
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 a harmful and ineffective
4 accountability practice. In Hawaii, the consequences of these
5 costs fall disproportionately on Native Hawaiian and Pacific
6 Islander minors who are more likely to be arrested, detained,
7 and unable to afford fees and fines. In a report on the
8 assessment of fees, fines, court costs, and restitution in cases
9 against minors, the judiciary confirmed that only seventeen per
10 cent of fines ordered against minors in the past five years have
11 been paid.

12 The legislature recognizes that assessing fines in juvenile
13 justice proceedings is not an evidence-based practice for
14 rehabilitating, deterring, or even punishing delinquent youth.
15 The legislature further finds that, although Hawaii law
16 authorizes courts to charge youth and their families a range of



1 fines, judges across the State rarely impose these costs in
2 practice.

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

14 Accordingly, the purpose of this Act is to:

- 15 (1) Prohibit the assessment of any fees, fines, or court
16 costs against a person who is adjudicated for an
17 offense committed while the person was a minor under
18 the age of eighteen, or against the person's parent or
19 guardian;
- 20 (2) Limit court-ordered community service for a minor to
21 no more than seventy-two hours; and



1 (3) Repeal certain penalties imposed on parents,
2 guardians, or other persons associated with
3 unaccompanied children in streets and unmarried minors
4 in dance halls.

5 PART II

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

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

9 "(a) ~~[Any]~~ Except as provided in subsections (b) and (c),
10 any person who violates section 286-102, 286-122, 286-130, 286-
11 131, 286-132, 286-133, or 286-134 shall be penalized as follows:

12 (1) For a first offense, or any offense not preceded
13 within a five-year period for the same offense, the
14 person shall pay a fine of no more than \$1,000 or
15 serve a term of imprisonment of no more than thirty
16 days, or both;

17 (2) For an offense that occurs within five years of a
18 prior conviction for the same offense, the person
19 shall pay a minimum fine of \$500 and a maximum fine of
20 \$1,000, or serve a term of imprisonment of no more
21 than one year, or both; or



1 (3) For an offense that occurs within five years of two or
2 more prior convictions for the same offense, the
3 person shall be guilty of a class C felony; provided
4 that the court, as part of the person's sentencing,
5 may order that the vehicle used by the person in the
6 commission of the offense be subject to forfeiture
7 under chapter 712A."

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

9 "(c) Notwithstanding subsections (a) and (b), a minor
10 under the age of eighteen [~~under the jurisdiction of the family~~
11 ~~court~~] who is subject to this section [~~shall~~] may either lose
12 the right to drive a motor vehicle until the age of eighteen or
13 be [~~subject to a fine of \$500.~~] ordered to perform community
14 service of no more than seventy-two hours as determined by the
15 court; provided that the community service shall not interfere
16 with the minor's school or work commitments; provided further
17 that no financial penalty provided for in this section shall be
18 levied against a person who is adjudicated for an offense
19 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 3. Section 286G-3, Hawaii Revised Statutes, is
2 amended to read as follows:

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

8 (1) [~~Offenses relating~~] Relating to stopping (when
9 prohibited), standing, or parking;

10 (2) [~~Offenses relating~~] Relating to registration; and

11 (3) [~~Offenses by~~] By pedestrians.

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

14 (1) \$100 shall be levied on persons convicted under
15 section 291E-61 or 291E-61.5 to defray costs of
16 services provided by the driver education and training
17 program;

18 (2) \$50 shall be levied on persons required to attend a
19 child passenger restraint system safety class under
20 section 291-11.5; and



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

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

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

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

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



1 "§291C-12 Collisions involving [~~death-or~~] serious bodily
2 injury[-] or death. (a) The driver of any vehicle involved in
3 a collision resulting in serious bodily injury to or death of
4 any person shall immediately stop the vehicle at the scene of
5 the collision or as close thereto as possible but shall then
6 forthwith return to and in every event shall remain at the scene
7 of the collision until the driver has fulfilled the requirements
8 of section 291C-14. Every stop shall be made without
9 obstructing traffic more than is necessary.

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

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

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

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



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

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

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

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

19 (c) ~~[Fer]~~ Except as provided in subsection (e), for any
20 violation under this section, a surcharge of \$250 shall be



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

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

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

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

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



1 (b) Any person who violates subsection (a) shall be guilty
2 of a misdemeanor.

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

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

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

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

18 "(c) For any violation under this section, a surcharge of
19 up to \$100 may be imposed, in addition to other penalties,
20 ~~[which shall]~~ to be deposited into the trauma system special
21 fund[-]; provided that no financial penalty provided for in this



1 section shall be levied against a person who is adjudicated for
2 an offense committed while the person was a minor under the age
3 of eighteen, or against the person's parent or guardian for the
4 person's offense."

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

7 **"§291C-15 Duty upon striking unattended vehicle or other**
8 **property.** (a) The driver of any vehicle [~~which~~] that collides
9 with or is involved in a collision with any vehicle or other
10 property that is unattended resulting in any damage to the other
11 vehicle or property shall immediately stop and shall then and
12 there either locate and notify the operator or owner of the
13 vehicle or other property of the driver's name[~~τ~~] and address[~~τ~~]
14 and the registration number of the vehicle the driver is driving
15 or shall attach securely in a conspicuous place in or on the
16 vehicle or other property a written notice giving the driver's
17 name[~~τ~~] and address[~~τ~~] and the registration number of the
18 vehicle the driver is driving and shall without unnecessary
19 delay notify the nearest police officer. Every stop shall be
20 made without obstructing traffic more than is necessary.



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

9 SECTION 9. Section 291E-7, Hawaii Revised Statutes, is
10 amended by amending subsections (a) and (b) to read as follows:

11 "(a) ~~[In]~~ Except as provided in subsection (b), in
12 addition to any other civil penalties ordered by the court, a
13 person who violates any offense under this part may be ordered
14 to pay a trauma system surcharge[-]; provided that[+] the
15 maximum of which may be:

16 (1) ~~[The maximum of which may be]~~ \$10 if the violator is
17 not 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
20 an offense under section 291E-61(a)(1),
21 ~~[291E-61(a)(3),]~~ (3), or [291E-61(a)(4);] (4); and



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

6 (b) The surcharge shall not be ordered [~~when~~]:

7 (1) When the court determines that the defendant is unable
 8 to pay the surcharge[~~-~~]; or

9 (2) Against a person who is adjudicated for an offense
 10 committed while the person was a minor under the age
 11 of eighteen, or against the person's parent or
 12 guardian for the person's offense."

