
A BILL FOR AN ACT

RELATING TO YOUTH PENALTIES.

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

1 PART I

2 SECTION 1. The legislature finds that charging fines and
3 court costs to youth is a harmful and ineffective accountability
4 practice. In Hawaii, these financial penalties
5 disproportionately impact Native Hawaiian and Pacific Islander
6 minors who represent the majority of individuals charged,
7 adjudicated, and detained for juvenile offenses in the State's
8 family courts, according to the department of human services.
9 In a report on the assessment of fees, court costs, fines, and
10 restitution in cases against minors, the judiciary confirms that
11 only seventeen per cent of fines ordered against minors have
12 been paid in recent years.

13 The legislature recognizes that assessing fines in juvenile
14 justice proceedings is not an evidence-based practice for
15 rehabilitating, deterring, or even punishing delinquent youth.
16 The legislature also finds that, although Hawaii law authorizes



1 courts to charge youth and their families a range of fines,
2 judges across the State rarely impose these costs in practice.

3 The legislature notes that, since 2021, over thirty states
4 have taken action to reform or repeal fees and fines against
5 minors and their families. Many states have extended relief by
6 discharging outstanding financial penalties that minors and
7 their parents or guardians have proven unable to pay. The
8 legislature believes that Hawaii should make similar efforts and
9 that fees and fines should not be assessed for mistakes made in
10 a person's youth, regardless of the age at which or jurisdiction
11 in which the person is adjudicated or sentenced.

12 Accordingly, the purpose of this Act is to:

13 (1) Prohibit the assessment of any fees, fines, or costs
14 against a person who is adjudicated for an offense
15 committed while the person was a minor under the age
16 of eighteen, or against the person's parent or
17 guardian;

18 (2) Encourage the use of community service and other
19 programs that employ aina-based principles, connecting
20 youth and their parents or guardians to their culture,
21 community, and the land itself; 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 by amending subsections (a), (b), and (c) to read as
8 follows:

9 "(a) [~~Any~~] Except as provided in subsection (c), any
10 person who violates section 286-102, 286-122, 286-130, 286-131,
11 286-132, 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 (b) ~~[Any]~~ Except as provided in subsection (c), any person
9 who violates any other section in this part shall be fined no
10 more than \$1,000.

11 (c) ~~[Notwithstanding subsections (a) and (b), a]~~ A minor
12 under the age of eighteen [under the jurisdiction of the family
13 court] who is subject to this section [shall either] may lose
14 the right to drive a motor vehicle until the age of eighteen or
15 be [subject to a fine of \$500.] ordered to perform community
16 service; provided that the community service shall not interfere
17 with the minor's school or work commitments; provided further
18 that no financial penalty provided for in this section shall be
19 levied against a person who is adjudicated for an offense
20 committed while the person was a minor under the age of



1 eighteen, or against the person's parent or guardian for the
2 person's offense."

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

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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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

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



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

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

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



1 delay notify the nearest police officer. Every stop shall be
2 made without obstructing traffic more than is necessary.

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

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

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

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



- 1 (2) [~~The maximum of which may be~~] \$25 if the violation is
2 an offense under section 291E-61(a)(1), [~~291E-~~
3 ~~61(a)(3),~~] (3), or [~~291E-61(a)(4),~~] (4); and
- 4 (3) [~~The maximum of which may be~~] \$50 if the violation is
5 an offense under section 291E-61(a)(2) or 291E-61.5 or
6 if the offense under section 291E-61(a)(3) or [~~291E-~~
7 ~~61(a)(4)~~] (4) is a second or subsequent offense that
8 occurred within five years of the first offense.
- 9 (b) The surcharge shall not be ordered [~~when~~]:
- 10 (1) When the court determines that the defendant is unable
11 to pay the surcharge[~~-~~]; or
- 12 (2) Against a person who is adjudicated for an offense
13 committed while the person was a minor under the age
14 of eighteen, or against the person's parent or
15 guardian for the person's offense."

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

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

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



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

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

12 (1) A lawful arrest; and

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

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



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

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

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



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

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

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

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



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

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

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

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



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

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

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

- 10 (1) While under the influence of alcohol in an amount
11 sufficient to impair the person's normal mental
12 faculties or ability to care for the person and guard
13 against casualty;
- 14 (2) While under the influence of any drug that impairs the
15 person's ability to operate the vehicle in a careful
16 and prudent manner;
- 17 (3) With .08 or more grams of alcohol per two hundred ten
18 liters of breath; or
- 19 (4) With .08 or more grams of alcohol per one hundred
20 milliliters or cubic centimeters of blood.



