
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 four 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 the



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

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

20 (A) The judiciary shall adopt guidelines and
21 procedures for the development and application of
22 a statewide graduated sanctions and incentives



1 system in accordance with this section, and the
2 director of the family court in each judicial
3 circuit, or the administrator's designee, shall
4 adopt policies or procedures for the
5 implementation of the adopted graduated sanctions
6 and incentives system to guide probation officers
7 in imposing sanctions and awarding incentives;

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

19 (C) The system shall be developed with the following
20 objectives:



- 1 (i) To respond quickly, consistently, and
- 2 proportionally to violations of the rules
- 3 and conditions of probation;
- 4 (ii) To reduce the time and resources expended by
- 5 the court in responding to violations with
- 6 judicial modification;
- 7 (iii) To reduce the likelihood of a new delinquent
- 8 act; and
- 9 (iv) To encourage positive behavior;
- 10 (D) At a child's first meeting with a probation
- 11 officer after being adjudicated and disposed to a
- 12 probation term, the probation officer shall
- 13 provide written and oral notification to the
- 14 child regarding the graduated sanctions and
- 15 incentives system to ensure the child is aware of
- 16 the sanctions and incentives that may be imposed
- 17 or rewarded;
- 18 (E) When issuing a sanction or incentive, the
- 19 probation officer shall provide written notice to
- 20 the child of the nature and date of the relevant
- 21 behavior, the sanction or incentive imposed or
- 22 rewarded, and, in the case of sanctions, any



1 applicable time period in which the sanction will
2 be in effect or by which corrective behavior must
3 be taken. The probation officer shall provide
4 this information to the court at the next
5 regularly scheduled review hearing and inform the
6 court of the child's response to the sanction or
7 incentive; and

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

17 **§571-B Earned discharge from probation; reporting**
18 **requirements.** (a) A child placed on probation pursuant to
19 section 571-48(1) (A) shall be eligible to receive earned
20 discharge credits to reduce the length of the probation term.
21 Earned discharge credits shall reduce the term of probation by



1 thirty days for each calendar month of compliance with the rules
2 and conditions of probation.

3 (b) A child is deemed to be compliant with the rules and
4 conditions of probation, and shall be awarded earned discharge
5 credits for the month, if there was no violation of rules and
6 conditions of probation that month at a level that would warrant
7 the filing of a petition or violation report. The court, at the
8 request of the probation officer or on its own motion, may award
9 discharge credits to children who have demonstrated substantial
10 compliance with the rules and conditions of probation.

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

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

19 §571-C Statewide juvenile justice interdepartmental
20 cluster; local juvenile justice interdepartmental cluster; high-
21 need youth services coordination. (a) There is established a
22 statewide juvenile justice interdepartmental cluster to provide



1 coordinated services, as defined in section 571-2, to certain
2 children under the jurisdiction of the family court, and to
3 provide an avenue for regular collaboration between the
4 judiciary and the child and adolescent mental health division of
5 the department of health.

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

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

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



1 The statewide cluster shall establish written policies and
2 procedures for itself and any local juvenile justice
3 interdepartmental clusters.

4 (c) Family courts may recommend youth for consideration by
5 the statewide cluster based on the results of a risk and needs
6 assessment conducted pursuant to section 571-45 indicating that
7 a youth is high-need and if the youth is actively involved with
8 two or more youth-serving agencies.

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

- 13 (1) An assessment of the individual needs of the youth;
14 (2) Identification of services currently being provided;
15 (3) Identification of the necessary coordinated services;
16 (4) Identification of the public or private agencies that
17 can provide the necessary coordinated services to the
18 youth, and a description of how each coordinated
19 service will be funded;
20 (5) If any necessary coordinated service need cannot be
21 met, a specific explanation as to why the service need
22 could not be met, such as a lack of funding or



1 unavailability of service, which shall be reported to
2 the board of family court judges and the Hawaii
3 juvenile justice state advisory council; and
4 (6) Opportunities for participation from the youth's legal
5 parent, guardian, or custodian.

