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# A BILL FOR AN ACT

RELATING TO COURT-ORDERED PAYMENTS.

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

1 SECTION 1. Section 601-17.5, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§601-17.5 Collection of delinquent court-ordered**  
4 **payments.** The judiciary [~~may~~] shall contract with a collection  
5 agency bonded under chapter 443B or with a licensed attorney to  
6 collect any delinquent court-ordered [~~penalties,~~] fees, fines,  
7 [~~restitution,~~] sanctions, and court costs [~~, including juvenile~~  
8 ~~monetary assessments~~]. Any fees or costs associated with the  
9 collection efforts shall be added to the amount due and retained  
10 by the collection agency as its payment; provided that no fees  
11 or costs shall exceed fifty per cent of the amount collected."

12 SECTION 2. Section 706-642, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 **"§706-642 Time and method of payment.** (1) When a  
15 defendant is sentenced to pay a fee, fine, or restitution, the  
16 court may grant permission for the payment to be made within a  
17 specified period of time or in specified installments. If no



1 such permission is embodied in the sentence, the fee, fine, or  
2 restitution shall be payable forthwith by cash, check, or by a  
3 credit card approved by the court.

4 (2) When a defendant sentenced to pay a fee, fine, or  
5 restitution is also sentenced to probation, the court may make  
6 the payment of the fee, fine, or restitution a condition of  
7 probation.

8 (3) When a defendant sentenced to pay a fee or fine is  
9 also ordered to make restitution or reparation to the victim or  
10 victims, or to the person or party who has incurred loss or  
11 damage because of the defendant's crime, the payment of  
12 restitution or reparation shall have priority over the payment  
13 of the fee or fine, pursuant to section 706-651. No fee or fine  
14 shall be collected until the restitution or reparation order has  
15 been satisfied."

16 SECTION 3. Section 706-644, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "**§706-644 Consequences of nonpayment; imprisonment for**  
19 **contumacious nonpayment; summary collection.** (1) When a  
20 defendant is sentenced pursuant to section 706-605, granted a  
21 conditional discharge pursuant to section 712-1255, or granted a



1 deferred plea pursuant to chapter 853, and the defendant is  
2 ordered to pay a fee, fine, or restitution, whether as an  
3 independent order, as part of a judgment and sentence, or as a  
4 condition of probation or deferred plea, ~~[and]~~ the court shall  
5 set a proof of compliance hearing for a defendant in district  
6 court; provided that the court may further order that the  
7 defendant need not appear for the proof of compliance hearing if  
8 all fees, fines, and restitution have been paid in full and all  
9 other sentencing requirements have been met before a designated  
10 date, which may be earlier than the proof of compliance date.  
11 At each proof of compliance hearing for a defendant in district  
12 court, if the defendant appears and is in compliance, but has  
13 not yet paid all fees, fines, and restitution in full, the court  
14 shall order a further proof of compliance hearing within one  
15 year or as soon as practicable until the fees, fines, or  
16 restitution have been paid in full. If the defendant defaults  
17 in the payment thereof [~~or of any installment~~], the court [~~upon~~  
18 ~~the motion of the prosecuting attorney or upon its own motion,~~  
19 may] shall require the defendant to show cause why the  
20 defendant's default should not be treated as contumacious, and  
21 [may], if the defendant fails to appear, the court shall issue a



1 summons or a warrant of arrest for the defendant's appearance.  
2 Unless the defendant shows that the defendant's default was not  
3 attributable to an intentional refusal to obey the order of the  
4 court, or to a failure on the defendant's part to make a good  
5 faith effort to obtain the funds required for the payment, the  
6 court shall find that the defendant's default was contumacious  
7 and may order the defendant committed until the fee, fine,  
8 restitution, or a specified part thereof is paid[~~-~~]; provided  
9 that for a defendant in district court, if the fees, fines, and  
10 restitution are not paid in full the court shall order further  
11 proof of compliance hearings every six months or less until the  
12 court is satisfied that the defendant will appear and remain in  
13 compliance.

14 (2) When a fee, fine, or restitution is imposed on a  
15 corporation or unincorporated association, it [~~is~~] shall be the  
16 duty of the person or persons authorized to make disbursement  
17 from the assets of the corporation or association to pay it from  
18 those assets, and their failure to do so may be held  
19 contumacious unless they make the showing required in  
20 subsection (1).



