

ACT 294

S.B. NO. 2979

A Bill for an Act Relating to Juveniles.

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

SECTION 1. The legislature finds that existing facilities and services for the detention and processing of youths in the family court system are inadequate. The family court detains youths who are status offenders or victims of abuse or neglect as well as juveniles who are law violators. Oftentimes, status offenders and the victims of abuse or neglect are sheltered at Hale Ho'omalua, the detention facility administered by the family court, when parents cannot be contacted or when parents refuse custody. At the detention facility, youths cannot be separated by age, type of offense, or severity of offense. The department of human services, which is

responsible for abused and neglected children, has contributed to this problem to the degree that abused and neglected children who present no significant antisocial behavior are often housed in Hale Ho'omaluku because of the shortage of emergency shelter beds for these children. The legislature recognizes that the mixing of "hard core" law violators with other youths is unhealthy and that a separate facility for the status offenders, victims of abuse and neglect, and less hardened law violators should be established.

The purpose of this Act is to provide for separate shelters for status offenders and victims of abuse and neglect.

SECTION 2. Section 571-31, Hawaii Revised Statutes, is amended to read as follows:

"§571-31 Taking children into custody; release; notice. (a) A child may be taken into custody by any police officer without order of the judge when there are reasonable grounds to believe that a child comes within section 571-11(1) or (2), or by any police or probation officer when there are reasonable grounds to believe that the child has violated a court order of probation or protective supervision.

(b) When an officer or other person takes a child into custody the parents, guardian, or legal custodian shall be notified immediately. The child shall be (1) released to the care of the child's parent or other responsible adult; (2) referred or delivered to [an appropriate intake agency] the court or other designated agency with or without simultaneous release to parent or other responsible adult; or (3) taken directly to a detention facility, if the child's immediate welfare or the protection of the community requires it, or the child is subject to detention for violation of a court order of probation or protective supervision.

(c) If the person taking the child into custody believes it desirable, the child's parent, guardian, or legal custodian may be required to sign a written promise to [bring] take the child to the [intake agency] court or other designated agency at the time arranged, or to the court at the time directed by the court.

(d) If a parent or other responsible custodian fails to produce the child in court or at [the intake agency] another designated agency as required by an authorized notice, or when notified by the court, a summons or warrant may be issued for the apprehension of that person or the child or both. The court may assess the cost of the issuance and execution of the summons or warrant against the person."

SECTION 3. Section 571-31.2, Hawaii Revised Statutes, is amended to read as follows:

"§571-31.2 Juvenile intake [agency.] and diagnostic services. (a) [Not later than July 1, 1981, the court shall establish an intake agency, which, when a child is referred or delivered to the agency,] The court or other designated agency shall:

- (1) Notify the child's parent, guardian or legal custodian or take reasonable action to ensure that such notice has been given;
- (2) Require the child, the child's parent, the child's guardian or legal custodian, or both, to appear at the [intake agency] court or other designated agency as soon as practicable for a family counseling session to attempt a quick resolution of their problem;
- (3) Investigate, evaluate, make necessary determination, and take appropriate actions regarding:

- (A) Release of a child to the care of the child's parent or other responsible adult;
- (B) Extending to or making arrangement for the securing of suitable informal adjustment under section 571-31.4, 571-31.5 or 571-31.6;
- (C) Initiation of the filing of a complaint or petition;
- (D) Detention of a child, utilizing the standard set out in section 571-31.1[;] or temporary shelter in a nonsecure shelter; and
- (E) Making such other informal disposition as may be suitable.

(b) If the intake officer believes it desirable, such officer may take action to obtain the child or the written promise of a parent, guardian, or legal [custodian's written promise to come or bring] custodian to take the child to the [intake agency, referral agency, or] court or other designated agency as in section 571-31(c). The failure of a parent, guardian, or other [responsible custodian's failure] legal custodian to produce the child in court[, at the intake agency, or at a referral] or at the other designated agency as required by an authorized notice may be pursued as provided in section 571-31(d)."

SECTION 4. Section 571-31.3, Hawaii Revised Statutes, is amended to read as follows:

"§571-31.3 Voluntary assistance. A child or the child's parent, guardian, or legal [custodian] custodian may voluntarily apply to [an intake agency] the court or other designated agency to obtain appropriate services, including family conciliation and counseling, regarding issues or problems involving the child which are not being successfully resolved within the family. Upon such application, the [intake agency] court or other designated agency shall render appropriate services to the child and the family or assist in securing such services from other appropriate agencies."

SECTION 5. Section 571-31.4, Hawaii Revised Statutes, is amended to read as follows:

"§571-31.4 Informal adjustment, law violators. (a) When a child reasonably believed to come within section 571-11(1) is referred to [an intake agency,] the court or other designated agency, informal adjustment may be provided to the child by an intake officer duly authorized by the family court only where the facts reasonably appear to establish prima facie jurisdiction and are admitted and where a consent is obtained from the child's parent, guardian, or legal custodian, and the child, if of sufficient age and understanding.