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

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

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

13 (B) Revocation of license to operate a vehicle for no
14 less than one year and no more than eighteen
15 months;

16 (C) Installation during the revocation period of an
17 ignition interlock device on all vehicles
18 operated by the person;

19 (D) Any one or more of the following:

20 (i) Seventy-two hours of community service work;



- 1 (ii) No less than forty-eight hours and no more
- 2 than five days of imprisonment; or
- 3 (iii) A fine of no less than \$250 and no more than
- 4 \$1,000;
- 5 (E) A surcharge of \$25 to be deposited into the
- 6 neurotrauma special fund; and
- 7 (F) A surcharge, if the court so orders, [~~or~~] of up
- 8 to \$25 to be deposited into the trauma system
- 9 special fund;
- 10 (2) For an offense that occurs within ten years of a prior
- 11 conviction for an offense under this section:
- 12 (A) A substance abuse program of at least thirty-six
- 13 hours, including education and counseling, or
- 14 other comparable programs deemed appropriate by
- 15 the court;
- 16 (B) Revocation of license to operate a vehicle for no
- 17 less than two years and no more than three years;
- 18 (C) Installation during the revocation period of an
- 19 ignition interlock device on all vehicles
- 20 operated by the person;
- 21 (D) Either one of the following:



- 1 (i) No less than two hundred forty hours of
- 2 community service work; or
- 3 (ii) No less than five days and no more than
- 4 thirty days of imprisonment, of which at
- 5 least forty-eight hours shall be served
- 6 consecutively;
- 7 (E) A fine of no less than \$1,000 and no more than
- 8 \$3,000, to be deposited into the drug and alcohol
- 9 toxicology testing laboratory special fund;
- 10 (F) A surcharge of \$25 to be deposited into the
- 11 neurotrauma special fund; and
- 12 (G) A surcharge of up to \$50, if the court so orders,
- 13 to be deposited into the trauma system special
- 14 fund;
- 15 (3) In addition to a sentence imposed under paragraphs (1)
- 16 and (2), any person eighteen years of age or older who
- 17 is convicted under this section and who operated a
- 18 vehicle with a passenger, in or on the vehicle, who
- 19 was younger than fifteen years of age, shall be
- 20 sentenced to an additional mandatory fine of \$500 and
- 21 an additional mandatory term of imprisonment of forty-



1 eight hours; provided that the total term of
2 imprisonment for a person convicted under this
3 paragraph shall not exceed the maximum term of
4 imprisonment provided in paragraph (1) or (2), as
5 applicable. Notwithstanding paragraphs (1) and (2),
6 the revocation period for a person sentenced under
7 this paragraph shall be no less than two years;

8 (4) In addition to a sentence imposed under paragraph (1),
9 for a first offense under this section, or an offense
10 not preceded within a ten-year period by a conviction
11 for an offense, any person who is convicted under this
12 section and was a highly intoxicated driver at the
13 time of the subject incident shall be sentenced to an
14 additional mandatory term of imprisonment for forty-
15 eight consecutive hours and an additional mandatory
16 revocation period of six months; provided that the
17 total term of imprisonment for a person convicted
18 under this paragraph shall not exceed the maximum term
19 of imprisonment provided in paragraph (1).

20 Notwithstanding paragraph (1), the revocation period



1 for a person sentenced under this paragraph shall be
2 no less than eighteen months;

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

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



- 1 (A) Was not sentenced to any additional mandatory
2 revocation period pursuant to paragraph (3) or
3 (4);
- 4 (B) Actually installed and maintained an ignition
5 interlock device on all vehicles operated by the
6 person for a continuous period of six months,
7 after which the person maintained the ignition
8 interlock device on all vehicles operated by the
9 person for a continuous period of three months
10 without violation;
- 11 (C) Includes with the person's motion for early
12 termination a certified court abstract
13 establishing that the person was not sentenced to
14 any additional mandatory revocation period
15 pursuant to paragraph (3) or (4);
- 16 (D) Includes with the person's motion for early
17 termination a certified statement from the
18 director of transportation establishing that:
 - 19 (i) The person installed and maintained an
20 ignition interlock device on all vehicles



1 operated by the person for a continuous
2 period of six months; and
3 (ii) After the six-month period, the person
4 maintained the ignition interlock device on
5 all vehicles operated by the person for a
6 continuous period of three months without
7 violation; and
8 (E) Has complied with all other sentencing
9 requirements.

10 Nothing in this paragraph shall require a court to
11 grant early termination of the revocation period if
12 the court finds that continued use of the ignition
13 interlock device will further the person's
14 rehabilitation or compliance with this section;

15 (7) If the person demonstrates to the court that the
16 person:
17 (A) Does not own or have the use of a vehicle in
18 which the person can install an ignition
19 interlock device during the revocation period; or
20 (B) Is otherwise unable to drive during the
21 revocation period,



1 the person shall be prohibited from driving during the
2 period of applicable revocation provided in paragraphs
3 (1) to (5); provided that the person shall be
4 sentenced to the maximum license revocation period,
5 the court shall not issue an ignition interlock permit
6 pursuant to subsection (i), and the person shall be
7 subject to the penalties provided by section 291E-62
8 if the person drives during the applicable revocation
9 period; and

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

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

18 (B) Providing a sample of .04 or more grams of
19 alcohol per two hundred ten liters of breath on a
20 rolling retest, unless a subsequent test
21 performed within ten minutes registers a breath



1 alcohol concentration lower than .02 and the
2 digital image confirms the same person provided
3 both samples;
4 (C) Failing to provide a rolling retest, unless an
5 acceptable test is performed within ten minutes;
6 (D) Violating section 291E-66; or
7 (E) Failing to provide a clear photo of the person
8 when the person blows into the ignition interlock
9 device.

