

ACT 190

S.B. NO. 2717

A Bill for an Act Relating to Family Court.

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

SECTION 1. Section 352-9, Hawaii Revised Statutes, is amended to read as follows:

“§352-9 Period committed. (a) All persons committed to the Hawaii youth correctional facilities shall be committed for the period of their minority or as otherwise ordered by the court. Such persons may be placed on furlough or parole if deemed appropriate. The power to discharge a person committed [person] to a youth correctional facility is reserved to the director; provided that the director shall give a thirty-day notice of such intended discharge to the appropriate court and to the prosecutor's office of the appropriate county. Prior court approval for furlough, parole, or discharge of all minors, committed by the family court to a youth correctional facility for the period of their minority or otherwise, shall be obtained

when such is specifically required in the commitment order. In any case, no person nineteen years or older shall be incarcerated in a youth correctional facility.

(b) In those cases where the term of commitment to a youth correctional facility extends beyond the person's nineteenth birthday, the person shall be placed on juvenile parole pursuant to the original family court order for the balance of the person's term of commitment; provided that such term does not extend beyond the person's twentieth birthday unless earlier terminated."

SECTION 2. Section 571-8.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) The district family judges may:
- (1) Administer oaths;
 - (2) Subpoena, summon, and compel the attendance of parties and witnesses from any part of the State, and compel the production of books, papers, documents including school, medical, and financial records, or tangible things;
 - (3) Make and issue all orders and writs necessary or appropriate in aid of their original jurisdiction;
 - (4) Perpetuate testimony under the rules and orders of the family court, and issue commissions for the perpetuation of testimony to be used on controversies pending before them;
 - (5) Grant continuances in proceedings before them;
 - (6) Enforce decrees and judgments[;] and punish contempts according to law;
 - (7) In a criminal case, alter, set aside, or suspend a sentence by way of mitigation or otherwise upon motion or plea of a defendant made within thirty days after imposition of a sentence;
 - (8) Appoint guardians ad litem for minors or persons who are incompetent or attorneys to represent parties in accordance with law;
 - (9) [To admit] Admit to bail persons rightfully confined in all bailable cases, or [to] dispense with bail as provided by the State Constitution;
 - (10) [To make] Make and award [such] judgments, decrees, orders, and mandates, issue [such] executions and other processes, and do [such] other acts and take [such] other steps as may be necessary to carry into full effect the powers [which] that are or shall be given to them by law or for the promotion of justice in matters pending before them[.]; and
 - (11) Make and issue orders for pre-trial detention of persons aged eighteen years or older to an adult correctional facility, when the person is alleged to have committed an act or acts during the person's minority that would constitute a violation of section 571-11(1)."

SECTION 3. Section 571-13, Hawaii Revised Statutes, is amended to read as follows:

“**§571-13 Retention of jurisdiction.** Except as otherwise provided in this chapter, jurisdiction obtained by the court in the case of a minor may be retained by it, for the purposes of this chapter, after the minor becomes eighteen years of age until the full term for which any order entered shall have expired. Further, in the case of any person who is alleged to have committed an offense under section 571-11 prior to reaching eighteen years of age, the court shall have jurisdiction after the person becomes eighteen for the purpose of holding hearings and/or entering orders of disposition concerning the alleged offenses or for the purpose of making and issuing orders for pre-trial detention of persons aged eighteen years or older to an

adult correctional facility, when the person is alleged to have committed an act or acts during the person's minority that would constitute a violation of section 571-11(1) . This section shall not be construed, however, to confer any jurisdiction upon the family court over a person for any criminal act committed after the person achieves eighteen years of age."

SECTION 4. Section 571-14, Hawaii Revised Statutes, is amended to read as follows:

"§571-14 Jurisdiction; adults. The court shall have exclusive original jurisdiction:

- (1) To try any offense committed against a child by the child's parent or guardian or by any other person having the child's legal or physical custody, and any violation of section 707-726, 707-727, 709-902, 709-903, 709-903.5, 709-904, 709-905, 709-906, or 302A-1135, whether or not included in other provisions of this paragraph or paragraph (2).
- (2) To try any adult charged with:
 - (A) Deserting, abandoning, or failing to provide support for any person in violation of law;
 - (B) An offense, other than a felony, against the person of the defendant's husband or wife;
 - (C) Any violation of an order issued pursuant to chapter 586; or
 - (D) Any violation of an order issued by a family court judge.

In any case within paragraph (1) or (2), the court, in its discretion, may waive its jurisdiction over the offense charged.

- (3) In all proceedings under chapter 580, and in all proceedings under chapter 584.
- (4) In proceedings under chapter 575, the Uniform Desertion and Non-support Act, and under chapter 576B, the Uniform Interstate Family Support Act.
- (5) For commitment of an adult alleged to be mentally defective or mentally ill.
- (6) In all proceedings for support between parent and child or between husband and wife.
- (7) In all proceedings for pre-trial detention or waiver of jurisdiction over an adult who was a child at the time of an alleged criminal act as provided in section 571-13 or 571-22.
- (8) In all proceedings under chapter 586, Domestic Abuse Protective Orders.
- (9) In all proceedings to appoint a guardian of the person of an adult.
- (10) For the protection of dependent adults under chapter 346, part X.

In any case within paragraph (3), (4), or (6), the attorney general, through the child support enforcement agency, may exercise concurrent jurisdiction as provided in chapter 576E."

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved July 17, 1998.)