# ACT 185

S.B. NO. 540

A Bill for an Act Relating to Emergency Rules.

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

SECTION 1. The legislature finds that the coronavirus disease 2019 (COVID-19) pandemic has created great challenges to global health, the economy, and way of life. The governor and county mayors have had to exercise

their emergency powers under chapter 127A, Hawaii Revised Statutes, to impose rules aimed to control the spread of COVID-19. The enforcement of these rules is critical to efforts to limit the spread of COVID-19, protect the health and safety of the community, manage medical resources, and restart the economy. To allow for more meaningful and effective enforcement of emergency orders, the governor and mayors need flexibility to adopt a range of lesser penalties for emergency rules.

Accordingly, the purpose of this Act is to:

(1) Allow for lesser emergency period penalties to be adopted by the governor or a mayor;
(2) Amend the State's existing traffic infraction laws to incorporate emergency period infractions so that they are adjudicated in the same manner;
(3) Allow electronic copies of notices of infractions, infraction adjudication hearings, and notices of infraction judgments to be sent via electronic mail; and
(4) Grant the district court concurrent jurisdiction over emergency period rule infractions committed by minors.

SECTION 2. Section 127A-29, Hawaii Revised Statutes, is amended to read as follows:

"**[~~[~~§127A-29 **[~~] Misdemeanors.~~]** Emergency period infractions, violations, petty misdemeanors, and misdemeanors.** (a) Any person violating any rule of the governor or mayor prescribed and [~~promulgated~~] adopted pursuant to this chapter and having the force and effect of law[~~,~~] shall, if it shall be so stated and designated in the rule, be guilty of a violation, petty misdemeanor, or misdemeanor. [~~Upon~~] The governor or mayor may state and designate the penalty applicable to the offense; provided that if a penalty is not stated and designated, the person shall be sentenced in accordance with chapter 706. If the offense and penalty are not stated and designated in the rule, the person shall be guilty of a misdemeanor and upon conviction, the person shall be fined [~~not~~] no more than [~~$5,000, or~~] $2,000, imprisoned [~~not~~] no more than one year, or both.

In lieu of a violation, petty misdemeanor, or misdemeanor, the governor or mayor may state and designate the noncompliance of a rule as an emergency period infraction, as defined in section 291D-2. Any emergency period infraction so stated and designated in the rule shall be adjudicated pursuant to chapter 291D. A person guilty of an emergency period infraction shall be fined $200 for each occurrence; provided that the governor or mayor may state and designate in the rule a fine of a different amount.

(b) [~~Any~~] Notwithstanding subsection (a), any person who intentionally, knowingly, or recklessly destroys, damages, or loses any shelter, protective device, or warning or signal device, shall if the same was installed or constructed by the United States, the State, or a county, or is the property of the United States, the State, or a county, be fined the cost of replacement, [~~or~~] imprisoned [~~not~~] no more than one year, or both. The governor or mayor[~~,~~] may, by rule, make further provisions for the protection from misuse of shelters, protective devices, or warning and signal devices."

SECTION 3. Chapter 291D, Hawaii Revised Statutes, is amended by amending the title to read as follows:

**"[‡]CHAPTER 291D[‡]**
**ADJUDICATION OF [~~TRAFFIC~~] INFRACTIONS"**

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

**"[‡]§291D-1[‡] Purpose.** (a) Act 222, Session Laws of Hawaii 1978, began the process of decriminalizing certain traffic offenses, not of a serious nature, to the status of violations. In response to a request by the legislature, the judiciary prepared a report in 1987 that recommended, among other things, further decriminalization of traffic offenses, elimination of most traffic arraignments, disposition of uncontested violations by mail, and informal hearings where the violation or the proposed penalty is questioned. The legislature finds that further decriminalization of certain traffic offenses and streamlining of the handling of those traffic cases will achieve a more expeditious system for the judicial processing of traffic infractions. The system of processing traffic infractions established by this chapter will:

