner of drivers" have the same meanings as
21 provided in section 286-2."



1 PART III

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

4 **"§302A-1153 Vandalism damage to public school property.**

5 (a) Any pupil found to be responsible for an act of vandalism
6 against any public school, building, facility, or ground [~~shall~~
7 ~~make restitution in any manner, including monetary restitution~~
8 ~~by the pupil or pupil's parents, or guardian, or both.~~] may be
9 required to perform community service to repair any damage
10 caused.

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

14 (b) No pupil, parent, or guardian shall be required to
15 make monetary restitution in any manner [~~unless the pupil and~~
16 ~~the parents or guardian have been notified and have been given~~
17 ~~an opportunity to be heard, on any report of vandalism involving~~
18 ~~the pupil, and the pupil, parent, or guardian have executed a~~
19 ~~written agreement to make restitution~~].

20 (c) The principal of the school in which the vandalism
21 occurred shall make or order an investigation of the vandalism.



1 If after the investigation, the principal has reasonable cause
2 to believe that a specific pupil is responsible for the
3 vandalism, the principal shall schedule a conference with the
4 pupil and the pupil's parents or guardian. Except for the
5 principal of the school in which the vandalism occurred, the
6 pupil and the parents or guardian, no other person shall be
7 permitted to be in the conference for any reason.

8 (d) At the conference, the principal of the school in
9 which the vandalism occurred shall present the findings of the
10 investigation [~~and the requirements of restitution~~] to the pupil
11 and parents or guardian.

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



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

3 ~~If restitution is made in this fashion, then no]~~ No
4 information about the investigation, conference, and the actions
5 taken shall be communicated to any person not directly involved
6 in the proceedings.

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

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

18 ~~(f)]~~ (e) Notwithstanding any provisions in this section to
19 the contrary, the State may elect to bring any appropriate
20 action for the recovery of all damages to school properties.



1 Nothing in this section shall limit the right of the State to
2 bring an action against any person to recover these damages."

3 PART IV

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

6 "**§351-62.6 Compensation fee.** (a) [~~The~~] Except as
7 provided in subsection (d), the court shall impose a
8 compensation fee upon every defendant who has been convicted or
9 who has entered a plea under section 853-1 and who is or will be
10 able to pay the compensation fee. The amount of the
11 compensation fee shall be commensurate with the seriousness of
12 the offense as follows:

- 13 (1) Not less than \$105 nor more than \$505 for a felony;
- 14 (2) \$55 for a misdemeanor; and
- 15 (3) \$30 for a petty misdemeanor.

16 The compensation fee shall be separate from any fine that may be
17 imposed under section 706-640 and shall be in addition to any
18 other disposition under this chapter; provided that the court
19 shall waive the imposition of a compensation fee if the
20 defendant is unable to pay the compensation fee. Moneys from



1 the compensation fees shall be deposited into the crime victim
2 compensation special fund under section 351-62.5.

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

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

13 (c) The compensation fee shall be considered a civil
14 judgment.

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

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



1 "~~[§]~~§353G-10~~[§]~~ **Drug testing or assessment fees.** (a)
2 Except as provided in [~~subsection~~] subsections (b) [~~7~~] and (e),
3 the agency responsible for monitoring a person's compliance with
4 the terms and conditions of parole or other release from a
5 correctional center or facility shall impose upon the person
6 reasonable fees to cover the cost of:

- 7 (1) Any drug test of the person required or ordered under
8 this chapter; and
9 (2) Any assessment of the person required or ordered under
10 this chapter.

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

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



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

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

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

13 PART V

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

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

19 (1) Participation in restitution projects to obtain
20 appropriate victim satisfaction;



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



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



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

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

5 "**§571-32 Detention; shelter; release; notice.** (a) If a
6 minor who is believed to come within section 571-11(1) is not
7 released as provided in section 571-31 and is not deemed
8 suitable for diversion, then the minor shall be taken without
9 unnecessary delay to the court or to the place of detention or
10 shelter designated by the court. If a minor who is believed to
11 come within section 571-11(2) is not released as provided in
12 section 571-31, and is not deemed suitable for diversion, then
13 the minor shall be taken without unnecessary delay to the court
14 or to the place of shelter designated by the court. If the
15 court determines that the minor requires care away from the
16 minor's own home but does not require secure physical
17 restriction, the minor shall be given temporary care in any
18 available nonsecure minor caring institution, foster family
19 home, or other shelter facility.