10 (c) Except as provided in sections 286-118.5 and 291E-
11 61.6, the court shall not issue an ignition interlock permit
12 to[+] a defendant:

- 13 (1) [~~A defendant whose~~] Whose license is expired,
14 suspended, or revoked as a result of action other than
15 the instant offense;
- 16 (2) [~~A defendant who~~] Who does not hold a valid license at
17 the time of the instant offense;
- 18 (3) [~~A defendant who~~] Who holds either a category 4
19 license under section 286-102(b) or a commercial
20 driver's license under section 286-239(a), unless the



1 ignition interlock permit is restricted to a category
2 1, 2, or 3 license under section 286-102(b); or

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

5 (d) Except as provided in subsection (c), the court may
6 issue a separate permit authorizing a defendant to operate a
7 vehicle owned by the defendant's employer during the period of
8 revocation without installation of an ignition interlock device
9 if the defendant is gainfully employed in a position that
10 requires driving and the defendant will be discharged if
11 prohibited from driving a vehicle not equipped with an ignition
12 interlock device.

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

15 (1) [~~A sworn statement from the~~] The defendant containing
16 facts establishing that the defendant currently is
17 employed in a position that requires driving and that
18 the defendant will be discharged if prohibited from
19 driving a vehicle not equipped with an ignition
20 interlock device; and



1 (2) [~~A sworn statement from the~~] The defendant's employer
2 establishing that the employer will, in fact,
3 discharge the defendant if the defendant cannot drive
4 a vehicle that is not equipped with an ignition
5 interlock device and identifying the specific vehicle
6 the defendant will drive for purposes of employment
7 and the hours of the day, not to exceed twelve hours
8 per day, or the period of the specified assigned hours
9 of work, the defendant will drive the vehicle for
10 purposes of employment.

11 (f) A permit issued pursuant to subsection (d) shall
12 include restrictions allowing the defendant to drive[+] only:

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

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

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

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



- 1 (1) Conviction under this section, section 291E-4(a), or
2 section 291E-61.5;
- 3 (2) Conviction in any other state or federal jurisdiction
4 for an offense that is comparable to operating or
5 being in physical control of a vehicle while having
6 either an unlawful alcohol concentration or an
7 unlawful drug content in the blood or urine or while
8 under the influence of an intoxicant or habitually
9 operating a vehicle under the influence of an
10 intoxicant; or
- 11 (3) Adjudication of a minor for a law violation that, if
12 committed by an adult, would constitute a violation of
13 this section or an offense under section 291E-4(a), or
14 section 291E-61.5,
- 15 shall be considered a prior conviction for the purposes of
16 imposing a sentence under this section. Any judgment on a
17 verdict or a finding of guilty, a plea of guilty or nolo
18 contendere, or an adjudication, in the case of a minor, that at
19 the time of the offense has not been expunged by pardon,
20 reversed, or set aside shall be deemed a prior conviction under
21 this section.



1 (h) Whenever a court sentences a person pursuant to
2 subsection (b), [~~it also~~] the court shall also require that the
3 offender be referred to the driver's education program for an
4 assessment, by a certified substance abuse counselor deemed
5 appropriate by the court, of the offender's substance abuse or
6 dependence and the need for appropriate treatment. The
7 counselor shall submit a report with recommendations to the
8 court. The court shall require the offender to obtain
9 appropriate treatment if the counselor's assessment establishes
10 the offender's substance abuse or dependence. [~~All~~] Except as
11 provided in subsection (1), all costs for assessment and
12 treatment shall be borne by the offender.

13 (i) Upon proof that the defendant has:
14 (1) Installed an ignition interlock device in any vehicle
15 the defendant operates pursuant to subsection (b); and
16 (2) Obtained motor vehicle insurance or self-insurance
17 that complies with the requirements under either
18 section 431:10C-104 or [~~section~~] 431:10C-105,
19 the court shall issue an ignition interlock permit that will
20 allow the defendant to drive a vehicle equipped with an ignition
21 interlock device during the revocation period.



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

9 (k) ~~[Any]~~ Except as provided in subsection (l), any person
10 sentenced under this section may be ordered to reimburse the
11 county for the cost of any blood or urine tests conducted
12 pursuant to section 291E-11. The court shall order the person
13 to make 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. Except as provided in
16 section 291E-5, installation and maintenance of the ignition
17 interlock device required by subsection (b) shall be at the
18 defendant's own expense.

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



- 1 (1) The court shall not order any:
2 (A) Financial penalties;
3 (B) Surcharges;
4 (C) Costs for assessment and treatment; or
5 (D) Reimbursements to the county for the cost of any
6 blood or urine test conducted on the minor
7 pursuant to this section,
8 otherwise permitted under this section against the
9 person or the person's parent or guardian for the
10 person's offense; and
- 11 (2) Any sentence of community service shall not interfere
12 with the person's school or work commitments.

13 [~~1~~] (m) As used in this section, [~~the term~~] "examiner of
14 drivers" has the same meaning as provided in section 286-2."