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

15 **"§291E-11 Implied consent of operator of vehicle to submit**
 16 **to testing to determine alcohol concentration and drug content.**

17 (a) Any person who operates a vehicle upon a public way,
 18 street, road, or highway or on or in the waters of the State
 19 shall be deemed to have given consent, subject to this part, to
 20 a test or tests approved by the director of health of the
 21 person's breath, blood, or urine for the purpose of determining



1 alcohol concentration or drug content of the person's breath,
2 blood, or urine, as applicable.

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

9 (1) A lawful arrest; and

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

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

20 (d) If there is probable cause to believe that a person is
21 in violation of section 291E-61 or 291E-61.5, as a result of



1 having consumed any drug, then the person shall elect to take a
2 blood or urine test, or both, for the purpose of determining the
3 drug content. Drug content shall be measured by the presence of
4 any drug or its metabolic products, or both.

5 (e) A person who chooses to submit to a breath test under
6 subsection (c) also may be requested to submit to a blood or
7 urine test, if the law enforcement officer has probable cause to
8 believe that the person was operating a vehicle while under the
9 influence of any drug under section 291E-61 or 291E-61.5 and the
10 officer has probable cause to believe that a blood or urine test
11 will reveal evidence of the person being under the influence of
12 any drug. The law enforcement officer shall state in the
13 officer's report the facts upon which that belief is based. The
14 person shall elect to take a blood or urine test, or both, for
15 the purpose of determining the person's drug content. Results
16 of a blood or urine test conducted to determine drug content
17 also shall be admissible for the purpose of determining the
18 person's alcohol concentration. Submission to testing for drugs
19 under subsection (d) or this subsection shall not be a
20 substitute for alcohol tests requested under subsection (c).



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

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

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

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



1 "**§291E-39 Fees and costs.** [~~The~~] (a) Except as provided
2 in subsection (b), the director may assess and collect a \$30 fee
3 from the respondent to cover the costs of processing the
4 respondent's request for an administrative hearing. These costs
5 include but shall not be limited to: the cost of photocopying
6 documents; conditional license permits, temporary permits, and
7 relicensing forms; interpreter services; and other similar
8 costs; provided that the costs of issuing subpoenas for
9 witnesses, including mileage fees, shall be borne by the party
10 requesting the subpoena. The director may waive the fee in the
11 case of an indigent respondent, upon an appropriate inquiry into
12 the financial circumstances of the respondent seeking the waiver
13 and an affidavit or a certificate signed by the respondent
14 demonstrating the respondent's financial inability to pay the
15 fee.

16 (b) The director shall not assess or collect any fee from
17 a respondent who requests an administrative hearing for a
18 violation that occurred while the respondent was a minor under
19 the age of eighteen, or against the respondent's parent or
20 guardian for the respondent's offense."



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

3 **"§291E-61 Operating a vehicle under the influence of an**
4 **intoxicant.** (a) A person commits the offense of operating a
5 vehicle under the influence of an intoxicant if the person
6 operates or assumes actual physical control of a vehicle:

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

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

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

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

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



- 1 (1) Except as provided in paragraph (4), for the first
2 offense, or any offense not preceded within a ten-year
3 period by a conviction for an offense under this
4 section or section 291E-4(a):
- 5 (A) A fourteen-hour minimum substance abuse
6 rehabilitation program, including education and
7 counseling, or other comparable programs deemed
8 appropriate by the court;
- 9 (B) Revocation of license to operate a vehicle for no
10 less than one year and no more than eighteen
11 months;
- 12 (C) Installation during the revocation period of an
13 ignition interlock device on all vehicles
14 operated by the person;
- 15 (D) Any one or more of the following:
- 16 (i) Seventy-two hours of community service work;
17 (ii) No less than forty-eight hours and no more
18 than five days of imprisonment; or
19 (iii) A fine of no less than \$250 and no more than
20 \$1,000;



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



1 least forty-eight hours shall be served
2 consecutively;

3 (E) A fine of no less than \$1,000 and no more than
4 \$3,000, to be deposited into the drug and alcohol
5 toxicology testing laboratory special fund;

6 (F) A surcharge of \$25 to be deposited into the
7 neurotrauma special fund; and

8 (G) A surcharge of up to \$50, if the court so orders,
9 to be deposited into the trauma system special
10 fund;

11 (3) In addition to a sentence imposed under paragraphs (1)
12 and (2), any person eighteen years of age or older who
13 is convicted under this section and who operated a
14 vehicle with a passenger, in or on the vehicle, who
15 was younger than fifteen years of age, shall be
16 sentenced to an additional mandatory fine of \$500 and
17 an additional mandatory term of imprisonment of
18 forty-eight hours; provided that the total term of
19 imprisonment for a person convicted under this
20 paragraph shall not exceed the maximum term of
21 imprisonment provided in paragraph (1) or (2), as



1 applicable. Notwithstanding paragraphs (1) and (2),
2 the revocation period for a person sentenced under
3 this paragraph shall be no less than two years;

4 (4) In addition to a sentence imposed under paragraph (1),
5 for a first offense under this section, or an offense
6 not preceded within a ten-year period by a conviction
7 for an offense, any person who is convicted under this
8 section and was a highly intoxicated driver at the
9 time of the subject incident shall be sentenced to an
10 additional mandatory term of imprisonment for
11 forty-eight consecutive hours and an additional
12 mandatory revocation period of six months; provided
13 that the total term of imprisonment for a person
14 convicted under this paragraph shall not exceed the
15 maximum term of imprisonment provided in paragraph
16 (1). Notwithstanding paragraph (1), the revocation
17 period for a person sentenced under this paragraph
18 shall be no less than eighteen months;

19 (5) In addition to a sentence under paragraph (2), for an
20 offense that occurs within ten years of a prior
21 conviction for an offense under this section, any



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

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

15 (A) Was not sentenced to any additional mandatory
16 revocation period pursuant to paragraph (3) or
17 (4);

18 (B) Actually installed and maintained an ignition
19 interlock device on all vehicles operated by the
20 person for a continuous period of six months,
21 after which the person maintained the ignition



1 interlock device on all vehicles operated by the
2 person for a continuous period of three months
3 without violation;

4 (C) Includes with the person's motion for early
5 termination a certified court abstract
6 establishing that the person was not sentenced to
7 any additional mandatory revocation period
8 pursuant to paragraph (3) or (4);

9 (D) Includes with the person's motion for early
10 termination a certified statement from the
11 director of transportation establishing that:

12 (i) The person installed and maintained an
13 ignition interlock device on all vehicles
14 operated by the person for a continuous
15 period of six months; and

16 (ii) After the six-month period, the person
17 maintained the ignition interlock device on
18 all vehicles operated by the person for a
19 continuous period of three months without
20 violation; and