20 (b) The officer or other person who brings a minor to a
21 detention or shelter facility shall give notice to the court at



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

16 (c) As soon as a minor is detained, the minor's parents,
17 guardian, or legal custodian shall be informed, by personal
18 contact or by notice in writing on forms prescribed by the
19 court, that they may have a prompt hearing held by a circuit
20 judge or district family judge regarding release or detention.
21 A minor may be released on the order of the judge with or



1 without a hearing. The director of detention services may order
2 the release of the minor if an order of detention has not been
3 made.

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

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

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

19 or

20 (B) Be held in any jail or lockup for adults,

21 except as provided in subsection (g) (3); and



- 1 (2) Detention in a jail or lockup for adults may be
- 2 permitted for:
- 3 (A) A minor accused of a non-status offense who is
- 4 held for a period not to exceed six hours;
- 5 provided that the minor is being held:
- 6 (i) For processing or release;
- 7 (ii) While awaiting transfer to a juvenile
- 8 facility; or
- 9 (iii) For a court appearance that occurs within
- 10 the period of detention; or
- 11 (B) A minor accused of a non-status offense who is
- 12 awaiting an initial court appearance that will
- 13 occur within forty-eight hours of the minor being
- 14 taken into custody, excluding weekends and
- 15 holidays, and where the jail or lockup for adults
- 16 is in a location:
- 17 (i) Outside a metropolitan statistical area, as
- 18 defined by the Office of Management and
- 19 Budget, and no acceptable alternative
- 20 placement is available;



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

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

15 provided that the minor shall not have sight or sound
16 contact with adult inmates; provided further that the
17 State shall have a policy in effect that requires
18 individuals who work with both minor and adult inmates
19 in collocated facilities to be trained and certified
20 to work with juveniles.



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

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

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



- 1 (1) Where a minor transferred for criminal proceedings
2 pursuant to a waiver of family court jurisdiction is
3 detained, the minor shall not:
- 4 (A) Have sight or sound contact with adult inmates;
5 or
6 (B) Be held in any jail or lockup for adults,
7 unless a court finds, after a hearing and in writing,
8 that it is in the interest of justice;
- 9 (2) In determining whether it is in the interest of
10 justice to permit a minor to be held in any jail or
11 lockup for adults, or to have sight or sound contact
12 with adult inmates, a court shall consider:
- 13 (A) The age of the minor;
14 (B) The physical and mental maturity of the minor;
15 (C) The present mental state of the minor, including
16 whether the minor presents an imminent risk of
17 self-harm;
18 (D) The nature and circumstances of the alleged
19 offense;
20 (E) The minor's history of prior delinquent acts;



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



1 hundred eighty days, unless the court, in
2 writing, determines there is good cause for an
3 extension, or the minor expressly waives this
4 limitation.

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

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

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

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

20 (2) Because of the potential impact on a minor's mental or
21 physical health, room confinement may only be used for



1 the minimum time necessary for the minor to regain
2 self-control, and only after less restrictive options
3 or techniques, including de-escalation, conflict and
4 behavioral management techniques, and intervention by
5 a mental health professional, have been attempted,
6 exhausted, and failed;

7 (3) If a minor is placed in room confinement, the reasons
8 for the room confinement shall be explained to the
9 minor. The minor shall also be informed that release
10 from room confinement will occur immediately when the
11 minor exhibits self-control and is no longer deemed a
12 threat to the minor's safety or the safety of others;

13 (4) If a minor is placed in room confinement, the
14 following individuals shall be notified on the next
15 business day and provided the reasons for the room
16 confinement as well as the location and duration of
17 the confinement:

18 (A) The senior judge of the family court;

19 (B) The presiding judge who ordered the minor to be
20 held at the facility;

