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## A BILL FOR AN ACT

RELATING TO PUBLIC SAFETY.

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

1           SECTION 1. The purpose of this Act is to provide judges  
2 with the discretion to amend the mandatory sentencing provisions  
3 pursuant to section 291E-61, Hawaii Revised Statutes, to  
4 acknowledge the accomplishments of a person who successfully  
5 completes the driving while intoxicated court program.

6           SECTION 2. Section 291E-61, Hawaii Revised Statutes, is  
7 amended by amending subsection (b) to read as follows:

8           "(b) A person committing the offense of operating a  
9 vehicle under the influence of an intoxicant shall be sentenced  
10 without possibility of probation or suspension of sentence as  
11 follows:

12           (1) For the first offense, or any offense not preceded  
13 within a five-year period by a conviction for an  
14 offense under this section or section 291E-4(a):

15           (A) A fourteen-hour minimum substance abuse  
16 rehabilitation program, including education and  
17 counseling, or other comparable program deemed  
18 appropriate by the court;



- 1 (B) One-year revocation of license and privilege to
- 2 operate a vehicle during the revocation period
- 3 and installation during the revocation period of
- 4 an ignition interlock device on any vehicle
- 5 operated by the person;
- 6 (C) Any one or more of the following:
  - 7 (i) Seventy-two hours of community service work;
  - 8 (ii) Not less than forty-eight hours and not more
  - 9 than five days of imprisonment; or
  - 10 (iii) A fine of not less than \$150 but not more
  - 11 than \$1,000;
- 12 (D) A surcharge of \$25 to be deposited into the
- 13 neurotrauma special fund; and
- 14 (E) A surcharge, if the court so orders, of up to \$25
- 15 to be deposited into the trauma system special
- 16 fund;
- 17 (2) For an offense that occurs within five years of a
- 18 prior conviction for an offense under this section or
- 19 section 291E-4(a):
  - 20 (A) Revocation for not less than eighteen months nor
  - 21 more than two years of license and privilege to
  - 22 operate a vehicle during the revocation period



1 and installation during the revocation period of  
2 an ignition interlock device on any vehicle  
3 operated by the person;

4 (B) Either one of the following:

5 (i) Not less than two hundred forty hours of  
6 community service work; or

7 (ii) Not less than five days but not more than  
8 thirty days of imprisonment, of which at  
9 least forty-eight hours shall be served  
10 consecutively;

11 (C) A fine of not less than \$500 but not more than  
12 \$1,500;

13 (D) A surcharge of \$25 to be deposited into the  
14 neurotrauma special fund; and

15 (E) A surcharge of up to \$50 if the court so orders,  
16 to be deposited into the trauma system special  
17 fund;

18 (3) For an offense that occurs within five years of two  
19 prior convictions for offenses under this section or  
20 section 291E-4(a):

21 (A) A fine of not less than \$500 but not more than  
22 \$2,500;



- 1 (B) Revocation for two years of license and privilege
- 2 to operate a vehicle during the revocation period
- 3 and installation during the revocation period of
- 4 an ignition interlock device on any vehicle
- 5 operated by the person;
- 6 (C) Not less than ten days but not more than thirty
- 7 days imprisonment, of which at least forty-eight
- 8 hours shall be served consecutively;
- 9 (D) A surcharge of \$25 to be deposited into the
- 10 neurotrauma special fund; and
- 11 (E) A surcharge of up to \$50 if the court so orders,
- 12 to be deposited into the trauma system special
- 13 fund;
- 14 (4) In addition to a sentence imposed under paragraphs (1)
- 15 through (3), any person eighteen years of age or older
- 16 who is convicted under this section and who operated a
- 17 vehicle with a passenger, in or on the vehicle, who
- 18 was younger than fifteen years of age, shall be
- 19 sentenced to an additional mandatory fine of \$500 and
- 20 an additional mandatory term of imprisonment of forty-
- 21 eight hours; provided that the total term of
- 22 imprisonment for a person convicted under this



1 paragraph shall not exceed the maximum term of  
2 imprisonment provided in paragraph (1), (2), or (3),  
3 as applicable. Notwithstanding paragraphs (1) and  
4 (2), the revocation period for a person sentenced  
5 under this paragraph shall be not less than two years;  
6 and

7 (5) If the person demonstrates to the court that the  
8 person:

- 9 (A) Does not own or have the use of a vehicle in  
10 which the person can install an ignition  
11 interlock device during the revocation period; or  
12 (B) Is otherwise unable to drive during the  
13 revocation period,

14 the person shall be absolutely prohibited from driving during  
15 the period of applicable revocation provided in paragraphs (1)  
16 to (4); provided that the court shall not issue an ignition  
17 interlock permit pursuant to subsection (i) and the person shall  
18 be subject to the penalties provided by section 291E-62 if the  
19 person drives during the applicable revocation period.

20 A person who is convicted of violating subsection (a)(1),  
21 (3), or (4), and who is subject to any of the sentencing  
22 provisions of subsection (b)(1) to (5) may petition the district

1 court to enter the driving while intoxicated court program. If  
 2 the petition is granted, the person shall be given up to two  
 3 years of driving while intoxicated court supervision. Upon  
 4 successful completion of the court requirements, the presiding  
 5 judge shall issue a sentence pursuant to subsection (b)(1) to  
 6 (5), but shall have the discretion to modify or waive any  
 7 mandatory jail sentence or alternatively, shall impose community  
 8 service.

9 For an offense that occurs for the second time within five  
 10 years of a prior offense under this section, the court shall  
 11 sentence the person to two-hundred forty hours of community  
 12 service, and the court shall have the discretion to impose all  
 13 or any portion of the sentence during the period of supervision,  
 14 except the community service portion of the sentence."

15 SECTION 3. This Act does not affect rights and duties that  
 16 matured, penalties that were incurred, and proceedings that were  
 17 begun before its effective date.

18 SECTION 4. Statutory material to be repealed is bracketed  
 19 and stricken. New statutory material is underscored.

20 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: 

# H.B. NO. 2548

**Report Title:**

Public Safety; Hawaii Impaired Driving Task Force; Driving While Intoxicated Court Program

**Description:**

Amends 291E-61, Hawaii Revised Statutes, to provide judges with the discretion to amend the mandatory sentencing provisions to acknowledge the accomplishments of a person who successfully completes the driving while intoxicated court program.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