1 (E) Has complied with all other sentencing
2 requirements.
3 Nothing in this paragraph shall require a court to
4 grant early termination of the revocation period if
5 the court finds that continued use of the ignition
6 interlock device will further the person's
7 rehabilitation or compliance with this section;
8 (7) If the person demonstrates to the court that the
9 person:
10 (A) Does not own or have the use of a vehicle in
11 which the person can install an ignition
12 interlock device during the revocation period; or
13 (B) Is otherwise unable to drive during the
14 revocation period,
15 the person shall be prohibited from driving during the
16 period of applicable revocation provided in paragraphs
17 (1) to (5); provided that the person shall be
18 sentenced to the maximum license revocation period,
19 the court shall not issue an ignition interlock permit
20 pursuant to subsection (i), and the person shall be
21 subject to the penalties provided by section 291E-62



1 if the person drives during the applicable revocation
2 period; and

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

4 (A) Providing a sample of .04 or more grams of
5 alcohol per two hundred ten liters of breath when
6 starting the vehicle, unless a subsequent test
7 performed within ten minutes registers a breath
8 alcohol concentration lower than .02 and the
9 digital image confirmed the same person provided
10 both samples;

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

18 (C) Failing to provide a rolling retest, unless an
19 acceptable test is performed within ten minutes;

20 (D) Violating section 291E-66; or



1 (E) Failing to provide a clear photo of the person
2 when the person blows into the ignition interlock
3 device.

4 (c) Except as provided in sections 286-118.5 and
5 291E-61.6, the court shall not issue an ignition interlock
6 permit to[+] a defendant:

7 (1) [~~A defendant whose~~] Whose license is expired,
8 suspended, or revoked as a result of action other than
9 the instant offense;

10 (2) [~~A defendant who~~] Who does not hold a valid license at
11 the time of the instant offense;

12 (3) [~~A defendant who~~] Who holds either a category 4
13 license under section 286-102(b) or a commercial
14 driver's license under section 286-239(a), unless the
15 ignition interlock permit is restricted to a category
16 1, 2, or 3 license under section 286-102(b); or

17 (4) [~~A defendant who~~] Who holds a license that is a
18 learner's permit or instruction permit.

19 (d) Except as provided in subsection (c), the court may
20 issue a separate permit authorizing a defendant to operate a
21 vehicle owned by the defendant's employer during the period of



1 revocation without installation of an ignition interlock device
2 if the defendant is gainfully employed in a position that
3 requires driving and the defendant will be discharged if
4 prohibited from driving a vehicle not equipped with an ignition
5 interlock device.

6 (e) A request made pursuant to subsection (d) shall be
7 accompanied by[+] a sworn statement from:

- 8 (1) [~~A sworn statement from the~~] The defendant containing
9 facts establishing that the defendant currently is
10 employed in a position that requires driving and that
11 the defendant will be discharged if prohibited from
12 driving a vehicle not equipped with an ignition
13 interlock device; and
- 14 (2) [~~A sworn statement from the~~] The defendant's employer
15 establishing that the employer will, in fact,
16 discharge the defendant if the defendant cannot drive
17 a vehicle that is not equipped with an ignition
18 interlock device and identifying the specific vehicle
19 the defendant will drive for purposes of employment
20 and the hours of the day, not to exceed twelve hours
21 per day, or the period of the specified assigned hours



1 of work, the defendant will drive the vehicle for
2 purposes of employment.

3 (f) A permit issued pursuant to subsection (d) shall
4 include restrictions allowing the defendant to drive[÷] only:

5 (1) [~~Only during~~] During specified hours of employment,
6 not to exceed twelve hours per day, or the period of
7 the specified assigned hours of work, and only for
8 activities solely within the scope of the employment;

9 (2) [~~Only the~~] The vehicle specified; and

10 (3) [~~Only if~~] If the permit is kept in the defendant's
11 possession while operating the employer's vehicle.

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

13 (1) Conviction under this section, section 291E-4(a), or
14 section 291E-61.5;

15 (2) Conviction in any other state or federal jurisdiction
16 for an offense that is comparable to operating or
17 being in physical control of a vehicle while having
18 either an unlawful alcohol concentration or an
19 unlawful drug content in the blood or urine or while
20 under the influence of an intoxicant or habitually



1 operating a vehicle under the influence of an
2 intoxicant; or
3 (3) Adjudication of a minor for a law violation that, if
4 committed by an adult, would constitute a violation of
5 this section or an offense under section 291E-4(a), or
6 section 291E-61.5,
7 shall be considered a prior conviction for the purposes of
8 imposing sentence under this section. Any judgment on a verdict
9 or a finding of guilty, a plea of guilty or nolo contendere, or
10 an adjudication, in the case of a minor, that at the time of the
11 offense has not been expunged by pardon, reversed, or set aside
12 shall be deemed a prior conviction under this section.

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



1 abuse or dependence. ~~[All]~~ Except as provided in subsection
2 (1), all costs for assessment and treatment shall be borne by
3 the offender.

4 (i) Upon proof that the defendant has:

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

7 (2) Obtained motor vehicle insurance or self-insurance
8 that complies with the requirements under either
9 section 431:10C-104 or ~~[section]~~ 431:10C-105,

10 the court shall issue an ignition interlock permit that will
11 allow the defendant to drive a vehicle equipped with an ignition
12 interlock device during the revocation period.

13 (j) 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 a new driver's license until the expiration of the period
17 of revocation determined by the court. After the period of
18 revocation is completed, the person may apply for and the
19 examiner of drivers may grant to the person a new driver's
20 license.



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

11 (l) For any person sentenced pursuant to this section for
12 an offense committed while the person was a minor under the age
13 of eighteen:

14 (1) The court shall not order any financial penalties,
15 surcharges, or reimbursements otherwise permitted
16 under this section against the person or the person's
17 parent or guardian for the person's offense; provided
18 that the court may order restitution to a victim, as
19 applicable; 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 [~~1~~] (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 drug and alcohol
6 toxicology testing laboratory special fund;
- 7 (D) Referral to a certified substance abuse counselor
8 as provided in subsection (e);
- 9 (E) A surcharge of \$25 to be deposited into the
10 neurotrauma special fund; and
- 11 (F) A surcharge of up to \$50 to be deposited into the
12 trauma system special fund if the court so
13 orders.

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

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



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

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

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



1 the offender's substance abuse or dependence. [~~All~~] Except as
2 provided in subsection (h), all costs for assessment and
3 treatment shall be borne by the offender.

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

12 (g) [~~Any~~] Except as provided in subsection (h), any person
13 sentenced under this section may be ordered to reimburse the
14 county for the cost of any blood or urine tests conducted
15 pursuant to section 291E-11. The court shall order the person
16 to make 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.