6 (e) The statewide cluster shall annually report the number
7 of cases referred to the cluster, the number of cases in which a
8 coordinated service plan was established, and the outcome of the
9 cases. This report shall be submitted to the board of family
10 court judges and the Hawaii juvenile justice state advisory
11 council.

12 §571-D Director of the family court; annual report. Each
13 director of the family court, or the director's designee, shall
14 submit an annual report to the board of family court judges and
15 the Hawaii juvenile justice state advisory council that
16 includes:

- 17 (1) The number and per cent of cases ordered to
18 administrative monitoring status;
19 (2) The number and per cent of cases ordered to
20 administrative monitoring status that were
21 subsequently closed without a protective supervision
22 or probation term;



- 1 (3) The number and per cent of youth disposed to a
2 probation term, and the outcome of the probation
3 terms;
- 4 (4) The number and per cent of cases committed to a Hawaii
5 youth correctional facility; the underlying offense or
6 type of probation violation or revocation
7 precipitating commitment; and the age, race, and
8 gender of the child; and
- 9 (5) The number and per cent of cases returned to court
10 supervision on a maintained probation term following a
11 release from a Hawaii youth correctional facility."

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

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



1 No furlough, parole, or discharge shall be granted unless
2 it appears to the director that there is a reasonable
3 probability that the person will not violate the law and that
4 the person's release is not incompatible with the welfare and
5 safety of society.

6 (b) When granting parole, the director shall consider
7 whether:

- 8 (1) The results of a risk and needs assessment indicate
9 the person is at a lower risk to reoffend;
- 10 (2) The person has substantially complied with the
11 facility rules and has had no significant misconduct
12 in the prior two months;
- 13 (3) The person has demonstrated efforts toward
14 rehabilitation;
- 15 (4) The person is likely to follow the reentry plan
16 established pursuant to section 352- ; and
- 17 (5) A home visit has been completed and the living
18 situation upon parole is determined to be safe and
19 conducive to rehabilitation.

20 The form of furlough or parole may include return to the
21 person's own home, transfer to another youth correctional
22 facility, a group home or foster home placement, or other



1 appropriate alternative. Nonresidential programs may be made
2 available to selected persons on furlough such that they return
3 to the facility during nontreatment hours.

4 (c) The director shall submit an annual report to the
5 board of family court judges and the Hawaii juvenile justice
6 state advisory council. The report shall include the number of
7 persons committed to the director's custody who are not serving
8 a concurrent term of probation, the number of those persons who
9 were granted parole in the previous year, the length of the
10 parole term for each paroled person, and the number of persons
11 on parole who return to the Hawaii youth correctional facilities
12 for any reason."

13 SECTION 5. Section 571-2, Hawaii Revised Statutes, is
14 amended by adding nine new definitions to be appropriately
15 inserted and to read as follows:

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

21 "Case plan" means a plan designed to ensure that a child on
22 probation receives services and programming to achieve



1 rehabilitation, proper care, and case management. The case plan
2 may include rules and conditions of probation, goals related to
3 reducing criminogenic needs, and evidence-based practices,
4 requirements, services, and opportunities to incorporate the
5 family.

6 "Coordinated services" means treatment, education, care,
7 services, and other resources provided by one or more distinct
8 state or local agencies in a coordinated manner for a child who
9 is involved with two or more youth-serving agencies.

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

14 "Home visit" means an announced or unannounced visit to a
15 child's place of residence, conducted by the child's probation
16 officer.

17 "Interdepartmental cluster" means the regular coordination
18 of several agencies, directed by the judiciary, to more
19 efficiently provide services for high-need, court-involved
20 children.

21 "Presumptive sanction" means a probation violation sanction
22 determined by a probation officer from a range of graduated



1 sanctions for the most common types of violation, adopted by the
2 judiciary pursuant to section 571-A(4) and based upon
3 consideration of factors including the nature and severity of
4 the violation and the child's risk level.

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

10 "Statewide cluster" means the statewide juvenile justice
11 interdepartmental cluster as established under section 571-C."

