
A BILL FOR AN ACT

RELATING TO JUVENILE JUSTICE.

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

1 SECTION 1. The legislature finds that in August 2013, the
2 governor, chief justice, president of the senate, and speaker of
3 the house of representatives established the Hawaii juvenile
4 justice working group. The working group was composed of
5 stakeholders from the executive, legislative, and judicial
6 branches, as well as representatives from key stakeholder groups
7 including law enforcement, prosecution, public defense, and
8 community service providers. The working group was charged with
9 the development of policies to reduce recidivism and crime by
10 improving outcomes for youth in the juvenile justice system;
11 maximizing the effectiveness of Hawaii's correctional dollars
12 and placement options; and grounding Hawaii's policies in data
13 and research.

14 The working group's analysis revealed that Hawaii has made
15 commendable improvements in its juvenile justice system.
16 Juvenile arrests for serious violent and property offenses fell
17 twenty-eight per cent between 2002 and 2011, and the number of
18 youth annually admitted to the Hawaii youth correctional



1 facility declined forty-one per cent as of 2013. However, the
2 working group also identified several areas needing improvement.

3 Even amidst a decline in commitments to the Hawaii youth
4 correctional facility, the working group sought to determine
5 whether commitments to the facility were effectively targeted to
6 protect public safety. Research reveals that secure facilities
7 are most effective when targeted toward serious juvenile
8 offenders who pose a public safety risk. However, when less
9 serious youth are placed in secure facilities, the risk of
10 repeat offenses increases. Further, mental health and substance
11 abuse treatment are often more efficiently and effectively
12 delivered in a community setting.

13 The legislature also finds that over the last decade, the
14 proportion of youth in Hawaii confined for nonviolent offenses
15 has risen, as has the proportion confined for misdemeanor
16 offenses. In fiscal year 2013, seventy-two and sixty-one per
17 cent of admissions for a new offense were youth committed for a
18 nonviolent or misdemeanor offense, respectively. Between fiscal
19 year 2004 and fiscal year 2013, average lengths of stay in the
20 Hawaii youth correctional facility rose from 2.5 months to 7.2
21 months, and forty-six per cent of the commitments to the



1 correctional facility came from the neighbor islands, which are
2 home to just thirty-one per cent of all youth.

3 The legislature further finds that critical services to
4 reduce delinquency, including mental health and substance abuse
5 treatment, are not sufficiently resourced or accessible to
6 Hawaii's youth.

7 The analysis revealed that each bed in the Hawaii youth
8 correctional facility costs Hawaii taxpayers more than \$199,000
9 per year. Despite this level of investment and the longer
10 lengths of stay, seventy-five per cent of youth released from
11 the facilities between 2005 and 2007 were re-adjudicated in
12 family court or re-convicted in the adult criminal justice
13 system within three years of release.

14 The legislature further finds that the working group also
15 identified opportunities for strengthening juvenile probation.
16 During the last decade, probation terms increased one hundred
17 fifty-five per cent, but probation staff still encounter
18 significant difficulty in accessing resources for youth on
19 probation. Furthermore, inconsistent probation practices across
20 the circuits may lead to disparate treatment of youth.

21 The purpose of this Act is to:



1 (1) Improve and enhance Hawaii's juvenile justice system
 2 by concentrating secure bed space on serious juvenile
 3 offenders and strengthening disposition, adjustment,
 4 diversion, and services available for juvenile
 5 offenders to ensure that family court judges, court
 6 staff, departmental staff, and service providers have
 7 the tools they need to keep youth safely and
 8 effectively in their communities; and

9 (2) Increase interagency collaboration and implement a
 10 temporary oversight committee to continually improve
 11 juvenile justice practices and ensure accountability.

12 SECTION 2. Chapter 352, Hawaii Revised Statutes, is
 13 amended by adding a new section to be appropriately designated
 14 and to read as follows:

15 "§352- Reentry plans; notification. (a) The director
 16 or the director's designee shall develop a comprehensive reentry
 17 plan for each person committed to the Hawaii youth correctional
 18 facilities who is serving a concurrent or non-concurrent term of
 19 probation. The scope of the reentry plan shall address the
 20 period of time from admission to the Hawaii youth correctional
 21 facilities until parole or final discharge from the department.
 22 The reentry plan shall seek to prepare committed persons for



1 transition to the community. The reentry plan required under
2 this section shall be completed within thirty days of a person's
3 commitment to the Hawaii youth correctional facilities and shall
4 include:

5 (1) Programming, treatment, and service needs identified
6 in the most recently conducted risk and needs
7 assessment;

8 (2) Individualized goals to guide successful reentry to
9 the community during parole or following final
10 discharge; and

11 (3) Identification of, and a plan for, coordination with
12 agencies that can provide or contract for existing
13 programs and services relevant or necessary for
14 successful reentry.

15 (b) The director or the director's designee shall consult
16 with a committed person's parent, legal guardian, or custodian
17 in developing the terms of the reentry plan and provide written
18 copies of the plan to the committed person and the committed
19 person's parent, legal guardian, or custodian. If requested,
20 the director or the director's designee shall provide regular
21 updates on the committed person's progress concerning the



1 reentry plan to the committed person's parent, legal guardian,
2 or custodian.