19 (h) No financial penalty, surcharge, or cost of assessment
20 and treatment provided for in this section shall be ordered
21 against a person who is adjudicated or sentenced under this



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

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

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

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

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

18 (3) An adjudication of a minor for a law or probation
19 violation that, if committed by an adult, would
20 constitute a violation of this section or section



1 291-4.4 as that section was in effect on December 31,
2 2001,
3 that, at the time of the instant offense, had not been expunged
4 by pardon, reversed, or set aside. All convictions that have
5 been expunged by pardon, reversed, or set aside before the
6 instant offense shall not be deemed prior convictions for the
7 purposes of proving the person's status as a habitual operator
8 of a vehicle while under the influence of an intoxicant.

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

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

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 section 291E-61 or 707-702.5; or

20 (3) An adjudication of a minor for a law or probation
21 violation that, if committed by an adult, would



1 constitute a violation of section 291E-61 or
 2 707-702.5,
 3 that, at the time of the instant offense, had not been expunged
 4 by pardon, reversed, or set aside. All convictions that have
 5 been expunged by pardon, reversed, or set aside before the
 6 instant offense shall not be deemed prior convictions for the
 7 purposes of proving that the person is a habitual operator of a
 8 vehicle while under the influence of an intoxicant.

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

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

- 13 (1) Two or more times for offenses of operating a vehicle
 14 under the influence; or
- 15 (2) One or more times for offenses of habitually operating
 16 a vehicle under the influence."

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

19 "**§291E-64 Operating a vehicle after consuming a measurable**
 20 **amount of alcohol; persons under the age of twenty-one.** (a) It
 21 shall be unlawful for any person under the age of twenty-one



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

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

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

13 (A) The court shall impose:

14 (i) A requirement that the person and, if the
15 person is under the age of eighteen, the
16 person's parent or guardian attend an
17 alcohol abuse education and counseling
18 program for [~~not~~] no more than ten hours;
19 and

20 (ii) A one hundred eighty-day prompt suspension
21 of license and privilege to operate a



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

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

17 (i) [~~Not~~] No more than thirty-six hours of
18 community service work; or

19 (ii) A fine of [~~not~~] no less than \$150 but [~~not~~]
20 no more than \$500;



- 1 (2) For a violation that occurs within five years of a
2 prior alcohol enforcement contact:
- 3 (A) The court shall impose prompt suspension of
4 license and privilege to operate a vehicle for a
5 period of one year with absolute prohibition from
6 operating a vehicle during the suspension period;
7 and
- 8 (B) In addition, the court may impose any of the
9 following:
- 10 (i) [~~Not~~] No more than fifty hours of community
11 service work; or
- 12 (ii) A fine of [~~not~~] no less than \$300 but [~~not~~]
13 no more than \$1,000; and
- 14 (3) For a violation that occurs within five years of two
15 prior alcohol enforcement contacts:
- 16 (A) The court shall impose revocation of license and
17 privilege to operate a vehicle for a period of
18 two years; and
- 19 (B) In addition, the court may impose any of the
20 following:



- 1 (i) [~~Not~~] No more than one hundred hours of
2 community service work; or
3 (ii) A fine of [~~not~~] no less than \$300 but [~~not~~]
4 no more than \$1,000.

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

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



1 (e) Notwithstanding section 831-3.2 or any other law to
2 the contrary, a person convicted of a first-time violation under
3 subsection (b) (1) or section 291-4.3, as it existed before Act
4 189, Session Laws of Hawaii 2000, who had no prior alcohol
5 enforcement contacts, may apply to the court for an expungement
6 order upon attaining the age of twenty-one, or thereafter, if
7 the person has fulfilled the terms of the sentence imposed by
8 the court and has had no subsequent alcohol or drug related
9 enforcement contacts; provided that this subsection shall not
10 apply to persons in possession of a commercial learner's permit
11 or commercial driver's license or convicted in a commercial
12 motor vehicle or while transporting hazardous materials.

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; provided that the
16 court may order restitution to a victim, as
17 applicable; and

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



1 ~~the pupil, and the pupil, parent, or guardian have executed a~~
2 ~~written agreement to make restitution].~~

3 (c) The principal of the school in which the vandalism
4 occurred shall make or order an investigation of the vandalism.
5 If after the investigation, the principal has reasonable cause
6 to believe that a specific pupil is responsible for the
7 vandalism, the principal shall schedule a conference with the
8 pupil and the pupil's parents or guardian. Except for the
9 principal of the school in which the vandalism occurred, the
10 pupil and the parents or guardian, no other person shall be
11 permitted to be in the conference for any reason.

12 (d) At the conference, the principal of the school in
13 which the vandalism occurred shall present the findings of the
14 investigation [~~and the requirements of restitution]~~ to the pupil
15 and parents or guardian.

16 If the pupil and the parents or guardian agree with the
17 findings of the principal and the manner in which [~~restitution~~
18 ~~is to be made,~~] the pupil is to be held accountable, the
19 principal and the pupil and parent or guardian shall execute a
20 written agreement [~~which~~] that shall specify the manner in which
21 [~~restitution is to be made.~~



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], when~~
4 appropriate, the principal will assess the extent of the damage
5 and determine if the pupil has the skills necessary to address
6 the damage. This shall include no more than seventy-two hours
7 of community service, which shall be performed in a manner that
8 does not interfere with the pupil's school or work commitments.
9 No information about the investigation, conference, and the
10 actions taken shall be communicated to any person not directly
11 involved in the proceedings.

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

19 ~~[(e) If the damages exceed \$3,500, the principal shall~~
20 ~~report the matter to the complex area superintendent, who shall~~



1 ~~refer the matter to the attorney general for any further action~~
2 ~~pursuant to section 577-3.~~

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

8 PART IV

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

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

- 18 (1) ~~[Not]~~ No less than \$105 nor more than \$505 for a
19 felony;
- 20 (2) \$55 for a misdemeanor; and
- 21 (3) \$30 for a petty misdemeanor.



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

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

- 12 (1) The seriousness of the offense;
- 13 (2) The circumstances of the commission of the offense;
- 14 (3) The economic gain, if any, realized by the defendant;
- 15 (4) The number of victims; and
- 16 (5) The defendant's earning capacity, including future
17 earning capacity.

18 (c) The compensation fee shall be considered a civil
19 judgment.

20 (d) No compensation fee provided for in this section shall
21 be levied against a person who is adjudicated for an offense



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

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

6 "~~[+]~~**\$353G-10**~~[+]~~ **Drug testing or assessment fees.** (a)

7 Except as provided in ~~[subsection]~~ subsections (b)~~[7]~~ and (e),
8 the agency responsible for monitoring a person's compliance with
9 the terms and conditions of parole or other release from a
10 correctional center or facility shall impose upon the person
11 reasonable fees to cover the cost of:

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

14 (2) Any assessment of the person required or ordered under
15 this chapter.

16 The fees shall not be less than the actual and administrative
17 costs of a drug test or assessment. The fees may be deducted
18 from any income a person has received as a result of labor
19 performed in a correctional center or facility or any type of
20 work release program.



