

S.B. NO. 3074

JAN 28 2026

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# A BILL FOR AN ACT

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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  
18 such permission is embodied in the sentence, the fee, fine, or

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1     restitution shall be payable forthwith by cash, check, or [by] a  
2     credit card approved by the court.

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

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

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 in district court is sentenced pursuant to section  
21    706-605, granted a conditional discharge pursuant to section  
22    712-1255, or granted a deferred plea pursuant to chapter 853,

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1 and the defendant is ordered to pay a fee, fine, or restitution,  
2 whether as an independent order, as part of a judgment and  
3 sentence, or as a condition of probation or deferred plea[  
4 and] :

5       (a) If the defendant was ordered to pay restitution and  
6       has not yet paid all restitution in full, the court  
7       shall set a proof of compliance hearing for the  
8       defendant; provided that the court may further order  
9       that the defendant need not appear for the proof of  
10       compliance hearing if all restitution has been paid in  
11       full before a designated date that may be earlier than  
12       the proof of compliance hearing date. At each proof  
13       of compliance hearing for the defendant, if the  
14       defendant appears and is in compliance with the court-  
15       ordered payments but has not yet paid all restitution  
16       in full, the court shall order a further proof of  
17       compliance hearing within one year or as soon as  
18       practicable until the restitution has been paid in  
19       full. If the defendant defaults in the payment  
20       thereof [or of any installment], the court[, upon the  
21       motion of the prosecuting attorney or upon its own  
22       motion, may] shall require the defendant to show cause

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1 why the defendant's default should not be treated as  
2 contumacious, and [may], if the defendant fails to  
3 appear, the court shall issue a summons or a warrant  
4 of arrest for the defendant's appearance. Unless the  
5 defendant shows that the defendant's default was not  
6 attributable to an intentional refusal to obey the  
7 order of the court, or to a failure on the defendant's  
8 part to make a good faith effort to obtain the funds  
9 required for the payment, the court shall find that  
10 the defendant's default was contumacious and may order  
11 the defendant committed until the [fee, fine,]  
12 restitution[~~r~~] or a specified part thereof is paid.  
13 Regardless of whether the court finds that defendant's  
14 default was contumacious, the court shall order  
15 further proof of compliance hearings every six months  
16 or less until the court is satisfied that the  
17 defendant will appear and remain in compliance with  
18 the court-ordered payments. Once satisfied, the court  
19 shall resume ordering a further proof of compliance  
20 hearing within one year or as soon as practicable  
21 until the restitution has been paid in full; or

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1        (b) If the defendant was ordered to pay fines, fees, or  
2        both, the court may set a proof of compliance hearing  
3        for the defendant; provided that the court may further  
4        order that the defendant need not appear for the proof  
5        of compliance hearing if all fines and fees have been  
6        paid in full before a designated date that may be  
7        earlier than the proof of compliance hearing date. If  
8        a proof of compliance hearing is set and the defendant  
9        defaults in the payment of fines or fees, the court  
10        may:  
11        (i) Refer the outstanding fines, fees, or both to the  
12        collection agency or licensed attorney contracted  
13        pursuant to section 601-17.5; or  
14        (ii) Require the defendant to show cause why the  
15        defendant's default should not be treated as  
16        contumacious and if the defendant fails to  
17        appear, the court may issue a summons or a  
18        warrant of arrest for the defendant's appearance.  
19        Unless the defendant shows that the defendant's  
20        default was not attributable to an intentional  
21        refusal to obey the order of the court, or to a  
22        failure on the defendant's part to make a good

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1                   faith effort to obtain the funds required for the  
2                   payment, the court may find that the defendant's  
3                   default was contumacious and may order the  
4                   defendant committed until the fee, fine, or a  
5                   specified part thereof is paid.