3 (c) The director or the director's designee may
4 collaborate with, and provide information to, the probation
5 officer of a person committed to the Hawaii youth correctional
6 facilities who is serving a concurrent or non-concurrent term of
7 probation, upon the probation officer's request, for the
8 probation officer to incorporate the reentry plan into the
9 person's case plan required under section 571-A at the probation
10 officer's discretion.

11 (d) The director or the director's designee shall notify
12 the parent, legal guardian, or custodian, and any relevant
13 agency or service provider that may be involved in the person's
14 transition to the community, at least thirty days prior to
15 discharging a committed person, of the intended discharge of the
16 person.

17 (e) The director or the director's designee shall review,
18 and update if necessary, reentry plans for each person taken
19 into custody pursuant to section 352-26."

20 SECTION 3. Chapter 571, Hawaii Revised Statutes, is
21 amended by adding three new sections to be appropriately
22 designated and to read as follows:



- 1 "§571-A Probation supervision requirements. Every child
2 placed on probation pursuant to section 571-48(1)(A) shall be
3 supervised in accordance with the following requirements:
- 4 (1) Supervision levels, frequency of contacts with
5 probation officers and the court, and referrals to
6 treatment and programs under section 571-31.4(c)(7)
7 shall be established using, among other factors, the
8 results of the risk and needs assessment conducted
9 pursuant to section 571-45;
- 10 (2) A case plan, as defined in section 571-2, shall be
11 developed for each child and submitted to the court.
12 The case plan shall be developed in consultation with
13 the child and the child's parent, legal guardian, or
14 custodian. The probation officer assigned to each
15 child shall keep the child's parent, legal guardian,
16 or custodian informed regarding development of and
17 progress toward the case plan, the child's conduct,
18 compliance with the conditions of probation, and any
19 other relevant matter in the child's case;
- 20 (3) A child whose probation term and case plan require
21 in-person visits with a probation officer shall
22 receive at least one home visit; provided that a home



1 visit shall not be required when the probation officer
2 has reasonable perceptions of risks to safety due to
3 known factors of violent criminal activity or
4 isolation of the child's place of residence. The
5 probation officer shall immediately report any
6 reasonable perceptions of risks to a supervisor and
7 may receive permission to waive the home visit
8 requirement for the child or to conduct the home visit
9 accompanied by another;

10 (4) Probation officers shall have the authority to impose
11 graduated sanctions in response to a violation of the
12 rules and conditions of probation, as an alternative
13 to judicial modification or revocation pursuant to
14 section 571-50, or to award incentives or rewards for
15 positive behavior exhibited by the child. The
16 graduated sanctions and incentives shall be
17 established as follows:

18 (A) The judiciary shall adopt guidelines and
19 procedures for the development and application of
20 a statewide graduated sanctions and incentives
21 system in accordance with this section, and the
22 director of the family court in each judicial



1 circuit, or the administrator's designee, shall
2 adopt policies or procedures for the
3 implementation of the adopted graduated sanctions
4 and incentives system to guide probation officers
5 in imposing sanctions and awarding incentives;

6 (B) The system shall include a series of presumptive
7 sanctions for the most common types of probation
8 violations but shall allow for a child's risk
9 level and seriousness of violation to be taken
10 into consideration. The system shall also
11 identify incentives that a child may receive as a
12 reward for compliance with the rules and
13 conditions of probation, completion of
14 benchmarks, or positive behavior exceeding
15 expectations, at the discretion of the probation
16 officer;

17 (C) The system shall be developed with the following
18 objectives:

19 (i) To respond quickly, consistently, and
20 proportionally to violations of the rules
21 and conditions of probation;



1 (ii) To reduce the time and resources expended by
2 the court in responding to violations with
3 judicial modification;

4 (iii) To reduce the likelihood of a new delinquent
5 act; and

6 (iv) To encourage positive behavior;

7 (D) At a child's first meeting with a probation
8 officer after being adjudicated and disposed to a
9 probation term, the probation officer shall
10 provide written and oral notification to the
11 child regarding the graduated sanctions and
12 incentives system to ensure the child is aware of
13 the sanctions and incentives that may be imposed
14 or rewarded;

15 (E) When issuing a sanction or incentive, the
16 probation officer shall provide written notice to
17 the child of the nature and date of the relevant
18 behavior, the sanction or incentive imposed or
19 rewarded, and, in the case of sanctions, any
20 applicable time period in which the sanction will
21 be in effect or by which corrective behavior must
22 be taken. The probation officer shall provide



1 this information to the court at the next
2 regularly scheduled review hearing and inform the
3 court of the child's response to the sanction or
4 incentive; and

5 (F) Each administrator of the juvenile client
6 services branch in each judicial circuit shall
7 report annually to the board of family court
8 judges and the Hawaii juvenile justice state
9 advisory council, the number and the per cent of
10 children on probation who received a graduated
11 sanction or incentive, the types of sanctions and
12 incentives used, and the child's current
13 probation status.