(1) Eliminate the long and tedious arraignment proceeding for a majority of traffic matters;
(2) Facilitate and encourage the resolution of many traffic infractions through the payment of a monetary assessment;
(3) Speed the disposition of contested cases through a hearing, similar to small claims proceedings, in which the rules of evidence will not apply and the court will consider as evidence the notice of traffic infraction, applicable police reports, or other written statements by the police officer who issued the notice, any other relevant written material, and any evidence or statements by the person contesting the notice of traffic infraction;
(4) Dispense in most cases with the need for witnesses, including law enforcement officers, to be present and for the participation of the prosecuting attorney;
(5) Allow judicial, prosecutorial, and law enforcement resources to be used more efficiently and effectively; and
(6) Save the taxpayers money and reduce their frustration with the judicial system by simplifying the traffic court process.

The legislature further finds that this chapter will not require expansion of the current traffic division of the district courts, but will achieve greater efficiency through more effective use of existing resources of the district courts.

(b) The legislature finds that the pandemic related to the coronavirus disease 2019 necessitated the imposition of emergency period rules in an attempt to control the spread of the disease in the State. The thousands of violations of the emergency period rules caused an examination of the ability to impose infractions for lesser offenses as an alternative to using the Penal Code and to allow for more efficient use of the judicial system. The system of processing traffic infractions under this chapter was enacted in 1993 and has provided a useful mechanism for handling offenses deemed as infractions and is well-suited to certain types of violations of emergency period rules that are designated infractions by the governor or mayor under the state's emergency management laws."

SECTION 5. Section 291D-2, Hawaii Revised Statutes, is amended as follows:

1. By adding one new definition to be appropriately inserted and to read:

""Emergency period infraction" means all occurrences of noncompliance with rules adopted by the governor or a mayor pursuant to chapter 127A, which are stated and designated in the rule as being an emergency period infraction."

2. By amending the definitions of "concurrent trial" and "hearing" to read:

""Concurrent trial" means a trial proceeding held in the district or family court in which the defendant is tried simultaneously in a civil case for any charged traffic infraction or emergency period infraction and in a criminal case for any related criminal offense, with trials to be held in one court on the same date and at the same time.

"Hearing" means a proceeding conducted by the district court pursuant to section 291D-8 at which the person to whom a notice of traffic infraction or notice of emergency period infraction was issued either admits to the [~~traffic~~] infraction, contests the notice of traffic infraction[~~,~~] or notice of emergency period infraction, or admits to the traffic infraction or emergency period infraction but offers an explanation to mitigate the monetary assessment imposed."

3. By amending the definition of "related criminal offense" to read:

""Related criminal offense" means any criminal violation or crime, committed in the same course of conduct as a traffic infraction[~~,~~] or emergency period infraction, for which the defendant is arrested or charged."

SECTION 6. Section 291D-3, Hawaii Revised Statutes, is amended by amending subsections (a) through (e) to read as follows:

"(a) Notwithstanding any other provision of law to the contrary, all traffic infractions[~~,~~] and emergency period infractions, including [~~traffic~~] infractions committed by minors, shall be adjudicated pursuant to this chapter, except as provided in subsection (b). This chapter shall be applied uniformly throughout the State and in all counties. No penal sanction that includes imprisonment shall apply to a violation of a state statute or rule, or county ordinance or rule, that would constitute a traffic infraction or an emergency period infraction under this chapter. No traffic infraction or emergency period infraction shall be classified as a criminal offense.

(b) Where a defendant is charged with a traffic infraction or an emergency period infraction and the infraction is committed in the same course of conduct as a criminal offense for which the offender is arrested or charged, the traffic infraction or emergency period infraction shall be adjudicated pursuant to this chapter; provided that the court may schedule any initial appearance, hearing, or trial on the traffic infraction or emergency period infraction at the same date, time, and place as the arraignment, hearing, or trial on the related criminal offense.