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

14 **"§571-5 Board of family court judges.** A board of family
15 court judges, which shall consist of all the State's family
16 court judges and district family judges is hereby created. The
17 board shall annually elect from among its members a chairperson
18 who shall preside at meetings of the board. The chairperson
19 shall have no other authority not specifically authorized under
20 this chapter, or any applicable rule of the supreme court, or
21 specifically delegated by a majority of the board. The board



1 shall meet at stated times to be fixed by it but not less often
2 than once every six months, and on call of the chairperson.

3 The board shall discuss and shall attempt to achieve
4 agreement upon general policies for the conduct of the family
5 courts and forms for use in such courts. The board shall
6 recommend, for adoption by the supreme court, rules of court
7 governing procedure and practices in such courts. The board
8 shall provide the guidelines and procedures necessary to
9 implement a single statewide standardized tool to conduct risk
10 and needs assessments and validation of the tool every five
11 years. The board may, within the limitations of the facilities
12 available to the family courts of the State, seek the
13 consolidation of the statistical and other data on the work and
14 services of such courts and research studies that may be made of
15 the problems of families and children dealt with by such courts
16 to the end that the treatment of children and families subject
17 to the jurisdiction of such courts shall achieve the highest
18 possible degree of uniformity throughout the State and to the
19 further end that knowledge of treatment, methods and therapeutic
20 practices be shared among such courts. The board may also
21 formulate recommendations for remedial legislation. All actions



1 by the board shall be subject to the regulatory supervision of
2 the chief justice of the supreme court."

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

5 "§571-6 **Appointment and duties of employees.** (a) For
6 each family court, the judge, or the senior judge when there is
7 more than one judge, shall appoint a chief administrative and
8 executive officer who shall have the title of director of the
9 family court. Under the general supervision of the senior judge
10 or the judge, the director shall:

- 11 (1) Prepare an annual budget for the court;
- 12 (2) Formulate procedures governing the routine
13 administration of court services;
- 14 (3) Make recommendations to the court for improvement in
15 court services;
- 16 (4) Make recommendations to the senior judge or the judge
17 for the appointment of administrative, supervisory,
18 consultant, and necessary professional and clerical
19 and other personnel to perform the duties assigned to
20 the court and the director;
- 21 (5) Provide supervision and consultation to the
22 administrative and supervisory staff regarding the



1 administration of court services, recruitment of
2 personnel, in-service training, and fiscal and office
3 management; and

4 (6) Perform other duties as the senior judge or the judge
5 shall specify.

6 (b) For each family court the judge or senior judge where
7 there is more than one shall appoint necessary probation
8 officers, social workers, and marital counselors and may
9 appoint, or make arrangements for the services of physicians,
10 psychologists, psychiatrists, and other professionally competent
11 persons, to carry on the work of the court.

12 (c) Pursuant to subsection (a)(5), the director shall
13 require each probation officer to complete training annually on
14 juvenile justice or probation supervision best practices;
15 provided that funding is available. The form and length of the
16 training shall be determined by the director of the family
17 court, or a designee, and at the discretion of the several
18 directors of the family courts, training may be conducted
19 jointly between judicial circuits, as defined in section 603-1."

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



1 "§571-31.2 Juvenile intake and diagnostic services. (a)

2 The court or other designated agency shall:

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

6 (2) Require the child, the child's parent, the child's
7 guardian or legal custodian, or both, to appear at the
8 court or other designated agency as soon as
9 practicable for a family counseling session to attempt
10 a quick resolution of their problem;

11 (3) Investigate, evaluate, make necessary determination,
12 and take appropriate actions regarding:

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

15 [~~(A)~~] (B) Release of a child to the care of the
16 child's parent or other responsible adult;

17 [~~(B)~~] (C) Extending to or making arrangement for the
18 securing of suitable informal adjustment under
19 section 571-31.4, 571-31.5 or 571-31.6;

20 [~~(C)~~] (D) Initiation of the filing of a complaint or
21 petition;

1 ~~[(D)]~~ (E) Detention of a child, utilizing the standard
2 set out in section 571-31.1 or temporary shelter
3 in a nonsecure shelter; and

4 ~~[(E)]~~ (F) Making such other informal disposition as
5 may be suitable.