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

17 "**§291E-61.5 Habitually operating a vehicle under the**
18 **influence of an intoxicant.** (a) A person commits the offense
19 of habitually operating a vehicle under the influence of an
20 intoxicant if[+] the person:



- 1 (2) A term of probation of five years, with conditions to
2 include:
- 3 (A) Mandatory revocation of license to operate a
4 vehicle for a period no less than three years but
5 no more than five years, with mandatory
6 installation of an ignition interlock device in
7 all vehicles operated by the respondent during
8 the revocation period;
- 9 (B) No less than ten days imprisonment, of which at
10 least forty-eight hours shall be served
11 consecutively;
- 12 (C) A fine of no less than \$2,000 but no more than
13 \$5,000, to be deposited into the drug and alcohol
14 toxicology testing laboratory special fund;
- 15 (D) Referral to a certified substance abuse counselor
16 as provided in subsection (e);
- 17 (E) A surcharge of \$25 to be deposited into the
18 neurotrauma special fund; and
- 19 (F) A surcharge of up to \$50 to be deposited into the
20 trauma system special fund if the court so
21 orders.



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

4 (d) [~~For~~] Except as provided in subsection (h), for any
5 person who is convicted under this section and was a highly
6 intoxicated driver at the time of the subject incident, the
7 offense shall be a class B felony and the person shall be
8 sentenced to the following:

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

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

12 (A) Permanent revocation of license to operate a
13 vehicle;

14 (B) No less than eighteen months imprisonment;

15 (C) A fine of no less than \$5,000 but no more than
16 \$25,000; and

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

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



1 (e) Whenever a court sentences a person under this
2 section, [~~it~~] the court shall also require that the offender be
3 referred to the driver's education program for an assessment, by
4 a certified substance abuse counselor, of the offender's
5 substance abuse or dependence and the need for appropriate
6 treatment. The counselor shall submit a report with
7 recommendations to the court. The court shall require the
8 offender to obtain appropriate treatment if the counselor's
9 assessment establishes the offender's substance abuse or
10 dependence. [~~All~~] Except as provided in subsection (h), all
11 costs for assessment and treatment shall be borne by the
12 offender.

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



1 (g) ~~[Any]~~ Except as provided in subsection (h), 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.

8 (h) For any person sentenced pursuant to this section for
9 an offense committed while the person was a minor under the age
10 of eighteen:

11 (1) The court shall not order any:

12 (A) Financial penalties;

13 (B) Surcharges;

14 (C) Costs for assessment and treatment; or

15 (D) Reimbursements to the county for the cost of any

16 blood or urine test conducted on the minor

17 pursuant to this section,

18 otherwise permitted under this section against the

19 person or the person's parent or guardian for the

20 person's offense; and



1 (2) Any sentence of community service shall not interfere
2 with the person's school or work commitments.

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

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

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

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

17 (3) An adjudication of a minor for a law or probation
18 violation that, if committed by an adult, would
19 constitute a violation of this section or section 291-
20 4.4 as that section was in effect on December 31,
21 2001,



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

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

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

15 (2) A judgment on a verdict or a finding of guilty, or a
16 plea of guilty or nolo contendere, for an offense that
17 is comparable to section 291E-61 or 707-702.5; 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 section 291E-61 or 707-
21 702.5,



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

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

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

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

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

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

17 **"§291E-64 Operating a vehicle after consuming a measurable**
18 **amount of alcohol; persons under the age of twenty-one.** (a) It
19 shall be unlawful for any person under the age of twenty-one
20 years to operate any vehicle with a measurable amount of
21 alcohol. A law enforcement officer may arrest a person under



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

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

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

11 (A) The court shall impose:

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

18 (ii) A one hundred eighty-day prompt suspension
19 of license and privilege to operate a
20 vehicle with absolute prohibition from
21 operating a vehicle during the suspension



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

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

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

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

19 (2) For a violation that occurs within five years of a
20 prior alcohol enforcement contact:



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



1 (ii) A fine of ~~[not]~~ no less than \$300 but ~~[not]~~
2 no more than \$1,000.

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

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

19 (e) Notwithstanding section 831-3.2 or any other law to
20 the contrary, a person convicted of a first-time violation under
21 subsection (b)(1) or section 291-4.3, as it existed before Act



1 189, Session Laws of Hawaii 2000, who had no prior alcohol
2 enforcement contacts, may apply to the court for an expungement
3 order upon attaining the age of twenty-one, or thereafter, if
4 the person has fulfilled the terms of the sentence imposed by
5 the court and has had no subsequent alcohol or drug related
6 enforcement contacts; provided that this subsection shall not
7 apply to persons in possession of a commercial learner's permit
8 or commercial driver's license or convicted in a commercial
9 motor vehicle or while transporting hazardous materials.

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

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



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

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

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

9 (1) The court shall not order any:

10 (A) Financial penalties;

11 (B) Costs for assessment and treatment; or

12 (C) Reimbursements to the county for the cost of any
13 blood test conducted on the minor pursuant to
14 this section,

15 as permitted by this section against the person, or
16 the person's parent or guardian for the person's
17 violation; and

18 (2) Any sentence of community service shall not interfere
19 with the person's school or work commitments.



1 ~~an opportunity to be heard, on any report of vandalism involving~~
2 ~~the pupil, and the pupil, parent, or guardian have executed a~~
3 ~~written agreement to make restitution].~~

4 (c) The principal of the school in which the vandalism
5 occurred shall make or order an investigation of the vandalism.
6 When appropriate, the principal shall assess the extent of the
7 damage and determine if a pupil has the skills necessary to
8 remediate the damage. If after the investigation, the principal
9 has reasonable cause to believe that a specific pupil is
10 responsible for the vandalism, the principal shall schedule a
11 conference with the pupil and the pupil's parents or guardian.
12 Except for the principal of the school in which the vandalism
13 occurred, the pupil, and the parents or guardian, no other
14 person shall be permitted to be in the conference for any
15 reason.