1           (3) The term of imprisonment for nonpayment of fee, fine,  
2 or restitution shall be specified in the order of commitment,  
3 and shall not exceed one day for each \$250 of the fee or fine,  
4 thirty days if the fee or fine was imposed upon conviction of a  
5 violation or a petty misdemeanor, or one year in any other case,  
6 whichever is the shorter period. A person committed for  
7 nonpayment of a fee or fine shall be given credit toward payment  
8 of the fee or fine for each day of imprisonment, at the rate of  
9 \$250 per day.

10           (4) If it appears that the defendant's default in the  
11 payment of a fee, fine, or restitution is not contumacious, the  
12 court may make an order allowing the defendant additional time  
13 for payment, reducing the amount of each installment, or  
14 revoking the fee, fine, or the unpaid portion thereof in whole  
15 or in part, or converting the unpaid portion of the fee or fine  
16 to community service. A defendant shall not be discharged from  
17 an order to pay restitution until the full amount of the  
18 restitution has actually been collected or accounted for.

19           (5) Unless discharged by payment or, in the case of a fee  
20 or fine, service of imprisonment pursuant to subsection (3), an  
21 order to pay a fee, fine, or restitution, whether as an



1 independent order, as a part of a judgment and sentence, or as a  
 2 condition of probation or deferred plea pursuant to chapter 853,  
 3 may be collected in the same manner as a judgment in a civil  
 4 action. The State or the victim named in the order may collect  
 5 the restitution, including costs, interest, and attorney's fees,  
 6 pursuant to section 706-646. The State may collect the fee or  
 7 fine, including costs, interest, and attorney's fees, pursuant  
 8 to section 706-647.

9 (6) Attorney's fees, costs, and interest shall not be  
 10 deemed part of the penalty, and no person shall be imprisoned  
 11 under this section in default of payment of attorney's fees,  
 12 costs, and interest.

13 (7) For purposes of this section, "default" means failure  
 14 to pay a fee, fine, or restitution within a period of time  
 15 specified by the court pursuant to section 706-642, or failure  
 16 to pay three consecutive installments of a fee, fine, or  
 17 restitution, whichever occurs first."

18 SECTION 4. Section 806-73, Hawaii Revised Statutes, is  
 19 amended by amending subsection (b) to read as follows:

20 "(b) All adult probation records shall be confidential and  
 21 shall not be deemed to be public records. As used in this



1 section, the term "records" includes but is not limited to all  
2 records made by any adult probation officer in the course of  
3 performing the probation officer's official duties. The  
4 records, or the content of the records, shall be divulged only  
5 as follows:

6 (1) A copy of any adult probation case record or of a  
7 portion of it, or the case record itself, upon  
8 request, may be provided to:

9 (A) An adult probation officer, court officer, social  
10 worker of a Hawaii state adult probation unit, or  
11 a family court officer who is preparing a report  
12 for the courts; or

13 (B) A state or federal criminal justice agency, or  
14 state or federal court program that:

15 (i) Is providing supervision of a defendant or  
16 offender convicted and sentenced by the  
17 courts of Hawaii; or

18 (ii) Is responsible for the preparation of a  
19 report for a court;



- 1           (2) The residence address, work address, home telephone  
2           number, or work telephone number of a current or  
3           former defendant shall be provided only to:
- 4           (A) A law enforcement officer as defined in section  
5           710-1000 to locate the probationer for the  
6           purpose of serving a summons or bench warrant in  
7           a civil, criminal, or deportation hearing, or for  
8           the purpose of a criminal investigation; or
- 9           (B) A collection agency or licensed attorney  
10           contracted by the judiciary to collect any  
11           delinquent court-ordered [~~penalties,~~] fees,  
12           fines, [~~restitution,~~] sanctions, and court costs  
13           pursuant to section 601-17.5;
- 14          (3) A copy of a presentence report or investigative report  
15          shall be provided only to:
- 16          (A) The persons or entities named in section 706-604;  
17          (B) The Hawaii paroling authority;  
18          (C) Any psychiatrist, psychologist, or other  
19          treatment practitioner who is treating the  
20          defendant pursuant to a court order or parole  
21          order for that treatment;