6 (b) If the intake officer believes it desirable, such
7 officer may take action to obtain the child or the written
8 promise of a parent, guardian, or legal custodian to take the
9 child to the court or other designated agency as in section
10 571-31(c). The failure of a parent, guardian, or other legal
11 custodian to produce the child in court or at the other
12 designated agency as required by an authorized notice may be
13 pursued as provided in section 571-31(d).

14 (c) For cases diverted under subsection (a) (3) (A), intake
15 officers shall compile reports at least monthly enumerating the
16 aggregate number of cases diverted and the types of alleged
17 offenses precipitating the referral of the child to the court.
18 These reports shall be submitted to the administrator of the
19 juvenile client services branch in each judicial circuit, who
20 shall compile the reports into an annual report for each
21 judicial circuit, to be submitted to the board of family court
22 judges and the Hawaii juvenile justice state advisory council."



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

3 "§571-31.4 Informal adjustment, law violators. (a) When
4 a child reasonably believed to come within section 571-11(1) is
5 referred to the court or other designated agency, and is not
6 diverted from processing, informal adjustment may be provided to
7 the child by an intake officer duly authorized by the family
8 court only where the facts reasonably appear to establish prima
9 facie jurisdiction and are admitted and where a consent is
10 obtained from the child's parent, guardian, or legal custodian,
11 and the child, if of sufficient age and understanding.

12 (b) The directors of the family courts of each circuit
13 shall together establish a framework that includes the criteria
14 probation officers shall use to guide the exercise of discretion
15 in providing informal adjustment.

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

- 19 (1) Participation in restitution projects to obtain
20 appropriate victim satisfaction;
- 21 (2) Participation in community service projects so as to
22 establish the child's self value in the community;



- 1 (3) Participation in community-based programs which work
2 with the child and family to maintain and strengthen
3 the family unit so that the child may be retained in
4 the child's own home;
- 5 (4) Submission to neighborhood courts or panels upon
6 procedures to be established by the court. As used in
7 this paragraph "neighborhood courts or panels" are
8 community organizations designed to settle minor
9 disputes between parties on a voluntary basis using
10 mediation or nonbinding arbitration;
- 11 (5) Participation in programs to support, counsel, or
12 provide work and recreational opportunities to help
13 prevent delinquency;
- 14 (6) Participation in educational programs or supportive
15 services designed to help delinquents and to encourage
16 other youths to remain in elementary and secondary
17 schools or in alternative learning situations;
- 18 (7) Participation in youth-initiated programs and outreach
19 programs designed to assist youth and families;
- 20 (8) Appropriate physical and medical examinations,
21 vocational and aptitude testing, examinations for



1 learning disabilities or emotional dysfunctions, and
2 suitable counseling and therapy;

3 (9) Placement with nonsecure or secure shelter facilities;

4 (10) Restitution providing for monetary payment by the
5 parents of the child; or

6 (11) Participation in a restorative justice program where
7 the child and the child's parents or guardian, and
8 other supporters of the child, may meet with the
9 victim harmed by the child's law violation and the
10 victim's supporters.

11 [~~(e)~~] (d) Informal adjustment projects, programs, and
12 services may be provided through public agencies or private
13 agencies.

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

20 (f) Intake officers shall compile annual reports that
21 include the number and per cent of referrals informally
22 adjusted, and the number and per cent of children informally



1 adjusted who avoided further system processing. The
2 administrator of the juvenile client services branch in each
3 judicial circuit shall compile the annual reports from the
4 probation intake sections into a single annual report for each
5 judicial circuit and shall submit the final report to the board
6 of family court judges and the Hawaii juvenile justice state
7 advisory council."