Notwithstanding this subsection and subsection (c), the court shall not schedule any initial appearance, hearing, or trial on the traffic infraction or emergency period infraction at the same date, time, and place as the arraignment, hearing, or trial on the related criminal offense where the related criminal offense is a felony or is a misdemeanor for which the defendant has demanded a jury trial.

(c) If the defendant requests a trial pursuant to section 291D-13, the trial shall be held in the district court of the circuit in which the traffic infraction or emergency period infraction was committed. If the court schedules a concurrent trial pursuant to paragraph (1), the concurrent trial shall be held in the appropriate district or family court of the circuit in which the traffic infraction or emergency period infraction was committed, whichever has jurisdiction over the related criminal offense charged pursuant to the applicable statute or rule of court; provided that:

(1) The district or family court, for the purpose of trial, may schedule a civil trial on the traffic infraction or emergency period infraction on the same date and at the same time as a criminal trial on the related criminal offense charged. The court shall enter a civil judgment as to the traffic infraction or emergency period infraction and a judgment of conviction or acquittal as to the related criminal offense following such concurrent trial; and

(2) If trial on the traffic infraction or emergency period infraction is held separately from and [~~prior to~~] before trial on any related criminal offense, the following shall be inadmissible in the prosecution or trial of the related criminal offense, except as expressly provided by the Hawaii rules of evidence:

(A) Any written or oral statement made by the defendant in proceedings conducted pursuant to section 291D-7(b); and

(B) Any testimony given by the defendant in the trial on the traffic infraction[~~.~~] or emergency period infraction.

Such statements or testimony shall not be deemed a waiver of the defendant's privilege against self-incrimination in connection with any related criminal offense.

(d) In no event shall section 701-109 preclude prosecution for a related criminal offense where a traffic infraction or an emergency period infraction committed in the same course of conduct has been adjudicated pursuant to this chapter.

(e) If the defendant fails to appear at any scheduled court date [~~prior to~~] before the date of trial or concurrent trial and:

(1) The defendant's civil liability for the traffic infraction or emergency period infraction has not yet been adjudicated pursuant to section 291D-8, the court shall enter a judgment by default in favor of the State for the traffic infraction or emergency period infraction unless the court determines that good cause or excusable neglect exists for the defendant's failure to appear; or

(2) The defendant's civil liability for the traffic infraction or emergency period infraction has been adjudicated previously pursuant to section 291D-8, the judgment earlier entered in favor of the State shall stand unless the court determines that good cause or excusable neglect exists for the defendant's failure to appear."

SECTION 7. Section 291D-4, Hawaii Revised Statutes, is amended to read as follows:

**"[~~§~~]§291D-4[~~:~~] Venue and jurisdiction.** (a) All violations of state law, ordinances, or rules designated as traffic infractions or emergency period infractions in this chapter shall be adjudicated in the district and circuit where the alleged infraction occurred, except as otherwise provided by law.

(b) Except as otherwise provided by law, jurisdiction is in the district court of the circuit where the alleged traffic infraction or emergency period infraction occurred. Except as otherwise provided in this chapter, district court judges shall adjudicate traffic infractions[~~.~~] and emergency period infractions."

SECTION 8. Section 291D-5, Hawaii Revised Statutes, is amended by amending its title and subsections (a) through (d) to read as follows:

**"§291D-5 Notice of [~~traffic~~] infraction; form; determination final unless contested.** (a) The notice of traffic infraction for moving violations, and the notice of emergency period infraction, shall include the summons for the purposes of this chapter. Whenever a notice of traffic infraction or notice of emer-

gency period infraction is issued [~~to the driver of a motor vehicle, the driver's~~], the person's signature, driver's license number[~~,~~] or state identification number, electronic mail address, and current address shall be noted on the notice. If the [~~driver~~] person refuses to sign the notice of traffic infraction[~~,~~] or notice of emergency period infraction, the officer shall record this refusal on the notice and issue the notice to the [~~driver. Individuals~~] person. Anyone to whom a notice of traffic infraction or notice of emergency period infraction is issued under this chapter need not be arraigned before the court, unless required by rule of the supreme court.