16 (d) At the conference, the principal of the school in
17 which the vandalism occurred shall present the findings of the
18 investigation [~~and the requirements of restitution]~~ to the pupil
19 and parents or guardian.

20 If the pupil and the parents or guardian agree with the
21 findings of the principal and the manner in which [~~restitution~~



1 ~~is to be made,~~ the pupil is to be held accountable, the
2 principal and the pupil and parent or guardian shall execute a
3 written agreement [~~which shall specify the manner in which~~
4 ~~restitution is to be made~~].

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

7 [~~If restitution is made in this fashion, then no~~] No
8 information about the investigation, conference, and the actions
9 taken shall be communicated to any person not directly involved
10 in the proceedings.

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

18 [~~(c) If the damages exceed \$3,500, the principal shall~~
19 ~~report the matter to the complex area superintendent, who shall~~
20 ~~refer the matter to the attorney general for any further action~~
21 ~~pursuant to section 577-3.~~



1 other disposition under this chapter; provided that the court
2 shall waive the imposition of a compensation fee if the
3 defendant is unable to pay the compensation fee. Moneys from
4 the compensation fees shall be deposited into the crime victim
5 compensation special fund under section 351-62.5.

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

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

16 (c) The compensation fee shall be considered a civil
17 judgment.

18 (d) No compensation fee provided for in this section shall
19 be levied against a person who is adjudicated for an offense
20 committed while the person was a minor under the age of



1 eighteen, or against the person's parent or guardian for that
2 person's offense."

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

5 "~~{}~~§353G-10~~{}~~ **Drug testing or assessment fees.** (a)

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

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

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

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

20 (b) Upon a finding of indigence, the agency responsible
21 for monitoring a person's compliance with the terms and



1 conditions of parole or other release from a correctional center
2 or facility shall require the person to pay as much of the fee
3 as is consistent with the person's ability to pay.

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

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

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

16 PART V

17 SECTION 18. Section 571-31.4, Hawaii Revised Statutes, is
18 amended by amending subsections (c) and (d) to read as follows:

19 "(c) Informal adjustment under this section may include,
20 among other suitable methods, programs, and procedures, the
21 following:



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



- 1 other youths to remain in elementary and secondary
2 schools or in alternative learning situations;
- 3 (7) Participation in youth-initiated programs and outreach
4 programs designed to assist youth and families;
- 5 (8) Appropriate physical and medical examinations,
6 vocational and aptitude testing, examinations for
7 learning disabilities or emotional dysfunctions, and
8 suitable counseling and therapy;
- 9 (9) Placement with nonsecure or secure shelter facilities;
- 10 (10) Restitution providing for monetary payment by the
11 parents of the child; ~~[or]~~
- 12 (11) Participation in a restorative justice program where
13 the child and the child's parents or guardian, and
14 other supporters of the child, may meet with the
15 victim harmed by the child's law violation and the
16 victim's supporters~~[or]~~; or
- 17 (12) Participation in programs employing aina-based
18 principles where a child and the child's parents or
19 guardian can deepen their relationships with their
20 culture, communities, and the natural environment.



1 (d) Informal adjustment projects, programs, and services may
2 be provided through public agencies or private agencies[=];
3 provided that any treatment or service provided under this
4 section shall be provided at no cost to the child or the child's
5 parent or guardian for that child's violation. Nothing in this
6 section shall prohibit the utilization of treatment or services
7 provided or covered by any health insurance plan under which the
8 child is already a covered person or beneficiary; provided that
9 the child or the child's parent or guardian shall be responsible
10 for all copayments required by the insurer."

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

13 "**§571-32 Detention; shelter; release; notice.** (a) If a
14 minor who is believed to come within section 571-11(1) is not
15 released as provided in section 571-31 and is not deemed
16 suitable for diversion, then the minor shall be taken without
17 unnecessary delay to the court or to the place of detention or
18 shelter designated by the court. If a minor who is believed to
19 come within section 571-11(2) is not released as provided in
20 section 571-31, and is not deemed suitable for diversion, then
21 the minor shall be taken without unnecessary delay to the court



1 or to the place of shelter designated by the court. If the
2 court determines that the minor requires care away from the
3 minor's own home but does not require secure physical
4 restriction, the minor shall be given temporary care in any
5 available nonsecure minor caring institution, foster family
6 home, or other shelter facility.

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



1 judge may order the minor held in the facility subject to
2 further order or placed in some other appropriate facility.