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

10 "(a) When a child reasonably believed to come within
11 section 571-11(2) is referred to the court or other designated
12 agency, informal adjustment [~~may~~] shall be provided to the child
13 by an intake officer duly authorized by the family court only
14 where the facts reasonably appear to establish prima facie
15 jurisdiction and are admitted and where a consent is obtained
16 from the child's parent, guardian, or legal custodian, and the
17 child, if of sufficient age and understanding. Informal
18 adjustment under this section may include, among other suitable
19 methods, programs, and procedures, listed in section
20 [~~571-31.4(b)-7,~~] 571-31.4(c), except section [~~571-31.4(b)-(1)-7,~~]
21 571-31.4(c)(1), and provided that placement with shelter
22 facilities under section [~~571-31.4(b)-(9)-7~~] 571-31.4(c)(9) shall



1 be on a nonsecure basis unless the child is processed under
2 subsection (b) [~~of this section~~]."

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

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

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

17 "(d) In the disposition part of the hearing any relevant
18 and material information, including [~~that~~] information contained
19 in a written report, study, or examination, and the results of a
20 risk and needs assessment of the child conducted pursuant to
21 section 571-45, shall be admissible, and may be relied upon to
22 the extent of its probative value; provided that the maker of



1 the written report, study, or examination shall be subject to
2 both direct and cross-examination upon demand and when the maker
3 is reasonably available. The disposition shall be based only
4 upon the admitted evidence, and findings adverse to the child as
5 to disputed issues of fact shall be based upon a preponderance
6 of such evidence."

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

9 "§571-45 [Investigation] Assessment and investigation
10 prior to disposition[-]; suspension of delinquency proceedings;
11 denial of services reporting. (a) Prior to disposition, the
12 court shall conduct a risk and needs assessment, using the tool
13 procured and validated pursuant to section 571-5, for each child
14 concerning whom a petition has been filed pursuant to section
15 571-11(1) and (2).

16 (b) ~~[Except where the requirement is waived by the judge]~~
17 In addition to the risk and needs assessment, a social study and
18 a report in writing shall be made in the case of a [minor] child
19 concerning whom a petition has been filed under section
20 571-11(1) and (2) [-], except where the judge waives the
21 requirement to make a social study and a report in writing. The
22 study shall be initiated upon the filing of a petition except in



1 petitions filed under section 571-11(1) when it is ascertained
2 that the [~~minor~~] child denies the allegations set forth in the
3 petition. In such case the study shall proceed only after the
4 court after hearing has made a finding as to the allegations of
5 the petition.

6 Except where the requirement is waived by the judge, social
7 studies shall also be made in proceedings to decide disputed or
8 undetermined legal custody and in custody disputes arising out
9 of a divorce action. In all other awards of custody arising out
10 of a divorce action, including those where an agreement with
11 respect to custody has been made by the parties, and in any
12 other case or class of cases, the judge may order a social study
13 when the judge has reason to believe such action is necessary to
14 assure adequate protection of the [~~minor~~] child or of any other
15 person involved in the case. By special order of the judge or
16 by rule of court a social study may be required in support cases
17 covering financial ability and other matters pertinent to making
18 an order of support. The use of such studies in custody and
19 support hearings shall be subject to the applicable provisions
20 of section 571-41.

21 (c) [~~Social~~] The results of the risk and needs assessment
22 and any social studies required by this section shall be



1 presented to and considered by the judge prior to making
2 disposition[-] pursuant to section 571-41(d).

3 The judge may order and use a presentence investigation
4 with respect to any criminal action under the jurisdiction of
5 the court in accordance with the existing provisions of the law
6 with respect to the making and use of such studies.

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

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

15 (1) The child presently needs and is likely to benefit
16 from treatment; and

17 (2) The suspension of the delinquency proceedings will
18 advance the interests of justice.

19 No later than one month before the end of the period of
20 suspension of the delinquency proceedings, the treatment
21 provider shall submit a report on whether the child has
22 completed the treatment program.



1 If the court, on the motion of the child or on its own
2 motion, finds that the child has successfully completed the
3 treatment program, the court may dismiss the suspended
4 delinquency proceedings. If the court does not find that the
5 child has satisfactorily completed treatment, the court may
6 terminate the suspension and proceed with the case.