14 §571-B Earned discharge from probation; reporting
15 requirements. (a) A child placed on probation pursuant to
16 section 571-48(1)(A) shall be eligible to receive earned
17 discharge credits to reduce the length of the probation term.
18 Earned discharge credits shall reduce the term of probation by
19 thirty days for each calendar month of compliance with the rules
20 and conditions of probation.

21 (b) A child is deemed to be compliant with the rules and
22 conditions of probation, and shall be awarded earned discharge



1 credits for the month, if there was no violation of rules and
2 conditions of probation that month at a level warranting the
3 filing of a petition or violation report. The court, at the
4 request of the probation officer or on its own motion, may award
5 discharge credits to children who have demonstrated substantial
6 compliance with the rules and conditions of probation.

7 (c) The judiciary shall adopt guidelines and procedures
8 for the awarding of earned credits for discharge from probation.

9 (d) Each administrator of the juvenile client services
10 branch in each judicial circuit shall annually provide to the
11 board of family court judges and the Hawaii juvenile justice
12 state advisory council, the number and per cent of youth who
13 received earned discharge credits and the number of credits
14 earned by each youth.

15 §571-C Statewide juvenile justice interdepartmental
16 cluster; local juvenile justice interdepartmental cluster; high-
17 need youth services coordination. (a) There is established a
18 statewide juvenile justice interdepartmental cluster to provide
19 coordinated services, as defined in section 571-2, to certain
20 children under the jurisdiction of the family court, and to
21 provide an avenue for regular collaboration between the



1 judiciary and the child and adolescent mental health division of
2 the department of health.

3 (b) The statewide cluster shall be composed of
4 representatives from the major youth-serving agencies with
5 statewide authority and responsibility. The statewide cluster
6 shall include, in addition to the judiciary, the department of
7 education, the department of health, and the office of youth
8 services. At the discretion of the representatives in the
9 statewide cluster, community service providers may be included
10 as regular members.

11 The judiciary shall staff the statewide cluster and
12 identify a place where development and management of coordinated
13 services may be carried out on a regular basis.

14 The statewide cluster may establish local juvenile justice
15 interdepartmental clusters that shall have the ability to refer
16 individual cases or issues to the statewide cluster for review
17 and recommendation.

18 The statewide cluster shall establish written policies and
19 procedures for itself and any local juvenile justice
20 interdepartmental clusters.

21 (c) Family courts may recommend youth for consideration by
22 the statewide cluster based on the results of a risk and needs



1 assessment conducted pursuant to section 571-45 indicating that
2 a youth is high-need and if the youth is actively involved in
3 two or more youth-serving agencies.

4 (d) Coordinated services for justice system-involved youth
5 shall be identified and carried out using a coordinated service
6 plan, developed during regular meetings of the statewide
7 cluster. The coordinated service plan shall include:

8 (1) An assessment of the individual needs of the youth;

9 (2) Identification of services currently being provided;

10 (3) Identification of the necessary coordinated services;

11 (4) Identification of the public or private agencies that

12 can provide the necessary coordinated services to the

13 youth, and a description of how each coordinated

14 service will be funded;

15 (5) If any necessary coordinated service need cannot be

16 met, a specific explanation as to why the service need

17 could not be met, such as a lack of funding or

18 unavailability of service, which shall be reported to

19 the board of family court judges and the Hawaii

20 juvenile justice state advisory council; and

21 (6) Opportunities for participation from the youth's legal

22 parent, guardian, or custodian.



1 (e) The statewide cluster shall annually report the number
2 of cases referred to the cluster, the number of cases in which a
3 coordinated service plan was established, and the outcome of the
4 cases. This report shall be submitted to the board of family
5 court judges and the Hawaii juvenile justice state advisory
6 council."

7 SECTION 4. Section 352-25, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§352-25 Furlough, parole, discharge.** (a) The director,
10 for good reasons shown to the director's satisfaction, may
11 furlough or parole any person committed to the director's
12 custody. The director shall give the court and the prosecutor's
13 office of the appropriate county a thirty-day notice prior to
14 discharging a committed person. Prior court approval shall be
15 obtained when such is specifically required in the commitment
16 order.

17 No furlough, parole, or discharge shall be granted unless
18 it appears to the director that there is a reasonable
19 probability that the person will not violate the law and that
20 the person's release is not incompatible with the welfare and
21 safety of society.



1 (b) When granting parole, the director shall consider
2 whether:

3 (1) The results of a risk and needs assessment indicate
4 the person is a lower risk to reoffend;

5 (2) The person has substantially complied with the
6 facility rules and has had no significant misconduct
7 in the prior two months;

8 (3) The person has demonstrated efforts toward
9 rehabilitation;

10 (4) The person is likely to follow the reentry plan
11 established pursuant to section 352- ; and

12 (5) A home visit has been completed and the living
13 situation upon parole is determined to be safe and
14 conducive to rehabilitation.

15 The form of furlough or parole may include return to the
16 person's own home, transfer to another youth correctional
17 facility, a group home or foster home placement, or other
18 appropriate alternative. Nonresidential programs may be made
19 available to selected persons on furlough such that they return
20 to the facility during nontreatment hours.

