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## A BILL FOR AN ACT

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RELATING TO CRIMINAL VEHICULAR CONDUCT.

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

1       SECTION 1. The legislature finds that on the evening of  
2       April 24, 2016, Kaulana Matthew Auwae Werner was struck and  
3       killed by a motor vehicle. The driver of the motor vehicle fled  
4       the scene of the accident but was found a half-mile away,  
5       allegedly trying to tow her vehicle away. The driver was  
6       subsequently charged with the two class B felony offenses of  
7       negligent homicide in the first degree (section 707-702.5) and  
8       failure to stop at the scene of an accident involving death or  
9       serious bodily injury (section 291C-12).

10       However, the legislature finds that even if convicted of  
11       both crimes, under current law the perpetrator of crimes like  
12       those that killed Kaulana Werner would face no minimum prison  
13       sentence. Despite a maximum sentence of ten years for each  
14       felony, in practice the perpetrator could be released by the  
15       parole board in as little as a single year. The legislature  
16       finds that this potential punishment is too lenient, and sends  
17       the wrong message to our communities.



1       The legislature finds that the streets of our State should  
2 be safe for all. Yet our streets continue to be plagued by  
3 serious criminal conduct behind the wheel, including negligent  
4 homicides committed under the influence of drugs and alcohol.  
5 Where such conduct also involves a hit-and-run, it is especially  
6 heinous. Because the cruel decision not to stop and render aid  
7 after a catastrophic collision can easily intensify a victim's  
8 suffering, and the suffering of their family, it should also  
9 enhance the punishment the perpetrator receives. The State must  
10 send a strong message that hit-and-run vehicular homicides are  
11 unacceptable to society and will be strictly punished.

12       The legislature finds that the minimum length of  
13 imprisonment should therefore not be left within the discretion  
14 of the parole board in a case where a person is convicted  
15 concurrently of both negligent homicide in the first degree and  
16 failing to stop at the scene of an accident. Instead, a  
17 statutory mandatory minimum term of imprisonment should apply.

18       The purpose of this Act is to create a mandatory ten-year  
19 minimum term of imprisonment for any person who is convicted  
20 concurrently of violating both section 707-702.5 (negligent  
21 homicide in the first degree) and section 291C-12 (failure to



1 stop). In addition, the word "accident" is replaced with the  
2 word "collision" in section 291C-12 to avoid potential  
3 ambiguity. Similar replacements are made for the word  
4 "accident" in sections 291C-12.5, 291C-12.6, 291C-13, 291C-14,  
5 and 291C-15 for consistency.

6 SECTION 2. Chapter 706, Hawaii Revised Statutes, is  
7 amended by adding a new section to be appropriately designated  
8 and to read as follows:

9 "§706- Sentence of imprisonment for vehicular crimes  
10 involving death of a victim. Notwithstanding section 706-669, a  
11 person shall, in addition to the indeterminate terms of  
12 imprisonment, be sentenced to a mandatory minimum term of  
13 imprisonment without the possibility of parole for a term of ten  
14 years if the person is convicted concurrently of negligent  
15 homicide in the first degree under section 707-702.5 and of  
16 failure to stop under section 291C-12."

17 SECTION 3. Section 291C-12, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "§291C-12 [Accidents] Collisions involving death or  
20 serious bodily injury. (a) The driver of any vehicle involved  
21 in [an accident] a collision resulting in serious bodily injury



1 to or death of any person shall immediately stop the vehicle at  
2 the scene of the [~~accident~~] collision or as close thereto as  
3 possible but shall then forthwith return to and in every event  
4 shall remain at the scene of the [~~accident~~] collision until the  
5 driver has fulfilled the requirements of section 291C-14. Every  
6 such stop shall be made without obstructing traffic more than is  
7 necessary.

8 (b) Any person who violates subsection (a) shall be guilty  
9 of a class B felony.

10 (c) The license or permit to drive and any nonresident  
11 operating privilege of the person so convicted shall be revoked.

12 (d) For any violation under this section, a surcharge of  
13 \$500 shall be imposed, in addition to any other penalties, and  
14 shall be deposited into the neurotrauma special fund.

15 (e) For any violation under this section, a surcharge of  
16 up to \$500 may be imposed, in addition to other penalties, which  
17 shall be deposited into the trauma system special fund."

18 SECTION 4. Section 291C-12.5, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "§291C-12.5 [~~Accidents~~] Collisions involving substantial  
21 bodily injury. (a) The driver of any vehicle involved in [an



1 ~~accident~~] a collision resulting in substantial bodily injury to  
2 any person shall immediately stop the vehicle at the scene of  
3 the ~~accident~~] collision or as close thereto as possible but  
4 shall then forthwith return to and in every event shall remain  
5 at the scene of the ~~accident~~] collision until the driver has  
6 fulfilled the requirements of section 291C-14. Every such stop  
7 shall be made without obstructing traffic more than is  
8 necessary.

9 (b) Any person who violates subsection (a) shall be guilty  
10 of a class C felony.

11 (c) For any violation under this section, a surcharge of  
12 \$250 shall be imposed, in addition to any other penalties, and  
13 shall be deposited into the neurotrauma special fund.

14 (d) For any violation under this section, a surcharge of  
15 up to \$250 may be imposed, in addition to other penalties, which  
16 shall be deposited into the trauma system special fund."