7 (f) A probation officer referring a child to the
8 department of health under this section shall report any
9 subsequent denial of services to the administrator of the
10 juvenile client services branch in each judicial circuit. The
11 administrators of the juvenile client services branch shall
12 submit an annual report compiling all such denials to the board
13 of family court judges and the Hawaii juvenile justice state
14 advisory council."

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

17 "**§571-48 Decree, if informal adjustment or diversion to a**
18 **private or community agency or program has not been effected.**

19 When a [~~minor~~] child is found by the court to come within
20 section 571-11, the court shall so decree and in its decree
21 shall make a finding of the facts upon which the court exercises



1 its jurisdiction over the [~~minor.~~] child. Upon the decree the
2 court, by order duly entered, shall proceed as follows:

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

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

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

6 (ii) In the custody of a suitable person or
7 facility elsewhere, upon conditions
8 determined by the court.

9 An order by the court placing a child on
10 probation under this subparagraph shall include a
11 definite term of probation stated in months or
12 years, subject to extension or modification by
13 the court pursuant to section 571-50. When
14 conditions of probation include custody in a
15 youth correctional facility, the custody shall be
16 for a term not to exceed one year, after which
17 time the [~~person~~] child shall be allowed to
18 reside in the community subject to additional
19 conditions as may be imposed by the court;

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



1 (i) In a Hawaii youth correctional facility[~~7~~
2 ~~in]~~ if the child has been adjudicated for a
3 felony-level offense or a violation or
4 revocation of probation, or is committed to
5 the facility from juvenile drug court or
6 girls court on a court order. For a child
7 eligible for placement in a Hawaii youth
8 correctional facility, the court shall enter
9 a finding of fact in the record stating the
10 reasons the child is a public safety risk
11 warranting placement in the correctional
12 facility. No such finding of fact shall be
13 required if the child is adjudicated for a
14 felony against a person or a sex offense;

15 (ii) In a local public agency or institution[~~7~~or
16 ~~in]~~;

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

20 (iv) In a private home.

21 If legal custody of the child is vested in a
22 private agency or institution in another state,



1 the court shall select one that is approved by
2 the family or juvenile court of the other state
3 or by that state's department of social services
4 or other appropriate department; [~~e~~]

5 (C) The court may place a child on administrative
6 monitoring, as defined in section 571-2, pending
7 completion of conditions as may be imposed by the
8 court, to preempt the need for disposition to a
9 full probation term, and to afford the child the
10 opportunity to demonstrate behavior adjustments.
11 Upon completion of the court-ordered conditions,
12 the court shall discharge the child pursuant to
13 section 571-50. If a child fails to complete the
14 court-ordered conditions, the court may extend or
15 modify the order pursuant to section 571-50, or
16 dispose the child to probation status under
17 paragraph (1) (A); or

18 [~~e~~] (D) The court may fine the child for a violation
19 which would be theft in the third degree by
20 shoplifting if committed by an adult. The court
21 may require the child to perform public services
22 in lieu of the fine;



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

2 (A) The court may place the child under protective
3 supervision, as hereinabove defined, in the
4 child's own home, or in the custody of a suitable
5 person or agency elsewhere, upon conditions
6 determined by the court; or

7 (B) The court may vest legal custody of the child,
8 after prior consultation with the agency or
9 institution, in a local governmental agency or
10 institution licensed or approved by the State to
11 care for children, with the exception of an
12 institution authorized by the court to care for
13 children. If legal custody of the child is
14 vested in a private agency or institution in
15 another state, the court shall select one that is
16 approved by the family or juvenile court of the
17 other state or by that state's department of
18 social services or other appropriate department;
19 provided that the child may not be committed to a
20 public or private institution operated solely for
21 the treatment of law violators;