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

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

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

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

18 PART V

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



1 "(c) Informal adjustment under this section may include,
2 among other suitable methods, programs, and procedures, the
3 following:

- 4 (1) Participation in restitution projects to obtain
5 appropriate victim satisfaction;
- 6 (2) Participation in community service projects so as to
7 establish the child's self value in the community;
- 8 (3) Participation in community-based programs [~~which~~] that
9 work with the child and family to maintain and
10 strengthen the family unit so that the child may be
11 retained in the child's own home;
- 12 (4) Submission to neighborhood courts or panels upon
13 procedures to be established by the court. As used in
14 this paragraph "neighborhood courts or panels" are
15 community organizations designed to settle minor
16 disputes between parties on a voluntary basis using
17 mediation or nonbinding arbitration;
- 18 (5) Participation in programs to support, counsel, or
19 provide work and recreational opportunities to help
20 prevent delinquency;



- 1 (6) Participation in educational programs or supportive
- 2 services designed to help delinquents and to encourage
- 3 other youths to remain in elementary and secondary
- 4 schools or in alternative learning situations;
- 5 (7) Participation in youth-initiated programs and outreach
- 6 programs designed to assist youth and families;
- 7 (8) Appropriate physical and medical examinations,
- 8 vocational and aptitude testing, examinations for
- 9 learning disabilities or emotional dysfunctions, and
- 10 suitable counseling and therapy;
- 11 (9) Placement with nonsecure or secure shelter facilities;
- 12 (10) Restitution providing for monetary payment by the
- 13 parents of the child; or
- 14 (11) Participation in a restorative justice program where
- 15 the child and the child's parents or guardian, and
- 16 other supporters of the child, may meet with the
- 17 victim harmed by the child's law violation and the
- 18 victim's supporters[-];
- 19 provided that any treatment or services provided under this
- 20 section shall be provided at no cost to the person whose
- 21 violation occurred while the person was a minor under the age of



1 eighteen, or to the person's parent or guardian for that
2 person's violation. Nothing in this section shall prohibit the
3 utilization of treatment or services provided or covered by any
4 health insurance plan under which the person is already a
5 covered person or beneficiary; provided that the person or the
6 person's parent or guardian shall be responsible for all
7 copayments required by the insurer."

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

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



1 restriction, the minor shall be given temporary care in any
2 available nonsecure minor caring institution, foster family
3 home, or other shelter facility.

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



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

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

17 (1) Unless a court finds, after a hearing and in writing,
18 that it is in the interest of justice as provided for
19 in subsection (g) (2), a minor believed to come within
20 section 571-11(1), or a minor awaiting trial or
21 another legal process, who is treated as an adult for



1 purposes of prosecution in criminal court and housed
2 in a secure facility shall not:

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

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

7 (2) Detention in a jail or lockup for adults may be
8 permitted for[+] a minor accused of a non-status
9 offense who is:

10 (A) [~~A minor accused of a non-status offense who is~~
11 ~~held~~] Held for a period not to exceed six hours;
12 provided that the minor is being held:

- 13 (i) For processing or release;
14 (ii) While awaiting transfer to a juvenile
15 facility; or
16 (iii) For a court appearance that occurs within
17 the period of detention; or

18 (B) [~~A minor accused of a non-status offense who is~~
19 ~~awaiting~~] Awaiting an initial court appearance
20 that will occur within forty-eight hours of the
21 minor being taken into custody, excluding



1 weekends and holidays, and where the jail or
2 lockup for adults is in a location:

3 (i) Outside a metropolitan statistical area, as
4 defined by the Office of Management and
5 Budget, and no acceptable alternative
6 placement is available;

7 (ii) Where the distance to be traveled or the
8 lack of highway, road, or transportation
9 does not allow for court appearances within
10 forty-eight hours, excluding weekends and
11 holidays, such that a brief delay of no more
12 than an additional forty-eight hours is
13 excusable; or

14 (iii) Where safety concerns exist, such as severe
15 and life-threatening weather conditions that
16 do not allow for reasonably safe travel, in
17 which case the time for an appearance may be
18 delayed until twenty-four hours after the
19 time that conditions allow for reasonably
20 safe travel;



1 provided that the minor shall not have sight or sound
2 contact with adult inmates; provided further that the
3 State shall have a policy in effect that requires
4 individuals who work with both minor and adult inmates
5 in collocated facilities to be trained and certified
6 to work with juveniles.

7 (e) No minor [~~may~~] shall be held after the filing of a
8 petition or motion, as specified in subsection (d), unless an
9 order for continued detention or shelter has been made by a
10 judge after a court hearing. If there is probable cause to
11 believe that the minor comes within section 571-11(1), the minor
12 may be securely detained, following a court hearing, in a
13 detention facility for juveniles or may be held in a shelter.
14 If there is probable cause to believe that the minor comes
15 within section 281-101.5 or 571-11(2), the minor may be held,
16 following a court hearing, in a shelter but shall not be
17 securely detained in a detention facility for juveniles for
18 longer than twenty-four hours, excluding weekends and holidays,
19 unless the minor is subject to the provisions of chapter 582,
20 Interstate Compact on Juveniles, or chapter 582D, Interstate
21 Compact for Juveniles, or is allegedly in or has already been



1 adjudicated for a violation of a valid court order, as provided
2 under the federal Juvenile Justice and Delinquency Prevention
3 Act of 1974, as amended.

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

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

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

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

12 or

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

16 (2) In determining whether it is in the interest of
17 justice to permit a minor to be held in any jail or
18 lockup for adults, or to have sight or sound contact
19 with adult inmates, a court shall consider:

20 (A) The age of the minor;

21 (B) The physical and mental maturity of the minor;



- 1 (C) The present mental state of the minor, including
- 2 whether the minor presents an imminent risk of
- 3 self-harm;
- 4 (D) The nature and circumstances of the alleged
- 5 offense;
- 6 (E) The minor's history of prior delinquent acts;
- 7 (F) The relative ability of the available adult and
- 8 juvenile detention facilities to meet the
- 9 specific needs of the minor and protect the
- 10 safety of the public as well as other detained
- 11 minors; and
- 12 (G) Any other relevant factor; and
- 13 (3) If a court determines that it is in the interest of
- 14 justice to permit a minor to be held in any jail or
- 15 lockup for adults, or to have sight or sound contact
- 16 with adult inmates:
- 17 (A) The court shall hold a hearing no less frequently
- 18 than once every thirty days, or in the case of a
- 19 rural jurisdiction, no less frequently than once
- 20 every forty-five days, to review whether it
- 21 remains in the interest of justice to permit the



1 minor to be held in a jail or lockup for adults
2 or to have sight or sound contact with adult
3 inmates; and

