

**STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097**

February 8, 2012

**HB 1791  
RELATING TO HOMICIDE**

**HOUSE COMMITTEE ON TRANSPORTATION**

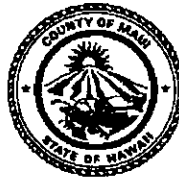
The Department of Transportation supports House Bill No. 1791 as it amends the driver's license revocation provisions to allow license revocation for a period of time up to the maximum term of probation allowable when a driver is convicted of manslaughter resulting from the operation of a vehicle, or negligent homicide in the first or second degrees; allow for up to two years of imprisonment when a convicted defendant is sentenced to probation for manslaughter; and clarifies that probation is an applicable sentence for manslaughter. This would prevent those convicted and being released early, from driving and being at risk of committing the same crime again by driving. Presently, there is no license revocation for these crimes committed and it does not preclude these offenders from driving again after being released from incarceration to drive in a manner that would place others in danger.

The Department of Transportation urges your committee to pass House Bill No. 1791 to prevent those convicted of these crimes to continue to drive and others at risk on our roadways.

Thank you for the opportunity to provide testimony.



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TESTIMONY

ON

HB 1791 - RELATING TO HOMICIDE

February 8, 2012

The Honorable Joseph M. Souki  
Chair  
The Honorable Linda Ichiyama  
Vice Chair  
and Members  
House Committee on Transportation

Chair Souki, Vice Chair Ichiyama and Members of the Committees on Transportation:

The Department of the Prosecuting Attorney, County of Maui supports this measure.

The provisions of this bill are important because they provide unambiguous guidance to the courts when sentencing defendants for Manslaughter.

Specifically, the bill in its current form amends the existing law to make it clear that the license of any driver convicted of Manslaughter resulting from the operation of a motor vehicle may be revoked for up to ten (10) years, and may be revoked for up to five (5) years for Negligent Homicide in the First and Second Degrees. This limits the revocation periods to the maximum probation term applicable to each offense, and gives the courts additional discretion by allowing them to impose license revocation periods for "up to" the maximum revocation period.

Further, the bill expressly provides that probation is an applicable sentencing alternative for Manslaughter, and gives a sentencing court the discretion to impose a term of imprisonment

House Committee on Transportation

Re: HB 1791

February 8, 2012

Page 2

of up to two (2) years as a condition of probation. Currently, the law is not clear about: (1) whether a sentence of probation is possible for a Manslaughter conviction; and (2) if probation is imposed, what is the amount of jail time a court may impose as a condition of probation. Courts and prosecutors throughout the State have different interpretations. Some believe that imprisonment is the only option. Others believe that probation is possible, but there is no provision to allow for a period of imprisonment as a condition of probation. This glitch in the law was probably an oversight when Manslaughter was changed from a class B felony to a class A felony in 1996. This bill will provide the necessary clarification.

The Department of the Prosecuting Attorney, County of Maui, requests that this measure be PASSED. Thank you very much for the opportunity to testify.