21 (c) The director shall submit an annual report to the
22 board of family court judges and the Hawaii juvenile justice



1 state advisory council. The report shall include the number of
2 persons committed to the director's custody who are not serving
3 a concurrent term of probation, the number of those persons who
4 were granted parole in the previous year, the length of the
5 parole term for each paroled person, and the number of persons
6 on parole who return to the Hawaii youth correctional facilities
7 for any reason."

8 SECTION 5. Section 571-2, Hawaii Revised Statutes, is
9 amended by adding seven new definitions to be appropriately
10 inserted and to read as follows:

11 "Administrative monitoring" means a legal status of a
12 child adjudicated for a status offense or a law violation who is
13 not placed on legal status, but is ordered by the court to
14 complete a discrete, small number of conditions within a short
15 time period, and without regular court appearances.

16 "Case plan" means a plan designed to ensure that a child on
17 probation receives services and programming to achieve
18 rehabilitation, proper care, and case management. The case plan
19 may include rules and conditions of probation, goals related to
20 reducing criminogenic needs, and evidence-based practices,
21 requirements, services, and opportunities to incorporate the
22 family.



1 "Coordinated services" means treatment, education, care,
2 services, and other resources provided by one or more distinct
3 state or local agencies in a coordinated manner for a child who
4 is involved in two or more youth-serving agencies.

5 "Evidence-based practices" means supervision policies,
6 procedures, and practices, as well as treatment and intervention
7 programs, that research demonstrates are likely to reduce
8 delinquency amongst children in the juvenile justice system.

9 "Home visit" means an announced or unannounced visit to a
10 child's place of residence, conducted by the child's probation
11 officer, within forty-five days of the child's placement on
12 probation.

13 "Interdepartmental cluster" means the regular coordination
14 of several agencies, directed by the judiciary, to more
15 efficiently provide services for high-need, court-involved
16 children.

17 "Risk and needs assessment" means a determination, based on
18 an actuarial tool validated on Hawaii's juvenile justice system-
19 involved population, of specific factors that predict a child's
20 likelihood of recidivating and criminogenic factors that, when
21 properly addressed, can reduce the likelihood of recidivating."



1 SECTION 6. Section 571-5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§571-5 Board of family court judges. A board of family
4 court judges, which shall consist of all the State's family
5 court judges and district family judges is hereby created. The
6 board shall annually elect from among its members a chairperson
7 who shall preside at meetings of the board. The chairperson
8 shall have no other authority not specifically authorized under
9 this chapter, or any applicable rule of the supreme court, or
10 specifically delegated by a majority of the board. The board
11 shall meet at stated times to be fixed by it but not less often
12 than once every six months, and on call of the chairperson.

13 The board shall discuss and shall attempt to achieve
14 agreement upon general policies for the conduct of the family
15 courts and forms for use in such courts. The board shall
16 recommend, for adoption by the supreme court, rules of court
17 governing procedure and practices in such courts. The board
18 shall provide the guidelines and procedures necessary to
19 implement a single statewide standardized tool to conduct risk
20 and needs assessments and validation of the tool every five
21 years. The board may, within the limitations of the facilities
22 available to the family courts of the State, seek the



1 consolidation of the statistical and other data on the work and
2 services of such courts and research studies that may be made of
3 the problems of families and children dealt with by such courts
4 to the end that the treatment of children and families subject
5 to the jurisdiction of such courts shall achieve the highest
6 possible degree of uniformity throughout the State and to the
7 further end that knowledge of treatment, methods and therapeutic
8 practices be shared among such courts. The board may also
9 formulate recommendations for remedial legislation. All actions
10 by the board shall be subject to the regulatory supervision of
11 the chief justice of the supreme court."

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

14 "**§571-6 Appointment and duties of employees.** (a) For
15 each family court, the judge, or the senior judge when there is
16 more than one judge, shall appoint a chief administrative and
17 executive officer who shall have the title of director of the
18 family court. Under the general supervision of the senior judge
19 or the judge, the director shall:

- 20 (1) Prepare an annual budget for the court;
21 (2) Formulate procedures governing the routine
22 administration of court services;



- 1 (3) Make recommendations to the court for improvement in
2 court services;
- 3 (4) Make recommendations to the senior judge or the judge
4 for the appointment of administrative, supervisory,
5 consultant, and necessary professional and clerical
6 and other personnel to perform the duties assigned to
7 the court and the director;
- 8 (5) Provide supervision and consultation to the
9 administrative and supervisory staff regarding the
10 administration of court services, recruitment of
11 personnel, in-service training, and fiscal and office
12 management; and
- 13 (6) Perform other duties as the senior judge or the judge
14 shall specify.
- 15 (b) For each family court the judge or senior judge where
16 there is more than one shall appoint necessary probation
17 officers, social workers, and marital counselors and may
18 appoint, or make arrangements for the services of physicians,
19 psychologists, psychiatrists, and other professionally competent
20 persons, to carry on the work of the court.
- 21 (c) Pursuant to subsection (a) (5), the director shall
22 require each probation officer to complete training annually on



1 juvenile justice or probation supervision best practices;
2 provided that funding is available. The form and length of the
3 training shall be determined by the director of the family
4 court, or a designee, and at the discretion of the several
5 directors of the family courts, training may be conducted
6 jointly between judicial circuits, as defined in section 603-1."