17 SECTION 5. Section 291C-12.6, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "§291C-12.6 ~~[Accidents]~~ Collisions involving bodily  
20 injury. (a) The driver of any vehicle involved in [~~an~~  
21 ~~accident~~] a collision resulting in bodily injury to any person



1 shall immediately stop the vehicle at the scene of the  
2 [~~accident~~] collision or as close thereto as possible but shall  
3 then forthwith return to and in every event shall remain at the  
4 scene of the [~~accident~~] collision until the driver has fulfilled  
5 the requirements of section 291C-14. Every such stop shall be  
6 made without obstructing traffic more than is necessary.

7 (b) Any person who violates subsection (a) shall be guilty  
8 of a misdemeanor.

9 (c) For any violation under this section, a surcharge of  
10 \$100 shall be imposed, in addition to any other penalties, and  
11 shall be deposited into the neurotrauma special fund.

12 (d) For any violation under this section, a surcharge of  
13 up to \$100 may be imposed, in addition to other penalties, which  
14 shall be deposited into the trauma system special fund."

15 SECTION 6. Section 291C-13, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "§291C-13 [~~Accidents~~] Collisions involving damage to  
18 vehicle or property. The driver of any vehicle involved in [~~an~~  
19 ~~accident~~] a collision resulting only in damage to a vehicle or  
20 other property that is driven or attended by any person shall  
21 immediately stop such vehicle at the scene of the [~~accident~~]



1 collision or as close thereto as possible, but shall forthwith  
2 return to, and in every event shall remain at, the scene of the  
3 [~~accident~~] collision until the driver has fulfilled the  
4 requirements of section 291C-14. Every such stop shall be made  
5 without obstructing traffic more than is necessary. For any  
6 violation under this section, a surcharge of up to \$100 may be  
7 imposed, in addition to other penalties, which shall be  
8 deposited into the trauma system special fund."

9 SECTION 7. Section 291C-14, Hawaii Revised Statutes, is  
10 amended to read as follows:

11 "§291C-14 Duty to give information and render aid. (a)  
12 The driver of any vehicle involved in [~~an accident~~] a collision  
13 resulting in injury to or death of any person or damage to any  
14 vehicle or other property which is driven or attended by any  
15 person shall give the driver's name, address, and the  
16 registration number of the vehicle the driver is driving, and  
17 shall upon request and if available exhibit the driver's license  
18 or permit to drive to any person injured in the [~~accident~~]  
19 collision or to the driver or occupant of or person attending  
20 any vehicle or other property damaged in the [~~accident~~]  
21 collision and shall give such information and upon request



1 exhibit such license or permit to any police officer at the  
2 scene of the accident or who is investigating the [~~accident~~]  
3 collision and shall render to any person injured in the  
4 [~~accident~~] collision reasonable assistance, including the  
5 carrying, or the making of arrangements for the carrying, of the  
6 person to a physician, surgeon, or hospital for medical or  
7 surgical treatment if it is apparent that such treatment is  
8 necessary, or if such carrying is requested by the injured  
9 person; provided that if the vehicle involved in the [~~accident~~]  
10 collision is a bicycle, the driver of the bicycle need not  
11 exhibit a license or permit to drive.

12 (b) In the event that none of the persons specified is in  
13 condition to receive the information to which they otherwise  
14 would be entitled under subsection (a), and no police officer is  
15 present, the driver of any vehicle involved in the [~~accident~~]  
16 collision after fulfilling all other requirements of section  
17 291C-12, 291C-12.5, or 291C-12.6, and subsection (a) of this  
18 section, insofar as possible on the driver's part to be  
19 performed, shall forthwith report the [~~accident~~] collision to  
20 the nearest police officer and submit thereto the information  
21 specified in subsection (a).





1 (c) For any violation under this section, a surcharge of  
2 up to \$100 may be imposed, in addition to other penalties, which  
3 shall be deposited into the trauma system special fund. "

4 SECTION 8. Section 291C-15, Hawaii Revised Statutes, is  
5 amended to read as follows:

6 "§291C-15 Duty upon striking unattended vehicle or other  
7 property. The driver of any vehicle which collides with or is  
8 involved in [~~an accident~~] a collision with any vehicle or other  
9 property which is unattended resulting in any damage to the  
10 other vehicle or property shall immediately stop and shall then  
11 and there either locate and notify the operator or owner of such  
12 vehicle or other property of the driver's name, address, and the  
13 registration number of the vehicle the driver is driving or  
14 shall attach securely in a conspicuous place in or on such  
15 vehicle or other property a written notice giving the driver's  
16 name, address, and the registration number of the vehicle the  
17 driver is driving and shall without unnecessary delay notify the  
18 nearest police office. Every such stop shall be made without  
19 obstructing traffic more than is necessary. For any violation  
20 under this section, a surcharge of up to \$100 may be imposed, in



1 addition to other penalties, which shall be deposited into the  
2 trauma system special fund."

3 SECTION 9. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 10. This Act shall take effect upon its approval.  
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INTRODUCED BY:

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JAN 23 2018



# H.B. NO. 2488

**Report Title:**

Negligent Homicide; Failure to Stop at Scene; Drunk Driving;  
Mandatory Minimum Term of Imprisonment

**Description:**

Creates a mandatory ten-year minimum term of imprisonment for any person who is convicted concurrently of violating both section 707-702.5 (negligent homicide in the first degree) and section 291C-12 (failure to stop). Replaces the term "accident" with "collision" to avoid potential ambiguity.

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