(b) The [~~form~~] forms for the notice of traffic infraction and notice of emergency period infraction shall be prescribed by rules of the district court, which shall be uniform throughout the State; provided that each judicial circuit may include differing statutory, rule, or ordinance provisions on its respective notice of traffic infraction[~~.~~] or notice of emergency period infraction.

(c) A notice of traffic infraction or notice of emergency period infraction that is generated by the use of electronic equipment or that bears the electronically stored image of any person's signature, or both, shall be valid under this chapter.

(d) The notice of traffic infraction or notice of emergency period infraction shall include the following:

(1) A statement of the specific [~~traffic~~] infraction for which the notice was issued;

(2) Except in the case of parking-related traffic infractions, a brief statement of the facts;

(3) A statement of the total amount to be paid for each [~~traffic~~] infraction, which amount shall include any fee, surcharge, or cost required by statute, ordinance, or rule, and any monetary assessment, established for the particular [~~traffic~~] infraction pursuant to section 291D-9, to be paid by the [~~driver or registered owner of the vehicle,~~] person to whom the notice was issued, which shall be uniform throughout the State;

(4) A statement of the options provided in section 291D-6(b) for answering the notice and the procedures necessary to exercise the options;

(5) A statement that the person to whom the notice is issued [~~must~~] shall answer, choosing one of the options specified in section 291D-6(b), within twenty-one days of issuance of the notice;

(6) A statement that failure to answer the notice [~~of traffic infraction~~] within twenty-one days of issuance shall result in the entry of judgment by default for the State and may result in the assessment of a late penalty;

(7) A statement that, at a hearing requested to contest the notice [~~of traffic infraction conducted~~], pursuant to section 291D-8, no officer shall be present unless the [~~driver~~] person to whom the notice was issued timely requests the court to have the officer present, and that the standard of proof to be applied by the court is whether a preponderance of the evidence proves that the specified [~~traffic~~] infraction was committed;

(8) A statement that, at a hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the infraction or in consideration of a written request for mitigation, the person shall be considered to have committed the [~~traffic~~] infraction;

(9) A space in which the signature of the person to whom the notice was issued may be affixed; and

(10) The date, time, and place at which the person to whom the notice was issued [~~must~~] shall appear in court, if the person is required by the notice to appear in person at the hearing."

SECTION 9. Section 291D-6, Hawaii Revised Statutes, is amended to read as follows:

**"§291D-6 Answer required.** (a) A person who receives a notice of traffic infraction or notice of emergency period infraction shall answer the notice within twenty-one days of the date of issuance of the notice. There shall be included with the notice of traffic infraction or notice of emergency period infraction a preaddressed envelope directed to the traffic and emergency period violations bureau of the applicable district court.

(b) Provided that the notice of traffic infraction or notice of emergency period infraction does not require an appearance in person at [~~[~~]a[~~]~~] hearing as set forth in section [~~[~~]291D-5(d)(10)[~~]~~], in answering a notice of traffic infraction[~~,~~] or notice of emergency period infraction, a person shall have the following options:

(1) Admit the commission of the infraction in one of the following ways:

(A) By mail or in person, by completing the appropriate portion of the notice of traffic infraction, notice of emergency period infraction, or preaddressed envelope and submitting it to the authority specified on the notice together with payment of the total amount stated on the notice of traffic infraction[~~,~~] or notice of emergency period infraction. Payment by mail shall be in the form of a check, money order, or by an approved credit or debit card. Payment in person shall be in the form of United States currency, check, money order, or by an approved credit or debit card; or