7 SECTION 8. Section 571-31.2, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§571-31.2 Juvenile intake and diagnostic services. (a)

10 The court or other designated agency shall:

11 (1) Notify the child's parent, guardian or legal custodian
12 or take reasonable action to ensure that such notice
13 has been given;

14 (2) Require the child, the child's parent, the child's
15 guardian or legal custodian, or both, to appear at the
16 court or other designated agency as soon as
17 practicable for a family counseling session to attempt
18 a quick resolution of their problem;

19 (3) Investigate, evaluate, make necessary determination,
20 and take appropriate actions regarding:

21 (A) Diversion from justice system processing, formal
22 or informal, and closure of the case;



1 aggregate number of cases diverted and the types of alleged
2 offenses precipitating the referral of the child to the court.
3 These reports shall be submitted to the administrator of the
4 juvenile client services branch in each judicial circuit, who
5 shall compile the reports into an annual report for each
6 judicial circuit, to be submitted to the board of family court
7 judges and the Hawaii juvenile justice state advisory council."

8 SECTION 9. Section 571-31.4, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§571-31.4 Informal adjustment, law violators. (a) When
11 a child reasonably believed to come within section 571-11(1) is
12 referred to the court or other designated agency, and is not
13 diverted from processing, informal adjustment may be provided to
14 the child by an intake officer duly authorized by the family
15 court only where the facts reasonably appear to establish prima
16 facie jurisdiction and are admitted and where a consent is
17 obtained from the child's parent, guardian, or legal custodian,
18 and the child, if of sufficient age and understanding.

19 (b) The directors of the family courts of each circuit
20 shall together establish a framework that includes the criteria
21 probation officers shall use to guide the exercise of discretion
22 in providing informal adjustment.



1 [~~(b)~~] (c) Informal adjustment under this section may
2 include, among other suitable methods, programs, and procedures,
3 the following:

- 4 (1) Participation in restitution projects to obtain
5 appropriate victim satisfaction;
- 6 (2) Participation in community service projects so as to
7 establish the child's self value in the community;
- 8 (3) Participation in community-based programs which work
9 with the child and family to maintain and strengthen
10 the family unit so that the child may be retained in
11 the child's own home;
- 12 (4) Submission to neighborhood courts or panels upon
13 procedures to be established by the court. As used in
14 this paragraph "neighborhood courts or panels" are
15 community organizations designed to settle minor
16 disputes between parties on a voluntary basis using
17 mediation or nonbinding arbitration;
- 18 (5) Participation in programs to support, counsel, or
19 provide work and recreational opportunities to help
20 prevent delinquency;
- 21 (6) Participation in educational programs or supportive
22 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.

17 [~~e~~] (d) Informal adjustment projects, programs, and
18 services may be provided through public agencies or private
19 agencies.

20 [~~d~~] (e) In the event resources and services for informal
21 adjustment are not available, have failed, are reasonably
22 believed to fail if attempted, or are unable to respond to the



1 needs of the child or family, the intake officer shall proceed
2 with formal action, or take such action as is otherwise allowed
3 under this chapter.

4 (f) Intake officers shall compile annual reports that
5 include the number and per cent of referrals informally
6 adjusted, and the number and per cent of children informally
7 adjusted who avoided further system processing. The
8 administrator of the juvenile client services branch in each
9 judicial circuit shall compile the annual reports from the
10 probation intake sections into a single annual report for each
11 judicial circuit and shall submit the final report to the board
12 of family court judges and the Hawaii juvenile justice state
13 advisory council."

14 SECTION 10. Section 571-31.5, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) When a child reasonably believed to come within
17 section 571-11(2) is referred to the court or other designated
18 agency, informal adjustment [~~may~~] shall be provided to the child
19 by an intake officer duly authorized by the family court only
20 where the facts reasonably appear to establish prima facie
21 jurisdiction and are admitted and where a consent is obtained
22 from the child's parent, guardian, or legal custodian, and the



1 child, if of sufficient age and understanding. Informal
 2 adjustment under this section may include, among other suitable
 3 methods, programs, and procedures, listed in section
 4 ~~[571-31.4(b),]~~ 571-31.4(c), except section ~~[571-31.4(b)(1),]~~
 5 571-31.4(c)(1), and provided that placement with shelter
 6 facilities under section ~~[571-31.4(b)(9)]~~ 571-31.4(c)(9) shall
 7 be on a nonsecure basis unless the child is processed under
 8 subsection (b) ~~[of this section]~~."

9 SECTION 11. Section 571-31.6, Hawaii Revised Statutes, is
 10 amended to read as follows:

11 **"§571-31.6 Informal adjustment, minor who may be both law**
 12 **violator and status offender.** When a child is reasonably
 13 believed to come within section 571-11(1) and (2), the intake
 14 officer may exercise discretion to process informal adjustment
 15 under section 571-31.4 ~~[or 571-31.5]~~. In making that
 16 determination, the officer shall be guided by the criteria set
 17 out in section 571-31.1(c)(1) to (5) ~~[7]~~ and the criteria in the
 18 framework established pursuant to section 571-31.4(b), taking
 19 into account the availability of suitable method, program, or
 20 procedure for the child."