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

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

19 (e) No minor shall be held after the filing of a petition
20 or motion, as specified in subsection (d), unless an order for
21 continued detention or shelter has been made by a judge after a



1 court hearing. If there is probable cause to believe that the
2 minor comes within section 571-11(1), the minor may be securely
3 detained, following a court hearing, in a detention facility for
4 juveniles or may be held in a shelter. If there is probable
5 cause to believe that the minor comes within section 281-101.5
6 or 571-11(2), the minor may be held, following a court hearing,
7 in a shelter but shall not be securely detained in a detention
8 facility for juveniles for longer than twenty-four hours,
9 excluding weekends and holidays, unless the minor is subject to
10 the provisions of chapter 582, Interstate Compact on Juveniles,
11 or chapter 582D, Interstate Compact for Juveniles, or is
12 allegedly in or has already been adjudicated for a violation of
13 a valid court order, as provided under the federal Juvenile
14 Justice and Delinquency Prevention Act of 1974, as amended.

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

17 (g) When a minor is ordered to be held or detained by the
18 court, the minor shall not be held in any jail, lockup, or
19 prison for adults.

20 (h) A minor may be placed in room confinement in a
21 juvenile detention facility only under the following conditions:



- 1 (1) Room confinement may only be used as a temporary
2 response to a minor's behavior, and only if:
- 3 (A) The behavior poses an immediate and substantial
4 risk of danger to the minor's self or another
5 individual, or a serious and immediate threat to
6 the safety and orderly operation of the facility;
7 provided that any decision to hold a minor in
8 room confinement due to a mental health emergency
9 shall be made by a mental health professional and
10 based upon the mental health professional's
11 examination of the minor; or
- 12 (B) The minor is an imminent escape risk;
- 13 (2) Because of the potential impact on a minor's mental or
14 physical health, room confinement may only be used for
15 the minimum time necessary for the minor to regain
16 self-control, and only after less restrictive options
17 or techniques, including de-escalation, conflict and
18 behavioral management techniques, and intervention by
19 a mental health professional, have been attempted,
20 exhausted, and failed;



- 1 (3) If a minor is placed in room confinement, the reasons
2 for the room confinement shall be explained to the
3 minor. The minor shall also be informed that release
4 from room confinement will occur immediately when the
5 minor exhibits self-control and is no longer deemed a
6 threat to the minor's safety or the safety of others;
- 7 (4) If a minor is placed in room confinement, the
8 following individuals shall be notified on the next
9 business day and provided the reasons for the room
10 confinement as well as the location and duration of
11 the confinement:
- 12 (A) The senior judge of the family court;
- 13 (B) The presiding judge who ordered the minor to be
14 held at the facility;
- 15 (C) The deputy chief court administrator; and
- 16 (D) The social services manager of the juvenile
17 client services branch for the circuit court of
18 the first circuit;
- 19 (5) Room confinement shall not be used for purposes of
20 punishment or disciplinary sanction, coercion,



- 1 convenience, or retaliation, or to address staffing
2 shortages at the facility;
- 3 (6) A minor may be held in room confinement for no more
4 than three hours unless the minor is a danger to
5 themselves or another, or the on-call judge grants an
6 extension of no more than three additional hours of
7 confinement. Thereafter, the minor shall be returned
8 to the general population; provided that if a minor is
9 held in room confinement for more than three hours, a
10 hearing shall be held before the family court on the
11 next business day, at which time the minor shall be
12 provided legal representation;
- 13 (7) A minor shall not be returned to room confinement
14 immediately after returning to the general population
15 from room confinement for the purposes of evading the
16 reporting requirements and room confinement
17 restrictions pursuant to this section;
- 18 (8) If the minor is not returned to the general population
19 following a hearing pursuant to paragraph (6), the
20 minor shall be transferred to a location where
21 services may be provided to the minor without the need



- 1 for room confinement; provided that if a mental health
2 professional determines that the level of crisis
3 service needed is not presently available at the
4 location, the superintendent or deputy superintendent
5 of the facility shall initiate a referral to a
6 facility that can meet the needs of the minor;
- 7 (9) All rooms used for room confinement shall have
8 adequate and operational lighting, ventilation for the
9 comfort of the minor, and shall be clean and resistant
10 to suicide and self-harm;
- 11 (10) The minor shall have access to drinking water, toilet
12 facilities, hygiene supplies, and reading materials
13 approved by a mental health professional;
- 14 (11) The minor shall have the same access as provided to
15 minors in the general population of the facility to
16 meals, contact with parents or legal guardians, legal
17 assistance, educational programs, and medical and
18 mental health services;
- 19 (12) The minor shall be continuously monitored by facility
20 staff; and



1 (13) The judiciary shall post quarterly on the judiciary's
2 website a report of its detention center detailing
3 their compliance with this section. Each report shall
4 include:

5 (A) The number of incidents of room confinement every
6 year;

7 (B) The number of minors impacted;

8 (C) The age, gender identity, and race of minors
9 impacted;

10 (D) Any alternative strategies employed before the
11 use of room confinement, the reasons those
12 alternative strategies failed, and why room
13 confinement was necessary; and

14 (E) The incidence of mental illness.

15 For the purposes of this subsection:

16 "Mental health professional" means a qualified mental
17 health professional or mental health professional supervised by
18 a qualified mental health professional.

19 "Room confinement" means the placement of a minor in a
20 room, cell, or area with minimal or no contact with persons
21 other than court staff and attorneys. "Room confinement" does



1 not include confinement of a minor in a single-person room or
2 cell for brief periods of locked room time as necessary for
3 required institutional operations and does not include
4 confinement during sleep hours.