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

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

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

16 (A) The behavior poses an immediate and substantial
17 risk of danger to the minor's self or another
18 individual, or a serious and immediate threat to
19 the safety and orderly operation of the facility;
20 provided that any decision to hold a minor in
21 room confinement due to a mental health emergency



1 shall be made by a mental health professional and
2 based upon the mental health professional's
3 examination of the minor; or

4 (B) The minor is an imminent escape risk;
5 (2) Because of the potential impact on a minor's mental or
6 physical health, room confinement may only be used for
7 the minimum time necessary for the minor to regain
8 self-control, and only after less restrictive options
9 or techniques, including de-escalation, conflict and
10 behavioral management techniques, and intervention by
11 a mental health professional, have been attempted,
12 exhausted, and failed;

13 (3) If a minor is placed in room confinement, the reasons
14 for the room confinement shall be explained to the
15 minor. The minor shall also be informed that release
16 from room confinement will occur immediately when the
17 minor exhibits self-control and is no longer deemed a
18 threat to the minor's safety or the safety of others;

19 (4) If a minor is placed in room confinement, the
20 following individuals shall be notified on the next
21 business day and provided the reasons for the room



1 confinement as well as the location and duration of
2 the confinement:

3 (A) The senior judge of the family court;
4 (B) The presiding judge who ordered the minor to be
5 held at the facility;
6 (C) The deputy chief court administrator; and
7 (D) The social services manager of the juvenile
8 client services branch for the circuit court of
9 the first circuit;

10 (5) Room confinement shall not be used for purposes of
11 punishment or disciplinary sanction, coercion,
12 convenience, or retaliation, or to address staffing
13 shortages at the facility;

14 (6) A minor may be held in room confinement for no more
15 than three hours unless the minor is a danger to
16 themselves or another, or the on-call judge grants an
17 extension of no more than three additional hours of
18 confinement. Thereafter, the minor shall be returned
19 to the general population; provided that if a minor is
20 held in room confinement for more than three hours, a
21 hearing shall be held before the family court on the



1 next business day, at which time the minor shall be
2 provided legal representation;

3 (7) A minor shall not be returned to room confinement
4 immediately after returning to the general population
5 from room confinement for the purposes of evading the
6 reporting requirements and room confinement
7 restrictions pursuant to this section;

8 (8) If the minor is not returned to the general population
9 following a hearing pursuant to paragraph (6), the
10 minor shall be transferred to a location where
11 services may be provided to the minor without the need
12 for room confinement; provided that if a mental health
13 professional determines that the level of crisis
14 service needed is not presently available at the
15 location, the superintendent or deputy superintendent
16 of the facility shall initiate a referral to a
17 facility that can meet the needs of the minor;

18 (9) All rooms used for room confinement shall have
19 adequate and operational lighting[7] and ventilation
20 for the comfort of the minor[7] and shall be clean and
21 resistant to suicide and self-harm;



- 1 (10) The minor shall have access to drinking water, toilet
2 facilities, hygiene supplies, and reading materials
3 approved by a mental health professional;
- 4 (11) The minor shall have the same access as provided to
5 minors in the general population of the facility to
6 meals, contact with parents or legal guardians, legal
7 assistance, educational programs, and medical and
8 mental health services;
- 9 (12) The minor shall be continuously monitored by facility
10 staff; and
- 11 (13) The judiciary shall post quarterly on the judiciary's
12 website a report of its detention center detailing
13 their compliance with this section. Each report shall
14 include:
- 15 (A) The number of incidents of room confinement every
16 year;
- 17 (B) The number of minors impacted;
- 18 (C) The age, gender identity, and race of minors
19 impacted;
- 20 (D) Any alternative strategies employed before the
21 use of room confinement, the reasons those



1 alternative strategies failed, and why room
2 confinement was necessary; and
3 (E) The incidence of mental illness.

4 For the purposes of this subsection:

5 "Mental health professional" means a qualified mental
6 health professional or mental health professional supervised by
7 a qualified mental health professional.

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

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

20 (j) The official in charge of a facility for the detention
21 of adult offenders or persons charged with crime shall inform



1 the court immediately when a minor who is or appears to be under
2 eighteen years of age is received at the facility.

3 (k) Any other provision of law to the contrary
4 notwithstanding, any person otherwise subject to proceedings
5 under chapter 832 and who is under the age of eighteen may be
6 confined in a detention facility or correctional facility by
7 order of a judge for the purposes set forth in section 832-12,
8 832-15, or 832-17.

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



1 (m) Any costs associated with the detention of a minor
2 shall be borne by the court. The court shall not seek
3 reimbursement for costs incurred pursuant to this section from a
4 person adjudicated under section 571-11(1) or (2), 571-13,
5 571-22, or 571-41(f), or from the person's parent or guardian;
6 provided that the court may order restitution to a victim, as
7 applicable."

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

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

18 When a detention home is established as an agency of the
19 court, the judge may appoint a director of detention services
20 and other necessary employees for [~~such~~] the home in the same



1 manner as is provided by law for the appointment of other
2 employees of the court.

3 A detention home established in any circuit may be used for
4 the temporary detention of children or minors ordered to be
5 detained by the court of another circuit. The use shall be
6 subject to the approval of the judge of the court of the circuit
7 in which the detention home is situated, upon [~~such~~] the terms
8 and conditions as may be established by the judge.

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

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



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

3 **"§571-48 Decree, if informal adjustment or diversion to a**
4 **private or community agency or program has not been effected.**

5 When a child is found by the court to come within section
6 571-11, the court shall so decree and in its decree shall make a
7 finding of the facts upon which the court exercises its
8 jurisdiction over the child. Upon the decree the court, by
9 order duly entered, shall proceed as follows:

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

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

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

13 (ii) In the custody of a suitable person or
14 facility elsewhere, upon conditions
15 determined by the court.

16 An order by the court placing a child on
17 probation under this subparagraph shall include a
18 definite term of probation stated in months or
19 years, subject to extension or modification by
20 the court pursuant to section 571-50. When
21 conditions of probation include custody in a



1 youth correctional facility, the custody shall be
2 for a term not to exceed one year, after which
3 time the child shall be allowed to reside in the
4 community subject to additional conditions as may
5 be imposed by the court;

6 (B) The court may vest legal custody of the child,
7 after prior consultation with the agency or
8 institution:

9 (i) In a Hawaii youth correctional facility if
10 the child has been adjudicated for a
11 felony-level offense or a violation or
12 revocation of probation, or is committed to
13 the facility from juvenile drug court or
14 girls court on a court order. For a child
15 eligible for placement in a Hawaii youth
16 correctional facility, the court shall enter
17 a finding of fact in the record stating the
18 reasons the child is a public safety risk
19 warranting placement in the correctional
20 facility. No such finding of fact shall be



1 required if the child is adjudicated for a
2 felony against a person or a sex offense;
3 (ii) In a local public agency or institution;
4 (iii) In any private institution or agency
5 authorized by the court to care for
6 children; or
7 (iv) In a private home.