21 SECTION 12. Section 571-41, Hawaii Revised Statutes, is
 22 amended by amending subsection (d) to read as follows:



1 "(d) In the disposition part of the hearing any relevant
2 and material information, including [~~that~~] information contained
3 in a written report, study, or examination, and the results of a
4 risk and needs assessment of the child conducted pursuant to
5 section 571-45, shall be admissible, and may be relied upon to
6 the extent of its probative value; provided that the maker of
7 the written report, study, or examination shall be subject to
8 both direct and cross-examination upon demand and when the maker
9 is reasonably available. The disposition shall be based only
10 upon the admitted evidence, and findings adverse to the child as
11 to disputed issues of fact shall be based upon a preponderance
12 of such evidence."

13 SECTION 13. Section 571-45, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§571-45** [~~Investigation~~] Assessment and investigation
16 prior to disposition[-]; suspension of delinquency proceedings;
17 denial of services reporting. (a) Prior to disposition, the
18 court shall conduct a risk and needs assessment, using the tool
19 procured and validated pursuant to section 571-5, for each child
20 concerning whom a petition has been filed pursuant to section
21 571-11(1) and (2).



1 (b) ~~[Except where the requirement is waived by the judge]~~
2 In addition to the risk and needs assessment, a social study and
3 a report in writing shall be made in the case of a ~~[minor]~~ child
4 concerning whom a petition has been filed under section
5 571-11(1) and (2) ~~[-]~~, except where the judge waives the
6 requirement to make a social study and a report in writing. The
7 study shall be initiated upon the filing of a petition except in
8 petitions filed under section 571-11(1) when it is ascertained
9 that the ~~[minor]~~ child denies the allegations set forth in the
10 petition. In such case the study shall proceed only after the
11 court after hearing has made a finding as to the allegations of
12 the petition.

13 Except where the requirement is waived by the judge, social
14 studies shall also be made in proceedings to decide disputed or
15 undetermined legal custody and in custody disputes arising out
16 of a divorce action. In all other awards of custody arising out
17 of a divorce action, including those where an agreement with
18 respect to custody has been made by the parties, and in any
19 other case or class of cases, the judge may order a social study
20 when the judge has reason to believe such action is necessary to
21 assure adequate protection of the ~~[minor]~~ child or of any other
22 person involved in the case. By special order of the judge or



1 by rule of court a social study may be required in support cases
2 covering financial ability and other matters pertinent to making
3 an order of support. The use of such studies in custody and
4 support hearings shall be subject to the applicable provisions
5 of section 571-41.

6 (c) [Social] The results of the risk and needs assessment
7 and any social studies required by this section shall be
8 presented to and considered by the judge prior to making
9 disposition[-] pursuant to section 571-41(d).

10 The judge may order and use a presentence investigation
11 with respect to any criminal action under the jurisdiction of
12 the court in accordance with the existing provisions of the law
13 with respect to the making and use of such studies.

14 (d) If the results of the risk and needs assessment
15 indicate a substance abuse or mental health need, the probation
16 officer shall immediately refer the child to the department of
17 health for an eligibility determination.

18 (e) The court, upon the motion of the child or on its own
19 motion, may order the suspension of the delinquency proceedings,
20 prior to adjudication, for a period of up to one year to obtain
21 substance abuse or mental health treatment if the court finds:



- 1 (1) The child presently needs and is likely to benefit
2 from treatment; and
- 3 (2) The suspension of the delinquency proceedings will
4 advance the interests of justice.

5 No later than one month before the end of the period of
6 suspension of the delinquency proceedings, the treatment
7 provider shall submit a report on whether the child has
8 completed the treatment program.

9 If the court, on the motion of the child or on its own
10 motion, finds that the child has successfully completed the
11 treatment program, the court may dismiss the suspended
12 delinquency proceedings. If the court does not find that the
13 child has satisfactorily completed treatment, the court may
14 terminate the suspension and proceed with the case.

15 (f) A probation officer referring a child to the
16 department of health under this section shall report any
17 subsequent denial of services to the administrator of the
18 juvenile client services branch in each judicial circuit. The
19 administrators of the juvenile client services branch shall
20 submit an annual report compiling all such denials to the board
21 of family court judges and the Hawaii juvenile justice state
22 advisory council."



1 SECTION 14. Section 571-48, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§571-48 Decree, if informal adjustment or diversion to a
4 private or community agency or program has not been effected.

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

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

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

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

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

16 An order by the court placing a child on
17 probation under this subparagraph shall include a
18 definite term of probation stated in months or
19 years, subject to extension or modification by
20 the court pursuant to section 571-50. When
21 conditions of probation include custody in a
22 youth correctional facility, the custody shall be



1 for a term not to exceed one year, after which
2 time the ~~[person]~~ child shall be allowed to
3 reside in the community subject to additional
4 conditions as may be imposed by the court;

5 (B) The court may vest legal custody of the child,
6 after prior consultation with the agency or
7 institution~~[, in]~~:

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



1 (ii) In a local public agency or institution [~~or~~
2 ~~in~~];

3 (iii) In any private institution or agency
4 authorized by the court to care for
5 children; or [~~place the child in~~]

6 (iv) In a private home.