21 (C) The deputy chief court administrator; and



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



- 1 reporting requirements and room confinement
2 restrictions pursuant to this section;
- 3 (8) If the minor is not returned to the general population
4 following a hearing pursuant to paragraph (6), the
5 minor shall be transferred to a location where
6 services may be provided to the minor without the need
7 for room confinement; provided that if a mental health
8 professional determines that the level of crisis
9 service needed is not presently available at the
10 location, the superintendent or deputy superintendent
11 of the facility shall initiate a referral to a
12 facility that can meet the needs of the minor;
- 13 (9) All rooms used for room confinement shall have
14 adequate and operational lighting, ventilation for the
15 comfort of the minor, and shall be clean and resistant
16 to suicide and self-harm;
- 17 (10) The minor shall have access to drinking water, toilet
18 facilities, hygiene supplies, and reading materials
19 approved by a mental health professional;
- 20 (11) The minor shall have the same access as provided to
21 minors in the general population of the facility to



1 meals, contact with parents or legal guardians, legal
2 assistance, educational programs, and medical and
3 mental health services;

4 (12) The minor shall be continuously monitored by facility
5 staff; and

6 (13) The judiciary shall post quarterly on the judiciary's
7 website a report of its detention center detailing
8 their compliance with this section. Each report shall
9 include:

10 (A) The number of incidents of room confinement every
11 year;

12 (B) The number of minors impacted;

13 (C) The age, gender identity, and race of minors
14 impacted;

15 (D) Any alternative strategies employed before the
16 use of room confinement, the reasons those
17 alternative strategies failed, and why room
18 confinement was necessary; and

19 (E) The incidence of mental illness.

20 For the purposes of this subsection:



1 "Mental health professional" means a qualified mental
2 health professional or mental health professional supervised by
3 a qualified mental health professional.

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

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

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

20 (k) Any other provision of law to the contrary
21 notwithstanding, any person otherwise subject to proceedings



1 under chapter 832 and who is under the age of eighteen may be
2 confined in a detention facility or correctional facility by
3 order of a judge for the purposes set forth in section 832-12,
4 832-15, or 832-17.

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

18 (m) Any costs associated with the detention of a minor
19 shall be borne by the court. The court shall not seek
20 reimbursement for costs incurred pursuant to this section from a



1 person adjudicated under sections 571-11(1), 571-11(2), 571-13,
2 571-22, or 571-41(f), or from the person's parent or guardian."

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

5 "**§571-33 Detention and shelter facilities.** Provisions
6 shall be made for the temporary detention of children or minors
7 in a detention home, to be conducted as an agency of the court;
8 or the court may arrange for the care and custody of such
9 children or minors temporarily in private homes subject to the
10 supervision of the court, or may arrange with any institution or
11 agency to receive for temporary care and custody children or
12 minors within the jurisdiction of the court.

13 When a detention home is established as an agency of the
14 court, the judge may appoint a director of detention services
15 and other necessary employees for such home in the same manner
16 as is provided by law for the appointment of other employees of
17 the court.

18 A detention home established in any circuit may be used for
19 the temporary detention of children or minors ordered to be
20 detained by the court of another circuit. The use shall be
21 subject to the approval of the judge of the court of the circuit



1 in which the detention home is situated, upon such terms and
2 conditions as may be established by the judge.

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

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

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

17 **"§571-48 Decree, if informal adjustment or diversion to a**
18 **private or community agency or program has not been effected.**

19 When a child is found by the court to come within section
20 571-11, the court shall so decree and in its decree shall make a
21 finding of the facts upon which the court exercises its



1 jurisdiction over the child. Upon the decree the court, by
2 order duly entered, shall proceed as follows:

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

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

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

6 (ii) In the custody of a suitable person or
7 facility elsewhere, upon conditions
8 determined by the court.

9 An order by the court placing a child on
10 probation under this subparagraph shall include a
11 definite term of probation stated in months or
12 years, subject to extension or modification by
13 the court pursuant to section 571-50. When
14 conditions of probation include custody in a
15 youth correctional facility, the custody shall be
16 for a term not to exceed one year, after which
17 time the child shall be allowed to reside in the
18 community subject to additional conditions as may
19 be imposed by the court;



1 (B) The court may vest legal custody of the child,
2 after prior consultation with the agency or
3 institution:
4 (i) In a Hawaii youth correctional facility if
5 the child has been adjudicated for a
6 felony-level offense or a violation or
7 revocation of probation, or is committed to
8 the facility from juvenile drug court or
9 girls court on a court order. For a child
10 eligible for placement in a Hawaii youth
11 correctional facility, the court shall enter
12 a finding of fact in the record stating the
13 reasons the child is a public safety risk
14 warranting placement in the correctional
15 facility. No such finding of fact shall be
16 required if the child is adjudicated for a
17 felony against a person or a sex offense;
18 (ii) In a local public agency or institution;
19 (iii) In any private institution or agency
20 authorized by the court to care for
21 children; or



1 (iv) In a private home.