1 (3) An order vesting legal custody of a minor in an
2 individual, agency, or institution under section
3 571-11(2) shall be for an indeterminate period but
4 shall not remain in force or effect beyond three years
5 from the date entered, except that the individual,
6 institution, or agency may file with the court a
7 petition for renewal of the order and the court may
8 renew the order if it finds such renewal necessary to
9 safeguard the welfare of the child or the public
10 interest. The court, after notice to the parties, may
11 conduct a hearing on the petition. Renewal may be
12 periodic during minority, but no order shall have any
13 force or effect beyond the period authorized by
14 section 571-13. An agency granted legal custody shall
15 be subject to prior approval of the court in any case
16 in which the child is to reside without the
17 territorial jurisdiction of the court and may be
18 subject to prior approval in other cases. An
19 individual granted legal custody shall exercise the
20 rights and responsibilities personally unless
21 otherwise authorized by the court;



1 (4) Whenever the court commits a child to the care of the
2 director of human services or executive director of
3 the office of youth services, or vests legal custody
4 of a child in an institution or agency, it shall
5 transmit with the order copies of the clinical
6 reports, social study, results of the risk and needs
7 assessment conducted by the court, and other
8 information pertinent to the care and treatment of the
9 child, and the institution or agency shall give to the
10 court any information concerning the child that the
11 court may at any time require. An institution or
12 agency receiving a child under this paragraph shall
13 inform the court whenever the status of the child is
14 affected through temporary or permanent release,
15 discharge, or transfer to other custody. An
16 institution to which a child is committed under
17 section 571-11(1) or (2) shall not transfer custody of
18 the child to an institution for the correction of
19 adult offenders, except as authorized in this chapter
20 and under chapter 352;



- 1 (5) The court may order, for any child within its
2 jurisdiction, whatever care or treatment is authorized
3 by law;
- 4 (6) In placing a child under the guardianship or custody
5 of an individual or of a private agency or private
6 institution, the court shall give primary
7 consideration to the welfare of the child;
- 8 (7) In support of any order or decree under section
9 571-11(1) or (2), the court may require the parents or
10 other persons having custody of the child, or any
11 other person who has been found by the court to be
12 encouraging, causing, or contributing to the acts or
13 conditions which bring the child within the purview of
14 this chapter and who are parties to the proceeding, to
15 do or to omit doing any acts required or forbidden by
16 law, when the judge deems this requirement necessary
17 for the welfare of the child. The court may also make
18 appropriate orders concerning the parents or other
19 persons having custody of the child and who are
20 parties to the proceeding. If such persons fail to
21 comply with the requirement or with the court order,



1 the court may proceed against them for contempt of
2 court;

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

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

15 (10) In any other case of which the court has jurisdiction,
16 the court may make any order or judgment authorized by
17 law;

18 (11) The court may order any person adjudicated pursuant to
19 section 571-11(1) to make restitution of money or
20 services to any victim who suffers loss as a result of
21 the child's action, or to render community service;



1 (12) The court may order any person adjudicated pursuant to
2 section 571-11(2) to participate in community service;
3 and

4 (13) The court may order the parents of an adjudicated
5 [~~minor~~] child to make restitution of money or services
6 to any victim, person, or party who has incurred a
7 loss or damages as a result of the child's action."

8 SECTION 15. (a) There is established a juvenile justice
9 oversight advisory council, deemed to be temporary and for a
10 special purpose. The purpose of the advisory council is to
11 oversee implementation and issue necessary reports to carry out
12 the juvenile justice reforms in this Act.

13 (b) The duties of the advisory council are as follows:

14 (1) To review, evaluate, and make recommendations
15 regarding the implementation of the reforms in this
16 Act;

17 (2) To develop a uniform process for establishing and
18 reviewing performance and outcome standards for the
19 office of youth services and the family court division
20 of the judiciary, as well as other interrelated
21 agencies. The uniform process shall include the
22 performance and outcome measures for each agency that



1 shall be reviewed annually, the deadlines and format
2 for the submission of the performance and outcome
3 measures, and the entity to which the measures shall
4 be reported;

5 (3) To review data and information submitted to the
6 advisory council and submit annual reports to the
7 executive, legislative, and judicial branches for the
8 term the advisory council is in existence, evaluating
9 implementation of the reforms in this Act and juvenile
10 justice system effectiveness; and