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

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

1 the court may extend or modify the order pursuant
2 to section 571-50, or dispose the child to
3 probation status under paragraph (1) (A); or

4 ~~(C)~~ (D) The court may fine the child for a violation
5 which would be theft in the third degree by
6 shoplifting if committed by an adult. The court
7 may require the child to perform public services
8 in lieu of the fine;

9 (2) As to a child adjudicated under section 571-11(2):

10 (A) The court may place the child under protective
11 supervision, as hereinabove defined, in the
12 child's own home, or in the custody of a suitable
13 person or agency elsewhere, upon conditions
14 determined by the court; or

15 (B) The court may vest legal custody of the child,
16 after prior consultation with the agency or
17 institution, in a local governmental agency or
18 institution licensed or approved by the State to
19 care for children, with the exception of an
20 institution authorized by the court to care for
21 children. If legal custody of the child is
22 vested in a private agency or institution in



1 another state, the court shall select one that is
2 approved by the family or juvenile court of the
3 other state or by that state's department of
4 social services or other appropriate department;
5 provided that the child may not be committed to a
6 public or private institution operated solely for
7 the treatment of law violators;

- 8 (3) An order vesting legal custody of a minor in an
9 individual, agency, or institution under section
10 571-11(2) shall be for an indeterminate period but
11 shall not remain in force or effect beyond three years
12 from the date entered, except that the individual,
13 institution, or agency may file with the court a
14 petition for renewal of the order and the court may
15 renew the order if it finds such renewal necessary to
16 safeguard the welfare of the child or the public
17 interest. The court, after notice to the parties, may
18 conduct a hearing on the petition. Renewal may be
19 periodic during minority, but no order shall have any
20 force or effect beyond the period authorized by
21 section 571-13. An agency granted legal custody shall
22 be subject to prior approval of the court in any case



1 in which the child is to reside without the
2 territorial jurisdiction of the court and may be
3 subject to prior approval in other cases. An
4 individual granted legal custody shall exercise the
5 rights and responsibilities personally unless
6 otherwise authorized by the court;

7 (4) Whenever the court commits a child to the care of the
8 director of human services or executive director of
9 the office of youth services, or vests legal custody
10 of a child in an institution or agency, it shall
11 transmit with the order copies of the clinical
12 reports, social study, results of the risk and needs
13 assessment conducted by the court, and other
14 information pertinent to the care and treatment of the
15 child, and the institution or agency shall give to the
16 court any information concerning the child that the
17 court may at any time require. An institution or
18 agency receiving a child under this paragraph shall
19 inform the court whenever the status of the child is
20 affected through temporary or permanent release,
21 discharge, or transfer to other custody. An
22 institution to which a child is committed under



1 section 571-11(1) or (2) shall not transfer custody of
2 the child to an institution for the correction of
3 adult offenders, except as authorized in this chapter
4 and under chapter 352;

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

8 (6) In placing a child under the guardianship or custody
9 of an individual or of a private agency or private
10 institution, the court shall give primary
11 consideration to the welfare of the child;

12 (7) In support of any order or decree under section
13 571-11(1) or (2), the court may require the parents or
14 other persons having custody of the child, or any
15 other person who has been found by the court to be
16 encouraging, causing, or contributing to the acts or
17 conditions which bring the child within the purview of
18 this chapter and who are parties to the proceeding, to
19 do or to omit doing any acts required or forbidden by
20 law, when the judge deems this requirement necessary
21 for the welfare of the child. The court may also make
22 appropriate orders concerning the parents or other



1 persons having custody of the child and who are
2 parties to the proceeding. If such persons fail to
3 comply with the requirement or with the court order,
4 the court may proceed against them for contempt of
5 court;

6 (8) In support of any order or decree for custody or
7 support, the court may make an order of protection
8 setting forth reasonable conditions of behavior to be
9 observed for a specified time, binding upon both
10 parents or either of them. This order may require
11 either parent to stay away from the home or from the
12 other parent or children, may permit the other to
13 visit the children at stated periods, or may require a
14 parent to abstain from offensive conduct against the
15 children or each other;

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

18 (10) In any other case of which the court has jurisdiction,
19 the court may make any order or judgment authorized by
20 law;

21 (11) The court may order any person adjudicated pursuant to
22 section 571-11(1) to make restitution of money or



- 1 services to any victim who suffers loss as a result of
2 the child's action, or to render community service;
- 3 (12) The court may order any person adjudicated pursuant to
4 section 571-11(2) to participate in community service;
5 ~~and~~
- 6 (13) The court may order the parents of an adjudicated
7 ~~minor~~ child to make restitution of money or services
8 to any victim, person, or party who has incurred a
9 loss or damages as a result of the child's action~~[-]~~;
10 and
- 11 (14) Each director of the family court, or the director's
12 designee, shall submit annual reports to the board of
13 family court judges and the Hawaii juvenile justice
14 state advisory council that includes:
- 15 (A) The number and per cent of cases ordered to
16 administrative monitoring status;
- 17 (B) The number and per cent of cases ordered to
18 administrative monitoring status that were
19 subsequently closed without a protective
20 supervision or probation term;

