

ACT 138

S.B. NO. 2350-82

A Bill for an Act Relating to Public Schools.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 298-27, Hawaii Revised Statutes, is amended to read as follows:

**“[[ §298-27]] Damage to public school property.** (a) Any pupil found to be responsible for an act of vandalism against any public school, building, facility, or ground may make restitution in any manner including monetary restitution by the pupil or pupil's parents.

For the purpose of this section, “vandalism” shall include, but not be limited to, mischievous or malicious destruction of property, such as breakage of windows, lockers, [doors, and other such acts.] and doors. The provisions of this section shall be in addition to and shall in no way limit the provisions of any other law concerning offenses against property rights.

(b) No pupil, parent or guardian shall be required to make restitution in any manner unless the pupil and the parents or guardian have been notified and have been given an opportunity to be heard, on any report of vandalism involving the pupil, and the pupil, parent or guardian have executed a written agreement to make such restitution.

(c) The principal of the school in which the vandalism occurred shall make or order an investigation of the vandalism. If after such investigation, the principal has reasonable cause to believe that a specific pupil is responsible for the vandalism, the principal shall schedule a conference with such pupil and his or her parents or guardian, and a public officer or employee designated by the district superintendent shall witness the conference proceedings. Except for the principal of the school in which the vandalism occurred, the officer or employee designated by the district superintendent, the pupil and the parents or guardian, no other person shall be permitted to be in the conference for any reason.

(d) At the conference, the principal of the school in which the vandalism occurred shall present its findings of the investigation and the requirements of restitution to the pupil and parents or guardian.

If the pupil and the parents or guardian agree with the findings of the principal and the manner in which restitution is to be made, the principal and the pupil and parent or guardian shall execute a written agreement which shall specify the manner in which restitution is to be made. The agreement shall be acknowledged and approved by the officer or employee designated by the district superintendent to witness the conference proceedings. [The amount of liability shall not exceed \$2,000 in any agreement of the parties.]

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

If restitution is made in this fashion, then all records and documents regarding the investigation and conference shall be destroyed. No information

about the investigation, conference and the actions taken shall be communicated to any person not directly involved in the proceedings.

If the pupil and parent or guardian do not agree with the findings made by the principal, the principal shall preserve all the records and documents regarding the investigation and conference and [may] shall report the findings to the district superintendent [of the findings for any further action.] who shall review the findings and may refer the matter to the attorney general for any further action pursuant to section 577-3. [Such further action includes, but is not limited to, conducting a hearing by the district superintendent on the matters reported by the principal as a contested case pursuant to chapter 91.]

(e) If the damages exceed \$3,500, the principal shall report the matter to the district superintendent who shall refer the matter to the attorney general for any further action pursuant to section 577-3.

[(e)] (f) Notwithstanding any provisions herein to the contrary, the State may elect to bring any appropriate action for the recovery of all damages to school properties. Nothing in this [[]section[[]]] shall limit the right of the State to bring [such] an action against any person to recover such damages.”

SECTION 2. This Act shall not affect rights and duties which matured, penalties which were incurred, or proceedings which were begun prior to its effective date.

SECTION 3. Statutory material to be repealed is bracketed. New material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved May 28, 1982.)