(b) Informal adjustment under this section may include, among other suitable methods, programs, and procedures, the following:

- (1) Participation in restitution projects to obtain appropriate victim satisfaction;
- (2) Participation in community service projects so as to establish the child's self value in the community;
- (3) Participation in community-based programs which work with the child and family to maintain and strengthen the family unit so that the child may be retained in the child's own home;
- (4) Submission to neighborhood courts or panels upon procedures to be established by the court. As used in this paragraph "neighborhood courts or panels" are community organizations designed to settle minor disputes between parties on a voluntary basis using mediation or non-binding arbitration;

- (5) Participation in programs to support, counsel, or provide work and recreational opportunities to help prevent delinquency;
- (6) Participation in educational programs or supportive services designed to help delinquents and to encourage other youths to remain in elementary and secondary schools or in alternative learning situations;
- (7) Participation in youth-initiated programs and outreach programs designed to assist youth and families;
- (8) Appropriate physical and medical examinations, vocational and aptitude testing, examinations for learning disabilities or emotional dysfunctions, and suitable counseling and therapy;
- (9) Placement with nonsecure or secure shelter facilities; or
- (10) Restitution providing for monetary payment by the parents of the child.

(c) Informal adjustment projects, programs, and services may be provided through [the intake agency, other] public agencies[,] or private agencies.

(d) In the event resources and services for informal adjustment are not available, have failed, are reasonably believed to fail if attempted, or are unable to respond to the needs of the child or family, the intake officer shall proceed with formal action, or take such action as is otherwise allowed under this chapter.”

SECTION 6. Section 571-31.5, Hawaii Revised Statutes, is amended to read as follows:

“§571-31.5 Informal adjustment, status offenders. (a) When a child reasonably believed to come within section 571-11(2) is referred to [an intake agency,] the court or other designated agency, informal adjustment may be provided to the child by an intake officer duly authorized by the family court only where the facts reasonably appear to establish prima facie jurisdiction and are admitted and where a consent is obtained from the child’s parent, guardian, or legal custodian, and the child, if of sufficient age and understanding. Informal adjustment under this section may include, among other suitable methods, programs, and procedures, listed in section 571-31.4(b), except section 571-31.4(b)(1), and provided that placement with shelter facilities under section 571-31.4(b)(9) shall be on a nonsecure basis unless the child is processed under subsection (b) of this section.

(b) In the event resources and services for informal adjustment are not available, have failed, are reasonably believed to fail if attempted, or are unable to respond to the needs of the child or family, the intake officer shall proceed with formal action, or take such action as is otherwise allowed under this chapter.”

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

“§571-33 Detention and shelter facilities. Provisions shall be made for the temporary detention of children or minors in a detention home, to be conducted as an agency of the court; or the court may arrange for the care and custody of such children or minors temporarily in private homes subject to the supervision of the court, or may arrange with any institution or agency to receive for temporary care and custody children or minors within the jurisdiction of the court.

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

A detention home established in any circuit may be used for the temporary detention of children or minors ordered to be detained by the court of another circuit. The use shall be subject to the approval of the judge of the court of the

circuit in which the detention home is situated, upon such terms and conditions as may be established by the judge.

The family court shall also provide nonsecure shelter facilities separate from detention facilities. In referring minors to a nonsecure shelter, the court shall consider the minor's background, degree of involvement in illegal and anti-social activities, current behavioral patterns, and any other relevant criteria to determine placement."

SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$43,288, or so much thereof as may be necessary for fiscal year 1988-1989, for diagnostic services. The sum appropriated shall be expended by the judiciary for the purposes of this Act.

SECTION 9. There is appropriated out of the general revenues of the State of Hawaii the sum of \$500,000, or so much thereof as may be necessary for fiscal year 1988-1989, to enable the family court of the first circuit to establish nonsecure shelter facilities for youths under the court's jurisdiction who are status offenders or law violators who exhibit a low degree of involvement in illegal and antisocial activities, "street" sophistication, and maturity. The court may contract for such shelter services. The sum appropriated shall be expended by the judiciary to carry out the purposes of this Act.

SECTION 10. There is appropriated out of the general revenues of the State of Hawaii the sum of \$250,000, or so much thereof as may be necessary for fiscal year 1988-1989, to enable the department of human services to expand emergency shelter for abused or neglected children who are also status offenders or minor law violators. The department may contract for these shelter services. The sum appropriated shall be expended by the department of human services to carry out the purposes of this Act.

SECTION 11. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 12. This Act shall take effect on July 1, 1988.

(Approved June 13, 1988.)