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

14 (C) The court may place a child on administrative
15 monitoring, as defined in section 571-2, pending
16 completion of conditions as may be imposed by the
17 court, to preempt the need for disposition to a
18 full probation term, and to afford the child the
19 opportunity to demonstrate behavior adjustments.
20 Upon completion of the court-ordered conditions,
21 the court shall discharge the child pursuant to



1 section 571-50. If a child fails to complete the
2 court-ordered conditions, the court may extend or
3 modify the order pursuant to section 571-50, or
4 ~~[dispose]~~ place the child ~~[to]~~ on probation
5 status under paragraph (1) (A); or

6 (D) ~~[The court may fine the child for]~~ For a
7 violation ~~[which]~~ that would be theft in the
8 third degree by shoplifting if committed by an
9 adult~~[. The]~~, the court may require the child to
10 perform ~~[public services in lieu of the fine;]~~
11 community service of no more than seventy-two
12 hours; provided that the community service shall
13 not interfere with the child's school or work
14 commitments. The court shall not impose a fine
15 on the child or the child's parent or guardian;

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

17 (A) The court may place the child under protective
18 supervision, as hereinabove defined, in the
19 child's own home, or in the custody of a suitable
20 person or agency elsewhere, upon conditions
21 determined by the court; or



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

17 (3) An order vesting legal custody of a minor in an
18 individual, agency, or institution under section
19 571-11(2) shall be for an indeterminate period but
20 shall not remain in force or effect beyond three years
21 from the date entered, except that the individual,



1 institution, or agency may file with the court a
2 petition for renewal of the order and the court may
3 renew the order if it finds [~~such~~] the renewal
4 necessary to safeguard the welfare of the child or the
5 public interest. The court, after notice to the
6 parties, may conduct a hearing on the petition.
7 Renewal may be periodic during minority, but no order
8 shall have any force or effect beyond the period
9 authorized by section 571-13. An agency granted legal
10 custody shall be subject to prior approval of the
11 court in any case in which the child is to reside
12 without the territorial jurisdiction of the court and
13 may be subject to prior approval in other cases. An
14 individual granted legal custody shall exercise the
15 rights and responsibilities personally unless
16 otherwise authorized by the court;

- 17 (4) Whenever the court commits a child to the care of the
18 director of human services or executive director of
19 the office of youth services, or vests legal custody
20 of a child in an institution or agency, it shall
21 transmit with the order copies of the clinical



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

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

19 (6) In placing a child under the guardianship or custody
20 of an individual or of a private agency or private



1 institution, the court shall give primary
2 consideration to the welfare of the child;

3 (7) In support of any order or decree under section
4 571-11(1) or (2), the court may require the parents or
5 other persons having custody of the child, or any
6 other person who has been found by the court to be
7 encouraging, causing, or contributing to the acts or
8 conditions [~~which~~] that bring the child within the
9 purview of this chapter and who are parties to the
10 proceeding, to do or to omit doing any acts required
11 or forbidden by law, when the judge deems this
12 requirement necessary for the welfare of the child.
13 The court may also make appropriate orders concerning
14 the parents or other persons having custody of the
15 child and who are parties to the proceeding. If such
16 persons fail to comply with the requirement or with
17 the court order, the court may proceed against them
18 for contempt of court;

19 (8) In support of any order or decree for custody or
20 support, the court may make an order of protection
21 setting forth reasonable conditions of behavior to be



1 observed for a specified time, binding upon both
2 parents or either of them. This order may require
3 either parent to stay away from the home or from the
4 other parent or children, may permit the other to
5 visit the children at stated periods, or may require a
6 parent to abstain from offensive conduct against the
7 children or each other;

8 (9) The court may dismiss the petition or otherwise
9 terminate its jurisdiction at any time;

10 (10) In any other case of which the court has jurisdiction,
11 the court may make any order or judgment authorized by
12 law;

13 (11) The court may order any person adjudicated pursuant to
14 section 571-11(1) to make restitution of money or
15 services to any victim who suffers loss as a result of
16 the child's action, or to render community service[+] of no more than seventy-two hours; provided that the
17 community service shall not interfere with the child's
18 school or work commitments;

19 (12) The court may order any [~~person~~] child adjudicated
20 pursuant to section 571-11(2) to participate in
21



1 community service[~~;~~and] of no more than seventy-two
2 hours; provided that the community service shall not
3 interfere with the child's school or work commitments;

4 (13) The court may order the parents of an adjudicated
5 child to make restitution of money or services to any
6 victim, person, or party who has incurred a loss or
7 damages as a result of the child's action[~~;~~]; and

8 (14) Notwithstanding paragraph (11) or (13), the court
9 shall not impose any financial penalties or seek
10 reimbursement for costs against the adjudicated child
11 or the child's parent or guardian."

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

14 **"§571-51 Support of minor committed for study or care.**

15 Whenever legal custody of a minor is given by the court to
16 someone other than the minor's parents, or when a minor is given
17 medical, psychological, or psychiatric study or treatment under
18 order of the court, and no provision is otherwise made by law
19 for the support of the minor or for payment for [~~such~~] the
20 treatment, compensation for the study and treatment of the
21 minor, when approved by order of the court, shall[~~;~~if



1 ~~necessary,~~] be paid out of [~~such~~] moneys as may be appropriated
2 for the expenses of the court. [~~After giving the parent a~~
3 ~~reasonable opportunity to be heard, the court may order and~~
4 ~~decree that the parent shall pay, in such manner as the court~~
5 ~~may direct, a reasonable sum that will cover in whole or in part~~
6 ~~the support and treatment of the minor given after the decree is~~
7 ~~entered. If the parent wilfully fails or refuses to pay such~~
8 ~~sum, the court may proceed against the parent as for contempt,~~
9 ~~or the order may be filed and shall have the effect of a civil~~
10 ~~judgment.] The court shall not order the parent or guardian of a
11 person adjudicated under section 571-11(1) or (2), 571-13, 571-
12 22, or 571-41(f) to pay for the person's support and treatment;
13 provided that the court may order the person or the person's
14 parent or guardian to utilize treatment options available to the
15 person or the person's parent or guardian through any health
16 insurance under which the person is already a covered person or
17 beneficiary; provided further that the person or the person's
18 parent or guardian shall be responsible for all copayments
19 required by the insurer.~~

20 Compensation may be made to a nongovernmental agency[~~;~~];
21 provided that [~~it~~] the nongovernmental agency shall make



1 periodic reports to the court or to an agency designated by the
2 court concerning the care and treatment the minor is receiving
3 and the minor's response to [~~such~~] the treatment. These reports
4 shall be made as frequently as the court deems necessary and
5 shall be made with respect to every [~~such~~] minor at intervals
6 not exceeding six months. The agency shall also afford an
7 opportunity for a representative of the court or of an agency
8 designated by the court to visit, examine, or consult with the
9 minor as frequently as the court deems necessary."