(B) Via the Internet or by telephone, by submitting payment of the total amount stated on the notice of traffic infraction[~~,~~] or notice of emergency period infraction. Payment via the Internet or by telephone shall be by an approved credit or debit card;

(2) Deny the commission of the infraction and request a hearing to contest the infraction by completing the appropriate portion of the notice of traffic infraction, notice of emergency period infraction, or preaddressed envelope and submitting it, either by mail or in person, to the authority specified on the notice. In lieu of appearing in person at a hearing, the person may submit a written statement of grounds on which the person contests the notice of traffic infraction[~~,~~] or notice of emergency period infraction, which shall be considered by the court as a statement given in court pursuant to section 291D-8(a); or

(3) Admit the commission of the infraction and request a hearing to explain circumstances mitigating the infraction by completing the appropriate portion of the notice of traffic infraction, notice of emergency period infraction, or preaddressed envelope and submitting it, either by mail or in person, to the authority specified on the notice. In lieu of appearing in person at a hearing, the person may submit a written explanation of the mitigating circumstances, which shall be considered by the court as a statement given in court pursuant to section 291D-8(b).

(c) When answering the notice of traffic infraction[~~,~~] or notice of emergency period infraction, the person shall affix the person's signature to the an-

swer and shall state the address at which the person will accept future mailings from the court. No other response shall constitute an answer for purposes of this chapter."

SECTION 10. Section 291D-7, Hawaii Revised Statutes, is amended to read as follows:

**"§291D-7 Court action after answer or failure to answer.** (a) When an admitting answer is received, the court shall enter judgment in favor of the State in the total amount specified in the notice of traffic infraction[~~.~~] or notice of emergency period infraction.

(b) When a denying answer is received, the court shall proceed as follows:

(1) In the case of a traffic infraction or emergency period infraction where the person requests a hearing at which the person will appear in person to contest the infraction, the court shall notify the person in writing of the date, time, and place of hearing to contest the notice of traffic infraction[~~.~~] or notice of emergency period infraction. The notice of hearing shall be mailed to the address stated in the denying answer, or if none is given, to the address stated on the notice of traffic infraction[~~.~~] or notice of emergency period infraction. An electronic copy of the notice of hearing may be sent to the electronic mail address stated on the notice of infraction. The notification also shall advise the person that, if the person fails to appear at the hearing, the court shall enter judgment by default in favor of the State, as of the date of the scheduled hearing, that the total amount specified in the default judgment [~~must~~] shall be paid within thirty days of entry of default judgment; and

(2) When a denying answer is accompanied by a written statement of the grounds on which the person contests the notice of traffic infraction[~~,~~] or notice of emergency period infraction, the court shall proceed as provided in section 291D-8(a) and shall notify the person of its decision, including the total amount assessed, if any, by mailing the notice of entry of judgment within forty-five days of the postmarked date of the answer to the address provided by the person in the denying answer, or if none is given, to the address given when the notice of traffic infraction or notice of emergency period infraction was issued or, in the case of parking violations, to the address at which the vehicle is registered. An electronic copy of the notice of entry of judgment may be sent to the electronic mail address stated on the notice of infraction. The notice of entry of judgment also shall advise the person, if it is determined that the infraction was committed and judgment is entered in favor of the State, that the person has the right, within thirty days of entry of judgment, to request a trial and shall specify the procedures for doing so. The notice of entry of judgment shall also notify the person, if an amount is assessed by the court for monetary assessments, fees, surcharges, or costs, that if the person does not request a trial within the time specified in this paragraph, the total amount assessed shall be paid within thirty days of entry of judgment.