5 (i) Provisions regarding bail shall not be applicable to
6 minors detained in accordance with this chapter; provided that
7 bail may be allowed after a minor has been transferred for
8 criminal prosecution pursuant to waiver of family court
9 jurisdiction.

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

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

19 (l) A minor may temporarily be held for processing or
20 while in transit to court in an adult jail or lockup in a county



1 that does not have a juvenile detention facility if the minor
2 is:

- 3 (1) Separated by sight and sound from adult inmates; and
4 (2) Held no longer than is necessary to be transported to
5 court or the nearest juvenile detention facility.

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

20 (m) Any costs associated with the detention, placement, or
21 care of a minor shall be borne by the court. The court shall



1 not seek reimbursement for costs incurred pursuant to this
2 section from a person adjudicated under section 571-11(1) or
3 (2), 571-13, 571-22, or 571-41(f), or from the person's parent
4 or guardian; provided that the court may order restitution to a
5 victim, as applicable."

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

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

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



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

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

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

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



1 "§571-48 Decree, if informal adjustment or diversion to a
2 private or community agency or program has not been effected.

3 When a child is found by the court to come within section
4 571-11, the court shall so decree and in its decree shall make a
5 finding of the facts upon which the court exercises its
6 jurisdiction over the child. Upon the decree the court, by
7 order duly entered, shall proceed as follows:

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

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

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

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

14 An order by the court placing a child on
15 probation under this subparagraph shall include a
16 definite term of probation stated in months or
17 years, subject to extension or modification by
18 the court pursuant to section 571-50. When
19 conditions of probation include custody in a
20 youth correctional facility, the custody shall be
21 for a term not to exceed one year, after which



1 time the child shall be allowed to reside in the
2 community subject to additional conditions as may
3 be imposed by the court;

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

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

21 (ii) In a local public agency or institution;



1 (iii) In any private institution or agency
2 authorized by the court to care for
3 children; or

4 (iv) In a private home.

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

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



- 1 ~~[dispose]~~ place the child ~~[to]~~ on probation
2 status under paragraph (1)(A); or
- 3 (D) ~~[The court may fine the child for]~~ For a
4 violation ~~[which]~~ that would be theft in the
5 third degree by shoplifting if committed by an
6 adult~~[-. The]~~, the court may require the child to
7 perform ~~[public services in lieu of the fine;]~~
8 community service; provided that the community
9 service shall not interfere with the child's
10 school or work commitments. The court shall not
11 impose a fine on the child or the child's parent
12 or guardian;
- 13 (2) As to a child adjudicated under section 571-11(2):
- 14 (A) The court may place the child under protective
15 supervision, as hereinabove defined, in the
16 child's own home, or in the custody of a suitable
17 person or agency elsewhere, upon conditions
18 determined by the court; or
- 19 (B) The court may vest legal custody of the child,
20 after prior consultation with the agency or
21 institution, in a local governmental agency or



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

14 (3) An order vesting legal custody of a minor in an
15 individual, agency, or institution under section
16 571-11(2) shall be for an indeterminate period but
17 shall not remain in force or effect beyond three years
18 from the date entered[~~, except~~]; provided that the
19 individual, agency, or institution[~~, or agency~~] may
20 file with the court a petition for renewal of the
21 order and the court may renew the order if [~~it~~] the



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

14 (4) Whenever the court commits a child to the care of the
15 director of human services or executive director of
16 the office of youth services, or vests legal custody
17 of a child in an institution or agency, [~~it~~] the court
18 shall transmit with the order copies of the clinical
19 reports, social study, results of the risk and needs
20 assessment conducted by the court, and other
21 information pertinent to the care and treatment of the



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

13 (5) The court may order, for any child within its
14 jurisdiction, whatever care or treatment is authorized
15 by law;

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

20 (7) In support of any order or decree under section
21 571-11(1) or (2), the court may require the parents or



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

- 15 (8) In support of any order or decree for custody or
16 support, the court may make an order of protection
17 setting forth reasonable conditions of behavior to be
18 observed for a specified time, binding upon both
19 parents or either of them. This order may require
20 either parent to stay away from the home or from the
21 other parent or children, may permit the other to



1 visit the children at stated periods, or may require a
2 parent to abstain from offensive conduct against the
3 children or each other;

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

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

9 (11) The court may order any person adjudicated pursuant to
10 section 571-11(1) to make restitution of money or
11 services to any victim who suffers loss as a result of
12 the child's action, or to render community service;
13 provided that the community service shall not
14 interfere with the child's school or work commitments;

15 (12) The court may order any [~~person~~] child adjudicated
16 pursuant to section 571-11(2) to participate in
17 community service; [~~and~~] provided that the community
18 service shall not interfere with the child's school or
19 work commitments;

20 (13) The court may order the parents of an adjudicated
21 child to make restitution of money or services to any



1 victim, person, or party who has incurred a loss or
2 damages as a result of the child's action[-];

3 (14) Notwithstanding paragraph (11) or (13), the court
4 shall not impose any financial penalties or seek
5 reimbursement for costs against the adjudicated child
6 or the child's parent or guardian; and

7 (15) When entering its order, the court shall consider the
8 welfare of the child and whether the child would
9 benefit from participation in programs employing aina-
10 based principles where a child and the child's parents
11 or guardian can deepen their relationships with their
12 culture, communities, and the natural environment."