11 (4) To review current eligibility requirements for mental
12 health services for youth, with a focus on expanding
13 access to services to ensure that youth determined to
14 be at-risk and with a need for mental health services
15 receive those services in a more comprehensive and
16 timely manner, through the department of health or its
17 contracted mental health providers, collaborating and
18 consulting with any relevant agency, and submit a
19 report no later than twenty days prior to the
20 convening of the 2016 regular session to the
21 executive, legislative, and judicial branches,
22 including the current eligibility requirements, recent



1 changes to eligibility requirements, and
2 recommendations for further changes to the eligibility
3 requirements.

4 (c) The advisory council shall be composed of seventeen
5 members to be selected as follows, without regard to section
6 26-34, Hawaii Revised Statutes:

- 7 (1) One member from the executive branch, appointed by the
8 governor;
- 9 (2) One member from the house of representatives,
10 appointed by the speaker of the house of
11 representatives, or designee;
- 12 (3) One member from the senate, appointed by the president
13 of the senate, or designee;
- 14 (4) One member from the judiciary, appointed by the chief
15 justice of the supreme court, or designee;
- 16 (5) Four members to represent each of the four judicial
17 circuits defined in section 603-1, Hawaii Revised
18 Statutes, appointed by the chief justice of the
19 supreme court, or designee;
- 20 (6) The executive director of the office of youth
21 services;



1 (7) Two members from the child and adolescent mental
2 health division of the department of health, appointed
3 by the director of health;

4 (8) One member from the school based behavioral health
5 division of the department of education, appointed by
6 the superintendent of education;

7 (9) One member from the special education section of the
8 department of education, appointed by the
9 superintendent of education;

10 (10) One member from the department of human services,
11 appointed by the director of human services;

12 (11) One juvenile justice stakeholder from the advocacy
13 community, appointed by the executive director of the
14 office of youth services;

15 (12) One juvenile crime victim advocate, selected from a
16 list submitted by the victim-witness coordinators, and
17 appointed by the governor; and

18 (13) One member from a law enforcement agency or a county
19 prosecutor's office, appointed by the governor.

20 The advisory council shall meet within ninety days after
21 appointment and organize itself by electing one of its members
22 as chair and such other officers as the advisory council may

1 consider necessary. Thereafter, the advisory council shall meet
2 at least quarterly and at the call of the chair or by a majority
3 of the members. The advisory council shall provide
4 teleconferencing or videoconferencing capabilities for members
5 to attend meetings remotely. A quorum shall consist of eight
6 members.

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

13 (e) The judiciary shall provide staff support to the
14 advisory council, at the request of the advisory council. The
15 members shall serve without compensation.

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

19 SECTION 16. There is appropriated out of the general
20 revenues of the State of Hawaii the sum of \$ or so much
21 thereof as may be necessary for fiscal year 2014-2015 for the
22 necessary costs and expenses incurred in carrying out the



1 purposes of this Act; provided that any funds not expended or
2 encumbered by the Hawaii youth correctional facility due to
3 savings from updated services and programs implemented by this
4 Act shall lapse to the credit of the general fund.

5 The sum appropriated shall be expended by the office of
6 youth services for the purposes of this Act.

7 SECTION 17. This Act shall not be applied so as to impair
8 any contract existing as of the effective date of this Act in a
9 manner violative of either the Hawaii State Constitution or
10 Article I, section 10, of the United States Constitution.

11 SECTION 18. In codifying the new sections added by section
12 3 of this Act, the revisor of statutes shall substitute
13 appropriate section numbers for the letters used in designating
14 the new sections in this Act.

15 SECTION 19. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 20. This Act shall take effect on July 1, 2030,
18 and apply to delinquent behavior committed on or after that
19 date; provided that:

20 (1) Section 14 shall take effect on September 1, 2030, and
21 apply to delinquent behavior committed on or after
22 that date; and



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; Appropriation

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. Makes an unspecified appropriation. Effective 7/1/2030. (SD2)

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