- 1 (2) To develop a uniform process for establishing and
2 reviewing performance and outcome standards for the
3 office of youth services and the family court division
4 of the judiciary, as well as other interrelated
5 agencies. The uniform process shall include the
6 performance and outcome measures for each agency that
7 shall be reviewed annually, the deadlines and format
8 for the submission of the performance and outcome
9 measures, and the entity to which the measures shall
10 be reported;
- 11 (3) To review data and information submitted to the
12 advisory council and submit annual reports to the
13 executive, legislative, and judicial branches for the
14 term the advisory council is in existence, evaluating
15 implementation of the reforms in this Act and juvenile
16 justice system effectiveness; and
- 17 (4) To review current eligibility requirements for mental
18 health services for youth, with a focus on expanding
19 access to services to ensure that youth determined to
20 be at-risk and with a need for mental health services
21 receive those services in a more comprehensive and
22 timely manner, through the department of health or its



1 contracted mental health providers, collaborating and
2 consulting with any relevant agency, and submit a
3 report no later than twenty days prior to the
4 convening of the 2016 regular session to the
5 executive, legislative, and judicial branches,
6 including the current eligibility requirements, recent
7 changes to eligibility requirements, and
8 recommendations for further changes to the eligibility
9 requirements.

10 (c) The advisory council shall be composed of sixteen
11 members to be selected as follows, without regard to section
12 26-34, Hawaii Revised Statutes:

- 13 (1) One member from the executive branch, appointed by the
14 governor;
- 15 (2) One member from the house of representatives,
16 appointed by the speaker of the house of
17 representatives, or designee;
- 18 (3) One member from the senate, appointed by the president
19 of the senate, or designee;
- 20 (4) One member from the judiciary, appointed by the chief
21 justice of the supreme court, or designee;



- 1 (5) Four members to represent each of the four judicial
2 circuits defined in section 603-1, Hawaii Revised
3 Statutes, appointed by the chief justice of the
4 supreme court, or designee;
- 5 (6) The executive director of the office of youth
6 services;
- 7 (7) Two members from the child and adolescent mental
8 health division of the department of health, appointed
9 by the director of health;
- 10 (8) One member from the school based behavioral health
11 division of the department of education, appointed by
12 the superintendent of education;
- 13 (9) One member from the special education section of the
14 department of education, appointed by the
15 superintendent of education;
- 16 (10) One juvenile justice stakeholder from the advocacy
17 community, appointed by the executive director of the
18 office of youth services;
- 19 (11) One juvenile crime victim advocate, selected from a
20 list submitted by the victim-witness coordinators, and
21 appointed by the governor; and



1 (12) One member from a law enforcement agency or a county
2 prosecutor's office, appointed by the governor.

3 The advisory council shall meet within ninety days after
4 appointment and organize itself by electing one of its members
5 as chair and such other officers as the advisory council may
6 consider necessary. Thereafter, the advisory council shall meet
7 at least quarterly and at the call of the chair or by a majority
8 of the members. The advisory council shall provide
9 teleconferencing or videoconferencing capabilities for members
10 to attend meetings remotely. A quorum shall consist of eight
11 members.

12 (d) The advisory council shall receive copies of all data,
13 reports, performance measures, and other evaluative materials
14 submitted to any agency or branch of government under this Act
15 and may request further data analysis or information from youth-
16 serving agencies to carry out its duties. The advisory council
17 may also request recidivism data from the attorney general.

18 (e) The judiciary shall provide staff support to the
19 advisory council, at the request of the advisory council. The
20 members shall serve without compensation.

1 (f) The advisory council shall cease to exist on the last
2 day of the regular session of 2016, unless the advisory council
3 is extended by concurrent resolution of the legislature.

4 SECTION 16. This Act shall not be applied so as to impair
5 any contract existing as of the effective date of this Act in a
6 manner violative of either the Hawaii State Constitution or
7 Article I, section 10, of the United States Constitution.

8 SECTION 17. In codifying the new sections added by section
9 3 of this Act, the revisor of statutes shall substitute
10 appropriate section numbers for the letters used in designating
11 the new sections in this Act.

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

14 SECTION 19. This Act shall take effect on July 1, 2030,
15 and apply to delinquent behavior committed on or after that
16 date; provided that:

17 (1) Section 14 shall take effect on September 1, 2030, and
18 apply to delinquent behavior committed on or after
19 that date; and

20



1 (2) Sections 3 and 13 shall take effect on January 1,
2 2031, and apply to delinquent behavior committed on or
3 after that date.



Report Title:

Juvenile Justice; Juvenile Probation; Juvenile Justice Oversight Advisory Council

Description:

Enhances the juvenile justice system by concentrating secure bed space on serious juvenile offenders. Strengthens disposition, adjustment, diversion, and services available for juvenile offenders to ensure family court judges, court staff, departmental staff, and service providers have the tools needed to keep youth safely and effectively in their communities. Increases interagency collaboration. Establishes a temporary Juvenile Justice Oversight Advisory Council. Effective July 1, 2030. (SD1)

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