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

15 **"§571-51 Support of minor committed for study or care.**

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



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



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

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

14 "**§571-83 Court fees, fines, and administrative costs;**
15 **witness fees.** (a) In proceedings under section 571-11(1), (2),
16 or (9), no ~~[court]~~ fees, fines, or administrative costs shall be
17 charged against~~[7 and no]~~ a child or the child's parent or
18 guardian.

19 (b) No witness fees shall be allowed to~~[7]~~ any party to a
20 petition. No officer of the State or of any political
21 subdivision thereof shall be entitled to receive any fee for the



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

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

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



1 be certified by the court and paid upon vouchers approved by the
2 judiciary and warrants drawn by the comptroller. If the person
3 the appointed counsel or guardian ad litem is representing is a
4 minor, the court shall not order the minor or the minor's parent
5 or guardian to reimburse any costs associated with the
6 appointment of counsel or a guardian ad litem in proceedings
7 under section 571-11(1) or (2), 571-13, 571-22, or 571-41(f)."

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

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

13 (1) Require the minor~~[r]~~ or the minor's parents~~[r]~~ or
14 ~~[the]~~ legal guardians to remove the graffiti from the
15 affected property within sixty days of the order ~~[and~~
16 ~~pay for the cost of paint and materials]~~; or if
17 appropriate, pay for the actual cost of having the
18 damaged property repaired or replaced~~[r]~~ or
19 participate in an available accountability program
20 offered by the judiciary; and



1 (2) Order the minor to perform [~~a minimum of eighty hours~~
2 ~~of community service to remove graffiti from other~~
3 ~~properties.~~] community service; provided that the
4 community service shall not interfere with the minor's
5 school or work commitments."

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

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

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

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

19 "**§577-26 Alcohol or drug abuse relating to minors;**
20 **diagnosis, counseling, and related activities.** (a) A
21 counselor, certified, licensed, or otherwise authorized by law



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

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

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



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

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

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



1 order to authorize [~~such~~] counseling services to [~~such a~~] the
2 minor.

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

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

15 SECTION 28. Section 577-18, Hawaii Revised Statutes, is
16 repealed.

17 [~~"§577-18 Parents allowing children in street, prohibited~~
18 ~~when; penalty.~~ Any parent or guardian having the care, custody,
19 and control of a child under sixteen years of age, who, except
20 in case of necessity, knowingly, and voluntarily suffers or
21 permits such child to go or remain on any public street, highway



1 ~~or public place after ten o'clock in the evening and before four~~
2 ~~o'clock in the morning, unaccompanied by an adult person thereto~~
3 ~~authorized by such parent or guardian, shall be fined not more~~
4 ~~than \$100 or imprisoned not more than twenty days."]~~

5 SECTION 29. Section 577-23, Hawaii Revised Statutes, is
6 repealed.

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

12 SECTION 30. Section 577-24, Hawaii Revised Statutes, is
13 repealed.

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

20 PART VI



1 SECTION 31. 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]~~ With the exception of juvenile monetary
5 assessments, the judiciary may contract with a collection agency
6 bonded under chapter 443B or with a licensed attorney to collect
7 any delinquent court-ordered penalties, fines, restitution,
8 sanctions, and court costs~~[, including juvenile monetary~~
9 ~~assessments]~~. Any fees or costs associated with the collection
10 efforts shall be added to the amount due and retained by the
11 collection agency as its payment; provided that no fees or costs
12 shall exceed fifty per cent of the amount collected."

13 PART VII

14 SECTION 32. (a) As of the effective date of this Act, any
15 outstanding court-ordered fees, fines, or administrative costs
16 ordered against a person who was adjudicated for offenses
17 committed during the person's minority, or pursuant to section
18 571-11(1) or (2), 571-13, 571-22, or 571-41(f), Hawaii Revised
19 Statutes, shall be void and not collectible, including any
20 interest, penalties, or collection expenses on the judgment,
21 order, agreement, or other legally enforceable encumbrance.



1 This Act shall apply to dual status children for purposes of
2 delinquency jurisdiction.

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

7 PART VIII

8 SECTION 33. If any provision of this Act, or the
9 application thereof to any person or circumstance, is held
10 invalid, the invalidity does not affect other provisions or
11 applications of the Act that can be given effect without the
12 invalid provision or application, and to this end the provisions
13 of this Act are severable.

14 SECTION 34. Statutory material to be repealed is bracketed
15 and stricken. New statutory material is underscored.

16 SECTION 35. This Act shall take effect on July 1, 2027;
17 provided that the amendments made to sections 291E-61 and 291E-
18 61.5, Hawaii Revised Statutes, by sections 12 and 13 of this
19 Act, respectively, shall not be repealed when those sections are
20 reenacted on June 30, 2028, pursuant to section 11 of Act 196,



- 1 Session Laws of Hawaii 2021, as amended by section 8 of Act 148,
- 2 Session Laws of Hawaii 2023.
- 3



S.B. NO. 2540 S.D. 1

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. Encourages the use of community service and other programs that employ aina-based principles. Repeals certain penalties imposed on parents, guardians, or other persons associated with unaccompanied children in streets and unmarried minors in dance halls. Effective 7/1/2027. (SD1)

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