(c) When an answer admitting commission of the infraction but seeking to explain mitigating circumstances is received, the court shall proceed as follows:

(1) In the case of a traffic infraction or emergency period infraction where the person requests a hearing at which the person will ap-

pear in person to explain mitigating circumstances, the court shall notify the person in writing of the date, time, and place of hearing to explain mitigating circumstances. The notice of hearing shall be mailed to the address stated in the answer, or if none is given, to the address stated on the notice of traffic infraction[.] or notice of emergency period infraction. An electronic copy of the notice of hearing may be sent to the electronic mail address stated on the notice of infraction. The notification also shall advise the person that, if the person fails to appear at the hearing, the court shall enter judgment by default in favor of the State, as of the date of the scheduled hearing, and that the total amount stated in the default judgment [~~must~~] shall be paid within thirty days of entry of default judgment; and

(2) If a written explanation is included with an answer admitting commission of the infraction, the court shall enter judgment for the State and, after reviewing the explanation, determine the total amount of the monetary assessments, fees, surcharges, or costs to be assessed, if any. The court shall then notify the person of the total amount to be paid for the infraction, if any. There shall be no appeal from the judgment. If the court assesses an amount for monetary assessments, fees, surcharges, or costs, the court shall also notify the person that the total amount shall be paid within thirty days of entry of judgment.

(d) If the person fails to answer within twenty-one days of issuance of the notice of traffic infraction[,] or notice of emergency period infraction, the court shall take action as provided in subsection (e).

(e) Whenever judgment by default in favor of the State is entered, the court shall mail a notice of entry of default judgment to the address provided by the person when the notice of traffic infraction or notice of emergency period infraction was issued or, in the case of parking infractions, to the address stated in the answer, if any, or the address at which the vehicle is registered. An electronic copy of the notice of entry of default judgment may be sent to the electronic mail address stated on the notice of infraction. The notice of entry of default judgment shall advise the person that the total amount specified in the default judgment shall be paid within thirty days of entry of default judgment and shall explain the procedure for setting aside a default judgment. Judgment by default for the State entered pursuant to this chapter may be set aside pending final disposition of the traffic infraction or emergency period infraction upon written application of the person and posting of an appearance bond equal to the amount of the total amount specified in the default judgment and any other assessment imposed pursuant to section 291D-9. The application shall show good cause or excusable neglect for the person's failure to take action necessary to prevent entry of judgment by default. Thereafter, the court shall determine whether good cause or excusable neglect exists for the person's failure to take action necessary to prevent entry of judgment by default. If so, the application to set aside default judgment shall be granted, the default judgment shall be set aside, and the notice of traffic infraction or notice of emergency period infraction shall be disposed of pursuant to this chapter. If not, the application to set aside default judgment shall be denied, the appearance bond shall be forfeited and applied to satisfy amounts due under the default judgment, and the notice of traffic infraction or notice of emergency period infraction shall be finally disposed. In either case, the court shall determine the existence of good cause or excusable neglect and notify the person of its decision on the application in writing."

SECTION 11. Section 291D-8, Hawaii Revised Statutes, is amended to read as follows:

"**§291D-8 Hearings.** (a) In proceedings to contest a notice of traffic infraction or notice of emergency period infraction where the person to whom the notice was issued has timely requested a hearing and appears at such hearing:

(1) In lieu of the personal appearance by the officer who issued the notice of traffic infraction[~~,~~] or notice of emergency period infraction, the court shall consider the notice of traffic infraction or notice of emergency period infraction, and any other written report made by the officer, if provided to the court by the officer, together with any oral or written statement by the person to whom the notice of infraction was issued, or in the case of traffic infractions involving parking or equipment, the operator or registered owner of the motor vehicle;

(2) The court may compel by subpoena the attendance of the officer who issued the notice of traffic infraction or notice of emergency period infraction, and other witnesses from whom it may wish to hear;

(3) The standard of proof to be applied by the court shall be whether, by a preponderance of the evidence, the court finds that the traffic infraction or emergency period infraction was committed; and

(4) After due consideration of the evidence and arguments, if any, the court shall determine whether commission of the traffic infraction or emergency period infraction has been established. Where the commission of the traffic infraction or emergency period infraction has not been established, judgment in favor of the defendant, dismissing the notice of traffic infraction or notice of emergency period infraction or any count therein with prejudice, shall be entered in the record. Where it has been established that the traffic infraction or emergency period infraction was committed, the court shall enter judgment in favor of the State and shall assess a monetary assessment pursuant to section 291D-9, together with any fees, surcharges, or costs. The court also shall inform the person of the right to request a trial pursuant to section 291D-13. If the person requests a trial at the time of the hearing, the court shall provide the person with the trial date as soon as practicable.

