
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 in district court is sentenced pursuant to section
21 706-605, granted a conditional discharge pursuant to section



1 712-1255, or granted a deferred plea pursuant to chapter 853,
2 and the defendant is ordered to pay a fee, fine, or restitution,
3 whether as an independent order, as part of a judgment and
4 sentence, or as a condition of probation or deferred plea[
5 and]:

6 (a) If the defendant was ordered to pay restitution, the
7 court 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 fees, fines, and restitution
11 have been paid in full and all other sentencing
12 requirements have been met before a designated date,
13 which may be earlier than the proof of compliance
14 date. At each proof of compliance hearing for a
15 defendant in district court, if the defendant appears
16 and is in compliance, but has not yet paid all fees,
17 fines, and restitution in full, the court shall order
18 a further proof of compliance hearing within one year
19 or as soon as practicable until the fees, fines, or
20 restitution have been paid in full. If the defendant
21 defaults in the payment thereof [~~or of any~~



1 installment], the court [~~upon the motion of the~~
2 ~~prosecuting attorney or upon its own motion, may]~~
3 shall require the defendant to show cause why the
4 defendant's default should not be treated as
5 contumacious, and [~~may~~], if the defendant fails to
6 appear, the court shall issue a summons or a warrant
7 of arrest for the defendant's appearance. Unless the
8 defendant shows that the defendant's default was not
9 attributable to an intentional refusal to obey the
10 order of the court, or to a failure on the defendant's
11 part to make a good faith effort to obtain the funds
12 required for the payment, the court shall find that
13 the defendant's default was contumacious and may order
14 the defendant committed until the fee, fine,
15 restitution, or a specified part thereof is paid[~~ed~~];
16 provided that for a defendant in district court, if
17 the fees, fines, and restitution are not paid in full,
18 the court shall order further proof of compliance
19 hearings every six months or less until the court is
20 satisfied that the defendant will appear and remain in
21 compliance; or



1 (b) If the defendant was ordered to pay fines, fees, or
2 both, but no restitution, the district court shall
3 refer the outstanding fines or fees to the collection
4 agency contracted pursuant to section 601-17.5. A
5 proof of compliance hearing shall not be required in
6 cases where no restitution was ordered.

7 (2) When a fee, fine, or restitution is imposed on a
8 corporation or unincorporated association, it [~~is~~] shall be the
9 duty of the person or persons authorized to make disbursement
10 from the assets of the corporation or association to pay it from
11 those assets, and their failure to do so may be held
12 contumacious unless they make the showing required in
13 subsection (1).

14 (3) The term of imprisonment for nonpayment of fee, fine,
15 or restitution shall be specified in the order of commitment,
16 and shall not exceed one day for each \$250 of the fee or fine,
17 thirty days if the fee or fine was imposed upon conviction of a
18 violation or a petty misdemeanor, or one year in any other case,
19 whichever is the shorter period. A person committed for
20 nonpayment of a fee or fine shall be given credit toward payment



1 of the fee or fine for each day of imprisonment, at the rate of
2 \$250 per day.

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

12 (5) Unless discharged by payment or, in the case of a fee
13 or fine, service of imprisonment pursuant to subsection (3), an
14 order to pay a fee, fine, or restitution, whether as an
15 independent order, as a part of a judgment and sentence, or as a
16 condition of probation or deferred plea pursuant to chapter 853,
17 may be collected in the same manner as a judgment in a civil
18 action. The State or the victim named in the order may collect
19 the restitution, including costs, interest, and attorney's fees,
20 pursuant to section 706-646. The State may collect the fee or



1 fine, including costs, interest, and attorney's fees, pursuant
2 to section 706-647.

