

JAN 23 2014

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.

21

INTRODUCED BY: Will Eyo



S.B. NO. 3052

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Ronald L. Beh



S.B. NO. 3052

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.