(b) In proceedings to explain mitigating circumstances where the person to whom the notice of traffic infraction or notice of emergency period infraction was issued has timely requested a hearing and appears at such hearing:

(1) The procedure shall be limited to the issue of mitigating circumstances. A person who requests to explain the circumstances shall not be permitted to contest the notice of traffic infraction[~~,~~] or notice of emergency period infraction;

(2) After the court has received the explanation, the court shall enter judgment in favor of the State and may assess a monetary assessment pursuant to section 291D-9, together with any fees, surcharges, or costs;

(3) The court, after receiving the explanation, may vacate the admission and enter judgment in favor of the defendant, dismissing the notice of traffic infraction, notice of emergency period infraction, or any count therein with prejudice, where the explanation establishes that the infraction was not committed; and

(4) There shall be no appeal from the judgment.

(c) If a person for whom a hearing has been scheduled, to contest the notice of traffic infraction or notice of emergency period infraction, or to explain mitigating circumstances, fails to appear at the hearing, the court shall enter judgment by default for the State and take action as provided in section 291D-7(e)."

SECTION 12. Section 291D-9, Hawaii Revised Statutes, is amended by amending subsections (a) through (c) to read as follows:

"(a) A person found to have committed a traffic infraction or emergency period infraction shall be assessed a monetary assessment not to exceed the maximum fine specified in the [~~statute~~] law or rule defining the traffic infraction[~~.~~] or emergency period infraction.

(b) Notwithstanding section 291C-161 or any other law to the contrary, the district court of each circuit shall prescribe a schedule of monetary assessments for all traffic infractions[~~,~~] and emergency period infractions, and any additional assessments to be imposed pursuant to subsection (c). The particular assessment to be entered on the notice of traffic infraction or notice of emergency period infraction pursuant to section 291D-5 shall correspond to the schedule prescribed by the district court. Except after proceedings conducted pursuant to section 291D-8 or a trial conducted pursuant to section 291D-13, monetary assessments assessed pursuant to this chapter shall not vary from the schedule prescribed by the district court having jurisdiction over the traffic infraction[~~.~~] or emergency period infraction.

(c) In addition to any monetary assessment imposed for a traffic infraction[~~,~~] or an emergency period infraction, the court may impose additional assessments for:

(1) Failure to pay a monetary assessment by the scheduled date of payment; or
(2) The cost of service of a penal summons issued pursuant to this chapter."

SECTION 13. Section 291D-12, Hawaii Revised Statutes, is amended to read as follows:

**"§291D-12 Powers of the district court judge sitting in the traffic and emergency period division.** (a) A district court judge sitting in the traffic and emergency period division and hearing cases pursuant to this chapter shall have all the powers of a district court judge under chapter 604, including the following powers:

(1) To conduct traffic infraction and emergency period infraction hearings and to impose monetary assessments;
(2) To permit deferral of monetary assessment or impose community service in lieu thereof;
(3) To dismiss a notice of traffic infraction[~~,~~] or notice of emergency period infraction, with or without prejudice, or to set aside a judgment for the State;
(4) To order temporary driver's license suspension or driver's license reinstatement;
(5) To approve the issuance or renewal of a driver's license or instruction permit pursuant to section 286-109(c);
(6) To issue penal summonses and bench warrants and initiate contempt of court proceedings in proceedings conducted pursuant to section 291D-13;

(7) To issue penal summonses and bench warrants and initiate failure to appear proceedings in proceedings conducted pursuant to section 291D-5(d)(10); and

(8) To exercise other powers the court finds necessary and appropriate to carry out the purposes of this chapter.