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

8 (C) The court may place a child on administrative
9 monitoring, as defined in section 571-2, pending
10 completion of conditions as may be imposed by the
11 court, to preempt the need for disposition to a
12 full probation term, and to afford the child the
13 opportunity to demonstrate behavior adjustments.
14 Upon completion of the court-ordered conditions,
15 the court shall discharge the child pursuant to
16 section 571-50. If a child fails to complete the
17 court-ordered conditions, the court may extend or
18 modify the order pursuant to section 571-50, or
19 dispose the child to probation status under
20 paragraph (1) (A); or



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

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

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

17 (B) The court may vest legal custody of the child,
18 after prior consultation with the agency or
19 institution, in a local governmental agency or
20 institution licensed or approved by the State to
21 care for children, with the exception of an



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

11 (3) An order vesting legal custody of a minor in an
12 individual, agency, or institution under section
13 571-11(2) shall be for an indeterminate period but
14 shall not remain in force or effect beyond three years
15 from the date entered, except that the individual,
16 institution, or agency may file with the court a
17 petition for renewal of the order and the court may
18 renew the order if it finds such renewal necessary to
19 safeguard the welfare of the child or the public
20 interest. The court, after notice to the parties, may
21 conduct a hearing on the petition. Renewal may be



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

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



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

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

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

17 (7) In support of any order or decree under section
18 571-11(1) or (2), the court may require the parents or
19 other persons having custody of the child, or any
20 other person who has been found by the court to be
21 encouraging, causing, or contributing to the acts or



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

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



- 1 (9) The court may dismiss the petition or otherwise
2 terminate its jurisdiction at any time;
- 3 (10) In any other case of which the court has jurisdiction,
4 the court may make any order or judgment authorized by
5 law;
- 6 (11) The court may order any person adjudicated pursuant to
7 section 571-11(1) to make restitution of money or
8 services to any victim who suffers loss as a result of
9 the child's action, or to render community service[+] of not more than seventy-two hours; provided that the
10 community service shall not interfere with the child's
11 school or work commitments;
- 12 (12) The court may order any [~~person~~] child adjudicated
13 pursuant to section 571-11(2) to participate in
14 community service[+] of not more than seventy-two
15 hours; provided that the community service shall not
16 interfere with the child's school or work commitments;
17 [and]
- 18 (13) The court may order the parents of an adjudicated
19 child to make restitution of money or services to any
20



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

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

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

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



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

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



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

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

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

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



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

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



1 SECTION 25. Section 577-3.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§577-3.5 Property damage, parental responsibility. (a)**

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

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

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

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

19 (2) Order the minor to perform [~~a minimum of eighty hours~~
20 ~~of community service to remove graffiti from other~~
21 ~~properties.] no more than seventy-two hours of~~



1 community service; provided that the community service
2 shall not interfere with the minor's school or work
3 commitments.

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

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

9 "**§577-21 Curfew ordinances, effect.** Each of the counties
10 may enact and enforce ordinances regulating the presence of
11 children in public places and on public streets and roads during
12 certain hours at night.

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

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

20 "**§577-26 Alcohol or drug abuse relating to minors;**
21 **diagnosis, counseling, and related activities.** (a) A



1 counselor, certified, licensed, or otherwise authorized by law
2 to engage in the practice of counseling services in either or
3 both the public and private sector, may inform the spouse,
4 parent, custodian, or guardian of any minor who requests, is
5 referred for, or received counseling services relating to
6 alcohol or drug abuse.

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

16 (c) ~~[Notwithstanding any other law to the contrary, no]~~
17 Except as provided in subsection (f), no spouse, parent,
18 custodian, or guardian~~[, whose consent has not been obtained or~~
19 ~~who has no prior knowledge that the minor has consented to the~~
20 ~~provision of such counseling services for alcohol or drug abuse]~~
21 shall be liable for the costs ~~[incurred by virtue of the minor's~~



1 ~~consent.]~~ of alcohol or drug abuse counseling services provided
2 to the minor.