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

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

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

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



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



1 a civil, criminal, or deportation hearing, or for
2 the purpose of a criminal investigation; or

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

8 (3) A copy of a presentence report or investigative report
9 shall be provided only to:

10 (A) The persons or entities named in section 706-604;

11 (B) The Hawaii paroling authority;

12 (C) Any psychiatrist, psychologist, or other
13 treatment practitioner who is treating the
14 defendant pursuant to a court order or parole
15 order for that treatment;

16 (D) The intake service centers;

17 (E) In accordance with applicable law, persons or
18 entities doing research; and

19 (F) Any Hawaii state adult probation officer or adult
20 probation officer of another state or federal
21 jurisdiction who[+] is engaged in the:



- 1 (i) ~~[Is engaged in the supervision]~~ Supervision
2 of a defendant or offender convicted and
3 sentenced in the courts of Hawaii; or
4 (ii) ~~[Is engaged in the preparation]~~ Preparation
5 of a report for a court regarding a
6 defendant or offender convicted and
7 sentenced in the courts of Hawaii;
- 8 (4) Access to adult probation records by a victim, as
9 defined in section 706-646 to enforce an order filed
10 pursuant to section 706-647, shall be limited to the:
11 (A) Name and contact information of the defendant's
12 adult probation officer;
13 (B) Compliance record of the defendant with
14 court-ordered payments;
15 (C) Amounts paid by the defendant;
16 (D) Dates of the payments made by the defendant;
17 (E) Payee of payments made by the defendant; and
18 (F) Remaining unpaid balance,
19 without the assessment of a filing fee or surcharge;
- 20 (5) Upon written request, the victim, or the parent or
21 guardian of a minor victim or incapacitated victim, of



1 a defendant who has been placed on probation for an
2 offense under section 580-10(d)(1), 586-4(e),
3 586-11(a), or 709-906 may be notified by the
4 defendant's probation officer when the probation
5 officer has any information relating to the safety and
6 welfare of the victim;

7 (6) Notwithstanding paragraph (3) and upon notice to the
8 defendant, records and information relating to the
9 defendant's risk assessment and need for treatment
10 services; information related to the defendant's past
11 treatment and assessments, with the prior written
12 consent of the defendant for information from a
13 treatment service provider; provided that ~~[for]~~ any
14 substance abuse records ~~[such]~~ release shall be
15 subject to title 42 Code of Federal Regulations part
16 2, relating to the confidentiality of alcohol and drug
17 abuse patient records; and information that has
18 therapeutic or rehabilitative benefit, may be provided
19 to:

20 (A) A case management, assessment, or treatment
21 service provider assigned by adult probation to



1 service the defendant; provided that [~~such~~] the
2 information shall be given only upon the
3 acceptance or admittance of the defendant into a
4 treatment program;

5 (B) Correctional case manager, correctional unit
6 manager, and parole officers involved with the
7 defendant's treatment or supervision; and

8 (C) In accordance with applicable law, persons or
9 entities doing research;

10 (7) Probation drug test results may be released with prior
11 written consent of a defendant to the defendant's
12 treating physician when test results indicate
13 substance use [~~which~~] that may be compromising the
14 defendant's medical care or treatment;

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

17 (9) Any person, agency, or entity receiving records, or
18 contents of records, pursuant to this subsection shall
19 be subject to the same restrictions on disclosure of
20 the records as Hawaii state adult probation offices;
21 and



1 (10) Any person who uses the information covered by this
2 subsection for purposes inconsistent with the intent
3 of this subsection or outside of the scope of the
4 person's official duties shall be fined no more than
5 \$500."

6 SECTION 5. There is appropriated out of the general
7 revenues of the State of Hawaii the sum of \$ or so
8 much thereof as may be necessary for fiscal year 2025-2026 and
9 the same sum or so much thereof as may be necessary for fiscal
10 year 2026-2027 for the purposes of this Act, including the
11 hiring of necessary staff.

12 The sums appropriated shall be expended by the judiciary
13 for the purposes of this Act.

14 SECTION 6. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.

17 SECTION 7. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 8. This Act shall take effect on July 1, 3000.



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 conforming amendments to related statutes. Appropriates funds. Effective 7/1/3000. (HD2)

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