6                   (2) When a fee, fine, or restitution is imposed on a  
7                   corporation or unincorporated association, it [~~is~~] shall be the  
8                   duty of the person or persons authorized to make disbursement  
9                   from the assets of the corporation or association to pay it from  
10                   those assets, and their failure to do so may be held  
11                   contumacious unless they make the showing [~~required~~] that their  
12                   failure was not attributable to an intentional refusal to obey  
13                   the order of the court, or to a failure to make a good faith  
14                   effort to obtain the funds required for the payment. If the  
15                   corporation or unincorporated association was sentenced as a  
16                   defendant in district court, the proceedings shall be as  
17                   provided in subsection (1).

18                   (3) The term of imprisonment for nonpayment of fee, fine,  
19                   or restitution shall be specified in the order of commitment,  
20                   and shall not exceed one day for each \$250 of the fee [~~or~~],  
21                   fine, or restitution, thirty days if the fee [~~or~~], fine, or  
22                   restitution was imposed upon conviction of a violation or a

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1      petty misdemeanor, or one year in any other case, whichever is  
2      the shorter period. A person committed for nonpayment of a fee  
3      or fine shall be given credit toward payment of the fee or fine  
4      for each day of imprisonment, at the rate of \$250 per day.

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

15               (5) Unless discharged by payment or, in the case of a fee  
16     or fine, service of imprisonment pursuant to subsection (3), an  
17     order to pay a fee, fine, or restitution, whether as an  
18     independent order, as a part of a judgment and sentence, or as a  
19     condition of probation or deferred plea pursuant to chapter 853,  
20     may be collected in the same manner as a judgment in a civil  
21     action. The State or the victim named in the order may collect  
22     the restitution, [including costs, interest, and attorney's

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1 fees, pursuant to section 706-646. The] and the State may  
2 collect the fee or fine, [including] in addition to any costs,  
3 interest, and attorney's fees, pursuant to section 706-647.

4 (6) Attorney's fees, costs, and interest shall not be  
5 deemed [part of the penalty,] a fee, fine, or restitution for  
6 purposes of this section, and no person shall be imprisoned  
7 under this section in default of payment of attorney's fees,  
8 costs, [and] or interest.

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

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

16 (b) All adult probation records shall be confidential and  
17 shall not be deemed to be public records. As used in this  
18 section, [the term] "records" includes but is not limited to all  
19 records made by any adult probation officer in the course of  
20 performing the probation officer's official duties. The  
21 records, or the content of the records, shall be divulged only  
22 as follows:

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- 1                   (1) A copy of any adult probation case record or of a  
2                   portion of it, or the case record itself, upon  
3                   request, may be provided to:  
4                   (A) An adult probation officer, a court officer, a  
5                   social worker of a Hawaii state adult probation  
6                   unit, or a family court officer who is preparing  
7                   a report for the courts; or  
8                   (B) A state or federal criminal justice agency, or  
9                   state or federal court program that[+] is:  
10                   (i) ~~[Is providing]~~ Providing supervision of a  
11                   defendant or offender convicted and  
12                   sentenced by the courts of Hawaii; or  
13                   (ii) ~~[Is responsible]~~ Responsible for the  
14                   preparation of a report for a court;
- 15                   (2) The residence address, work address, home telephone  
16                   number, or work telephone number of a current or  
17                   former defendant shall be provided only to:  
18                   (A) A law enforcement officer as defined in section  
19                   710-1000 to locate the probationer for the  
20                   purpose of serving a summons or bench warrant in  
21                   a civil, criminal, or deportation hearing, or for  
22                   the purpose of a criminal investigation; or

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1 (B) A collection agency or licensed attorney  
2 contracted by the judiciary to collect any  
3 delinquent court-ordered [penalties] fines,  
4 [restitution] fees, sanctions, and court costs  
5 pursuant to section 601-17.5;

