

Honolulu, Hawaii

March 18, 2016

RE: S.B. No. 612
S.D. 1
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Transportation, to which was referred S.B. No. 612, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO PROBATION,"

begs leave to report as follows:

The purpose of this measure is to increase public safety on Hawaii's roadways. Specifically, this measure:

- (1) Authorizes a court to include a period of probation in sentencing any person convicted of the offense of operating a vehicle under the influence of an intoxicant (OVUII);
- (2) Mandates a period of probation in addition to existing sentencing requirements for any person convicted of operating a vehicle after a license and privilege to operate a motor vehicle have been suspended or revoked for OVUII conviction; and
- (3) Makes defendants charged with offenses relating to OVUII or operating a vehicle after license and privilege have been suspended or revoked ineligible for deferred acceptance of guilty or nolo contendere pleas.

The Honolulu Police Department and Hawaii Chapter of Mothers Against Drunk Driving testified in support of this measure. The Department of Transportation, Office of the Prosecuting Attorney



of the County of Kauai, Office of the Prosecuting Attorney of the County of Hawaii, and Office of the Public Defender testified in support of the intent of this measure. The Judiciary provided comments.

In 2008, Hawaii established an ignition interlock law under Act 171, Session Laws of Hawaii 2008, as a means of addressing OVUII. As Hawaii's ignition interlock laws have developed, a gap has been identified in sentencing enforcement for repeat offenders. Since there is no possibility to sentence repeat offenders to probation, and therefore no means to ensure that drivers install an ignition interlock device in their vehicle, the requirement to install and comply with ignition interlock requirements has gone unmonitored. Your Committee finds that providing probationary periods, and thus judicial supervision, for those convicted of OVUII will result in better compliance with ignition interlock requirements and lessen the chance of individuals operating a vehicle under the influence of an intoxicant or in violation of sentencing conditions during their revocation periods.

However, your Committee understands the concerns raised by both county prosecutors and the Office of the Public Defender. Accordingly, your Committee has amended this measure by:

- (1) Ensuring that the maximum length of any probationary period shall be no longer than two years;
- (2) Specifying that for a second offense within five years of a prior conviction, or an offense within five years of two or more prior convictions, involving operating a vehicle after a license and privilege to operate a motor vehicle have been suspended or revoked for OVUII, the court may sentence a defendant to probation only if the defendant is sentenced to less than the maximum prison term; and
- (3) Correcting references to statutory subsections.

Technical, nonsubstantive amendments were also made for clarity, consistency, and style.



As affirmed by the record of votes of the members of your Committee on Transportation that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 612, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 612, S.D. 1, H.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Transportation,


HENRY J.C. AQUINO, Chair