(b) A district court judge sitting in the traffic and emergency period division and hearing cases pursuant to this chapter shall not order the director of finance to withhold issuing or renewing the driver's license, or registering, renewing the registration of, or issuing the title to a motor vehicle, of any person who has not paid a monetary assessment, has not performed community service in lieu thereof, or has not otherwise satisfied a judgment for the State entered pursuant to this chapter."

SECTION 14. Section 291D-13, Hawaii Revised Statutes, is amended by amending subsections (a) through (c) to read as follows:

"(a) There shall be no right to trial unless the defendant contests the notice of traffic infraction or notice of emergency period infraction pursuant to section 291D-8. If, after proceedings to contest the notice of traffic infraction[,] or emergency period infraction, a determination is made that the defendant committed the traffic infraction[,] or emergency period infraction, judgment shall enter in favor of the State. The defendant may request a trial pursuant to the Hawaii rules of evidence and the rules of the district court; provided that any request for trial shall be made within thirty days of entry of judgment. If, after appearing in person at a hearing to contest the notice of traffic infraction[,] or notice of emergency period infraction, the person requests a trial at the conclusion of the hearing, the court shall provide the person with the trial date as soon as practicable.

(b) At the time of trial, the State shall be represented by a prosecuting attorney of the county in which the infraction occurred. The prosecuting attorney shall orally recite the charged civil traffic infraction or emergency period infraction in court [~~prior to~~] before commencement of the trial. Proof of the defendant's commission of the traffic infraction or emergency period infraction shall be by a preponderance of the evidence.

(c) If trial on the traffic infraction or emergency period infraction is held [~~prior to~~] before trial on any related criminal offense, the following shall be inadmissible in the subsequent prosecution or trial of the related criminal offense:

(1) Any written or oral statement made by the defendant in proceedings conducted pursuant to section 291D-7(b); and

(2) Any testimony given by the defendant in the traffic infraction or emergency period infraction trial.

The statement or testimony, or both, shall not be deemed a waiver of the defendant's privilege against self-incrimination in connection with any related criminal offense."

SECTION 15. Section 291D-14, Hawaii Revised Statutes, is amended by amending subsections (c) and (d) to read as follows:

"(c) Notwithstanding section 604-17, while the court is sitting in any matter pursuant to this chapter, the court shall not be required to preserve the testimony or proceedings, except proceedings conducted pursuant to section 291D-13 and proceedings in which the traffic infraction or emergency period infraction is heard on the same date and time as any related criminal offense.

(d) The prosecuting attorney shall not participate in traffic infraction or emergency period infraction proceedings conducted pursuant to this chap-

ter, except proceedings pursuant to section 291D-13 and proceedings in which a related criminal offense is scheduled for arraignment, hearing, or concurrent trial."

SECTION 16. Section 571-41, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

"(f) The judge, or the senior judge if there is more than one, may by order confer concurrent jurisdiction on a district court created under chapter 604 to hear and dispose of cases of violation of traffic laws [~~or~~], ordinances, or emergency period rules by children, provision to the contrary in section 571-11 or elsewhere notwithstanding. The exercise of jurisdiction over children by district courts shall, nevertheless, be considered noncriminal in procedure and result in the same manner as though the matter had been adjudicated and disposed of by a family court."

SECTION 17. Sections 286-109, 286-245, 287-3, 291C-225, and 431:10C-117, Hawaii Revised Statutes, are amended by substituting the phrase "traffic and emergency period violations bureau", or similar phrase, wherever the phrase "traffic violations bureau", or similar phrase, appears, as the context requires.

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

SECTION 19. This Act shall take effect upon its approval.

(Approved July 6, 2021.)