- 1 (D) The intake service centers;
- 2 (E) In accordance with applicable law, persons or
- 3 entities doing research; and
- 4 (F) Any Hawaii state adult probation officer or adult
- 5 probation officer of another state or federal
- 6 jurisdiction who:
  - 7 (i) Is engaged in the supervision of a defendant
  - 8 or offender convicted and sentenced in the
  - 9 courts of Hawaii; or
  - 10 (ii) Is engaged in the preparation of a report
  - 11 for a court regarding a defendant or
  - 12 offender convicted and sentenced in the
  - 13 courts of Hawaii;
- 14 (4) Access to adult probation records by a victim, as
- 15 defined in section 706-646 to enforce an order filed
- 16 pursuant to section 706-647, shall be limited to the:
  - 17 (A) Name and contact information of the defendant's
  - 18 adult probation officer;
  - 19 (B) Compliance record of the defendant with
  - 20 court-ordered payments;
  - 21 (C) Amounts paid by the defendant;



1 (D) Dates of the payments made by the defendant;  
2 (E) Payee of payments made by the defendant; and  
3 (F) Remaining unpaid balance,  
4 without the assessment of a filing fee or surcharge;  
5 (5) Upon written request, the victim, or the parent or  
6 guardian of a minor victim or incapacitated victim, of  
7 a defendant who has been placed on probation for an  
8 offense under section 580-10(d)(1), 586-4(e),  
9 586-11(a), or 709-906 may be notified by the  
10 defendant's probation officer when the probation  
11 officer has any information relating to the safety and  
12 welfare of the victim;  
13 (6) Notwithstanding paragraph (3) and upon notice to the  
14 defendant, records and information relating to the  
15 defendant's risk assessment and need for treatment  
16 services; information related to the defendant's past  
17 treatment and assessments, with the prior written  
18 consent of the defendant for information from a  
19 treatment service provider; provided that for any  
20 substance abuse records such release shall be subject  
21 to title 42 Code of Federal Regulations part 2,



1 relating to the confidentiality of alcohol and drug  
2 abuse patient records; and information that has  
3 therapeutic or rehabilitative benefit, may be provided  
4 to:

5 (A) A case management, assessment, or treatment  
6 service provider assigned by adult probation to  
7 service the defendant; provided that such  
8 information shall be given only upon the  
9 acceptance or admittance of the defendant into a  
10 treatment program;

11 (B) Correctional case manager, correctional unit  
12 manager, and parole officers involved with the  
13 defendant's treatment or supervision; and

14 (C) In accordance with applicable law, persons or  
15 entities doing research;

16 (7) Probation drug test results may be released with prior  
17 written consent of a defendant to the defendant's  
18 treating physician when test results indicate  
19 substance use which may be compromising the  
20 defendant's medical care or treatment;



1 (8) Records obtained pursuant to section 704-404(9) may be  
2 made available as provided in that section;

3 (9) Any person, agency, or entity receiving records, or  
4 contents of records, pursuant to this subsection shall  
5 be subject to the same restrictions on disclosure of  
6 the records as Hawaii state adult probation offices;  
7 and

8 (10) Any person who uses the information covered by this  
9 subsection for purposes inconsistent with the intent  
10 of this subsection or outside of the scope of the  
11 person's official duties shall be fined no more than  
12 \$500."

13 SECTION 5. There is appropriated out of the general  
14 revenues of the State of Hawaii the sum of \$ or so  
15 much thereof as may be necessary for fiscal year 2025-2026 and  
16 the same sum or so much thereof as may be necessary for fiscal  
17 year 2026-2027 for the purposes of this Act, including the  
18 hiring of necessary staff.

19 The sums appropriated shall be expended by the judiciary  
20 for the purposes of this Act.



1 SECTION 6. This Act does not affect rights and duties that  
2 matured, penalties that were incurred, and proceedings that were  
3 begun before its effective date.

4 SECTION 7. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 8. This Act shall take effect on April 23, 2057.



**Report Title:**

Penal Code; Fees, Fines, and Restitution; Collections;  
Consequences of Nonpayment; Appropriations

**Description:**

Requires the Judiciary to contract with a collection agency or licensed attorney to collect delinquent court-ordered fees, fines, sanctions, and court costs. Repeals the authority of the Judiciary to contract with a collection agency or licensed attorney to collect delinquent restitution. Expressly allows courts to specify a period of time or installments for payment of fees and restitution. Requires district courts to hold payment compliance hearings once per year or as soon as practicable, until all fees, fines, and restitution are fully paid, and requires a defendant in district court to appear and show cause if the defendant fails to pay in full within a time specified by the court or fails to pay three consecutive installments. Makes corresponding amendments to related statutes. Appropriates funds. Effective 4/23/2057. (SD1)

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