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

9 ~~(e)]~~ (d) The consent to the provision of furnishing
10 counseling services for alcohol or drug abuse by the counselor
11 when executed by a minor who is or professes to suffer from
12 alcohol or drug abuse, shall be valid and binding as if the
13 minor had achieved the minor's majority; that is, the minor who
14 is or professes to suffer from alcohol or drug abuse, shall be
15 deemed to have, and shall have the same legal capacity, the
16 infancy of the minor and any contrary provisions of law
17 notwithstanding, and ~~[such]~~ the consent shall not be subject to
18 later disaffirmance by reason of such minority; and the consent
19 of no other person (including but not limited to a spouse,
20 parent, custodian, or guardian) shall be necessary in order to
21 authorize such counseling services to such a minor.



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

6 (f) Nothing in this section shall prohibit the utilization
7 of alcohol or drug abuse counseling services provided or covered
8 by any health insurance plan under which the minor is a covered
9 person or beneficiary; provided that the minor or the minor's
10 parent or guardian shall be responsible for all copayments
11 required by the insurer."

12 SECTION 28. Section 577-18, Hawaii Revised Statutes, is
13 repealed.

14 ~~["§577-18 Parents allowing children in street, prohibited~~
15 ~~when; penalty. Any parent or guardian having the care, custody,~~
16 ~~and control of a child under sixteen years of age, who, except~~
17 ~~in case of necessity, knowingly, and voluntarily suffers or~~
18 ~~permits such child to go or remain on any public street, highway~~
19 ~~or public place after ten o'clock in the evening and before four~~
20 ~~o'clock in the morning, unaccompanied by an adult person thereto~~



1 ~~authorized by such parent or guardian, shall be fined not more~~
2 ~~than \$100 or imprisoned not more than twenty days."]~~

3 SECTION 29. Section 577-23, Hawaii Revised Statutes, is
4 repealed.

5 [~~"§577-23 Parent et al. responsibility, penalty. Any~~
6 ~~parent, guardian, or other person having the care, custody, or~~
7 ~~control of an unmarried minor, who knowingly permits such minor~~
8 ~~to violate section 577-22, shall be fined not more than \$50 or~~
9 ~~imprisoned not more than thirty days."]~~

10 SECTION 30. Section 577-24, Hawaii Revised Statutes, is
11 repealed.

12 [~~"§577-24 Escort's responsibility; penalty. Any person~~
13 ~~who knowingly takes, escorts, or accompanies any unmarried minor~~
14 ~~to a dance hall which the minor is prohibited from attending by~~
15 ~~section 577-22, or who invites or encourages the minor to attend~~
16 ~~such dance hall, shall be fined not more than \$100 or imprisoned~~
17 ~~not more than ninety days."]~~

18 PART VI

19 SECTION 31. If any provision of this Act, or the
20 application thereof to any person or circumstance, is held
21 invalid, the invalidity does not affect other provisions or



1 applications of the Act that can be given effect without the
2 invalid provision or application, and to this end the provisions
3 of this Act are severable.

4 SECTION 32. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 33. This Act shall take effect on June 30, 3000;
7 provided that the amendments made to section 291E-61, Hawaii
8 Revised Statutes, by section 12 of this Act shall not be
9 repealed when that section is reenacted on June 30, 2026,
10 pursuant to section 11 of Act 196, Session Laws of Hawaii 2021;
11 provided further that the amendments made to section 291E-61.5,
12 Hawaii Revised Statutes, by section 13 of this Act shall not be
13 repealed when that section is reenacted on June 30, 2026,
14 pursuant to section 11 of Act 196, Session Laws of Hawaii 2021.

15



H.B. NO. 317 H.D. 1

Report Title:

Juvenile Justice; Court Fees; Fines; Penalties; Minors;
Prohibited; Community Service; Curfew

Description:

Prohibits the assessment of any fines, fees, or court costs against a person who was adjudicated for an offense committed while the person was a minor under the age of eighteen, or against the person's parent or guardian. Limits court ordered community service for minors to seventy-two hours. Repeals the statewide curfew for minors. Effective 6/30/3000. (HD1)

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