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

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

17 (b) No witness fees shall be allowed to [~~7~~] any party to a
18 petition. No officer of the State or of any political
19 subdivision thereof shall be entitled to receive any fee for the
20 service of process or for attendance in court in any [~~such~~]
21 proceedings except as otherwise provided in this chapter. All



1 other persons acting under orders of the court may be paid for
2 service of process and attendance or service as witnesses[~~7~~];
3 provided that the fees provided by law [~~7~~] shall be paid from
4 the proper appropriation when the allowances are certified to by
5 the judge."

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

8 "(a) When it appears to a judge that a person requesting
9 the appointment of counsel satisfies the requirements of chapter
10 802 for determination of indigency, or the court in its
11 discretion appoints counsel under chapters [~~+~~]587A[~~+~~] and 346,
12 part X, or that a person requires the appointment of a guardian
13 ad litem, the judge shall appoint counsel or a guardian ad litem
14 to represent the person at all stages of the proceedings,
15 including appeal, if any. Appointed counsel and the guardian ad
16 litem shall receive reasonable compensation for necessary
17 expenses, including travel, the amount of which shall be
18 determined by the court, and reasonable fees pursuant to
19 subsections (b) and (c). All of these expenses and fees shall
20 be certified by the court and paid upon vouchers approved by the
21 judiciary and warrants drawn by the comptroller. If the person



1 the appointed counsel or guardian ad litem is representing is a
2 minor, the court shall not order the minor or the minor's parent
3 or guardian to reimburse any costs associated with the
4 appointment of counsel or a guardian ad litem in proceedings
5 under section 571-11(1) or (2), 571-13, 571-22, or 571-41(f)."

6 SECTION 25. Section 577-3.5, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

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

11 (1) Require the minor[~~, the~~] or the minor's parents[~~]~~ or
12 [~~the~~] legal guardians to remove the graffiti from the
13 affected property within sixty days of the order [~~and~~
14 pay for the cost of paint and materials]; or if
15 appropriate, pay for the actual cost of having the
16 damaged property repaired or replaced[~~]~~ or
17 participate in an available accountability program
18 offered by the judiciary; 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 SECTION 26. Section 577-21, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§577-21 Curfew ordinances, effect.** Each of the counties
7 may enact and enforce ordinances regulating the presence of
8 children in public places and on public streets and roads during
9 certain hours at night.

10 Upon each of the counties enacting an ordinance pertaining
11 to curfew for children, then so far as that county is concerned,
12 the ordinance shall have full force and effect, and shall
13 supersede sections 577-16, [~~577-18, 7~~] 577-19, and 577-20 until
14 the ordinance is repealed or otherwise made invalid."

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

17 "**§577-26 Alcohol or drug abuse relating to minors;**
18 **diagnosis, counseling, and related activities.** (a) A
19 counselor, certified, licensed, or otherwise authorized by law
20 to engage in the practice of counseling services in either or
21 both the public and private sector, may inform the spouse,



1 parent, custodian, or guardian of any minor who requests, is
2 referred for, or received counseling services relating to
3 alcohol or drug abuse.

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

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



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

7 ~~(e)]~~ (d) The consent to the provision of furnishing
 8 counseling services for alcohol or drug abuse by the counselor
 9 when executed by a minor who is or professes to suffer from
 10 alcohol or drug abuse, shall be valid and binding as if the
 11 minor had achieved the minor's majority; that is, the minor who
 12 is or professes to suffer from alcohol or drug abuse, shall be
 13 deemed to have, and shall have the same legal capacity~~[7]~~ as,
 14 the infancy of the minor and any contrary provisions of law
 15 notwithstanding, and ~~[such]~~ the consent shall not be subject to
 16 later disaffirmance by reason of ~~[such]~~ minority; and the
 17 consent of no other person (including but not limited to a
 18 spouse, parent, custodian, or guardian) shall be necessary in
 19 order to authorize ~~[such]~~ counseling services to ~~[such a]~~ the
 20 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~~] that this action is
5 deemed beneficial in achieving the desired counseling
6 objectives.

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

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

15 ~~["§577-18 Parents allowing children in street, prohibited~~
16 ~~when; penalty. Any parent or guardian having the care, custody,~~
17 ~~and control of a child under sixteen years of age, who, except~~
18 ~~in case of necessity, knowingly, and voluntarily suffers or~~
19 ~~permits such child to go or remain on any public street, highway~~
20 ~~or public place after ten o'clock in the evening and before four~~
21 ~~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. (a) As of the effective date of this Act, any
20 outstanding court-ordered fees, fines, or administrative costs
21 ordered against a person who was adjudicated for offenses



1 committed during the person's minority, or pursuant to section
2 571-11(1) or (2), 571-13, 571-22, or 571-41(f), Hawaii Revised
3 Statutes, shall be void and not collectable, including any
4 interest, penalties, or collection expenses on the judgment,
5 order, agreement, or other legally enforceable encumbrance.
6 This Act shall apply to dual-status children for purposes of
7 delinquency jurisdiction.

8 (b) If, on or after the effective date of this Act, a
9 payment is made by a person or the person's parent or guardian
10 toward any fees, fines, or costs made void by this Act, the
11 payment shall be reimbursed within a reasonable time.

12 PART VII

13 SECTION 32. If any provision of this Act, or the
14 application thereof to any person or circumstance, is held
15 invalid, the invalidity does not affect other provisions or
16 applications of the Act that can be given effect without the
17 invalid provision or application, and to this end the provisions
18 of this Act are severable.

19 SECTION 33. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 34. This Act shall take effect on July 1, 3000;
2 provided that the amendments made to sections 291E-61 and 291E-
3 61.5, Hawaii Revised Statutes, by sections 12 and 13,
4 respectively, of this Act shall not be repealed when those
5 sections are reenacted on June 30, 2028, pursuant to section 11
6 of Act 196, Session Laws of Hawaii 2021, as amended by section 8
7 of Act 148, Session Laws of Hawaii 2023.



Report Title:

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

Description:

Prohibits the assessment of any fees, fines, or court costs against a person who was adjudicated for an offense committed during the person's minority, or against the person's parent or guardian, and discharges all related debt obligations assessed before the effective date of the Act. Limits court-ordered community service for a minor to no more than seventy-two hours. Repeals certain penalties imposed on parents, guardians, or other persons associated with unaccompanied children in streets and unmarried minors in dance halls. Effective 7/1/3000. (HD1)

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