6 (3) A copy of a presentence report or investigative report  
7 shall be provided only to:  
8 (A) The persons or entities named in section 706-604;  
9 (B) The Hawaii paroling authority;  
10 (C) Any psychiatrist, psychologist, or other  
11 treatment practitioner who is treating the  
12 defendant pursuant to a court order or parole  
13 order for that treatment;  
14 (D) The intake service centers;  
15 (E) In accordance with applicable law, persons or  
16 entities doing research; and  
17 (F) Any Hawaii state adult probation officer or adult  
18 probation officer of another state or federal  
19 jurisdiction who[+] is engaged in the:  
20 (i) [~~Is engaged in the supervision~~] Supervision  
21 of a defendant or offender convicted and  
22 sentenced in the courts of Hawaii; or

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1 officer has any information relating to the safety and  
2 welfare of the victim;

3 (6) Notwithstanding paragraph (3) and upon notice to the  
4 defendant, records and information relating to the  
5 defendant's risk assessment and need for treatment  
6 services; information related to the defendant's past  
7 treatment and assessments, with the prior written  
8 consent of the defendant for information from a  
9 treatment service provider; provided that [for]  
10 release of any substance abuse records [~~such release~~]  
11 shall be subject to title 42 Code of Federal  
12 Regulations part 2, relating to the confidentiality of  
13 alcohol and drug abuse patient records; and  
14 information that has therapeutic or rehabilitative  
15 benefit, may be provided to:

16 (A) A case management, assessment, or treatment  
17 service provider assigned by adult probation to  
18 service the defendant; provided that [~~such~~] the  
19 information shall be given only upon the  
20 acceptance or admittance of the defendant into a  
21 treatment program;

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1 SECTION 5. 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 6. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 7. This Act shall take effect upon its approval.

7

8

INTRODUCED BY:



9

BY REQUEST

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**Report Title:**

Penal Code; Fees, Fines, and Restitution; Collections; Consequences of Non-Payment

**Description:**

Requires the Judiciary to contract with a collection agency or licensed attorney to collect delinquent court-ordered fees, fines, sanctions, and court costs. Allows courts to specify a period of time or installments for payment of fines, fees, and restitution, and requires the defendant to show cause if the defendant defaults on the payments.

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

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JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO COURT-ORDERED PAYMENTS.

PURPOSE: To require the Judiciary to contract with a collection agency or licensed attorney to collect delinquent court-ordered fines, fees, sanctions, and court costs; expressly allow courts to grant a specified period of time or specified installments, for payment of fees and restitution; and require district courts to set proof of compliance hearings in cases where the defendant owes restitution to a victim.

MEANS: Amend sections 601-17.5, 706-642, 706-644, and 806-73(b), Hawaii Revised Statutes (HRS).

JUSTIFICATION: This bill addresses a recent Supreme Court decision (*State v. Fay*, 154 Haw. 305, 550 P.3d 1163 (2024)) that interpreted section 706-644, HRS, as prohibiting the courts from ordering proof of compliance hearings, unless and until a defendant defaults on payment.

Fees, fines, and restitution ordered by the court in criminal cases serve important purposes and should be paid by the defendants ordered to pay them. However, without proof of compliance hearings, there is no way for the court to know whether a defendant is actually paying these court-ordered fees, fines, or restitution. There is also no definition for the term "default," for purposes of implementing section 760-644, HRS.

Impact on the public: This bill will assist victims of crime by re-establishing the court's practice of setting proof of compliance hearings that was abolished by the recent Hawaii Supreme Court decision in

*State v. Fay.* This bill will also help to strengthen the public's confidence that sentences handed down by courts are monitored and enforced.

Impact on the department and other agencies:  
This bill will assist state and county prosecutors in enforcing payment of fines, fees, and restitution. The Judiciary may be impacted by having to set additional proof of compliance hearings; however, it should be noted that these hearings were already occurring prior to the Hawaii Supreme Court's decision in *State v. Fay*.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: None.

OTHER AFFECTED  
AGENCIES: Prosecutors, county police departments, and the Judiciary.

EFFECTIVE DATE: Upon approval.