
A BILL FOR AN ACT

RELATING TO THE JUDICIARY.

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

1 SECTION 1. The legislature finds that the imposition of
2 excessive fines and fees has dire consequences for low-income
3 individuals. Under Hawaii law, individuals who cannot afford to
4 pay court-ordered fines or fees may have their driver's licenses
5 suspended for failure to pay. For many individuals, especially
6 those living in more remote areas with minimal or no public
7 transportation, driver's license suspensions may deprive
8 individuals of their only means of transportation to and from
9 work. Furthermore, individuals with suspended driver's licenses
10 who are unable to find alternative means of transportation may
11 lose their employment. With limited or no income, individuals
12 are even less likely to pay fines or fees, which may lead to
13 greater penalties simply because those individuals are unable to
14 pay initial fines or fees in one lump sum.

15 The purpose of this Act is to address the financial
16 disparity imposed on low-income individuals by:



1 (1) Requiring the judiciary to implement a program that
2 offers a person the option of entering into either a
3 payment plan or community service plan for any court-
4 ordered fine, fee, surcharge, cost, or monetary
5 assessment if the person, due to financial hardship,
6 is unable to pay any of the foregoing in a lump sum;

7 (2) Prohibiting the courts from taking certain actions
8 against a person if the person has entered into and is
9 in compliance with the payment plan or community
10 service plan; and

11 (3) Reinstating driver's licenses that were suspended for
12 nonpayment under certain circumstances.

13 SECTION 2. Chapter 601, Hawaii Revised Statutes, is
14 amended by adding a new section to be appropriately designated
15 and to read as follows:

16 "§601- Hardship program. (a) The judiciary shall
17 implement a program that offers any qualifying person the option
18 to fulfill any court-ordered financial obligation through:

19 (1) Installment payments in a payment plan; or

20 (2) The performance of community service.



1 (b) The following minimum requirements shall apply to a
2 person who wishes to participate in the hardship program by
3 entering into an installment payment plan:

4 (1) A person shall not qualify to enter into a payment
5 plan unless the person demonstrates to the judiciary's
6 satisfaction that the person suffers from a financial
7 hardship that prevents the person from paying a court-
8 ordered financial obligation in one lump sum; and

9 (2) If a qualified person enters into a payment plan, the
10 amount of each installment payment ordered shall be
11 adjusted based on the qualifying person's income;
12 provided that the length of any payment plan shall not
13 exceed two years.

14 (c) The following minimum requirements shall apply to a
15 person who wishes to participate in the hardship program by
16 entering into a community service plan:

17 (1) A person shall not qualify to enter into a community
18 service plan unless the person demonstrates to the
19 judiciary's satisfaction that the person cannot pay a
20 court-ordered financial obligation because the person



1 has suffered from a severe loss of income or has no
2 income; and

3 (2) If a qualified person enters into a community service
4 plan, the court shall order the participant to perform
5 the equivalent of hours of community service,
6 over the course of a periodic schedule determined by
7 the court, for each \$ that the participant owes
8 of a court-ordered financial obligation.

9 (d) Notwithstanding any other state or county law to the
10 contrary, a court shall not suspend a person's driver's license
11 or prevent the:

12 (1) Issuance or renewal of the driver's license;

13 (2) Registration or renewal of a motor vehicle's
14 certificate of registration; or

15 (3) Transfer of title to a motor vehicle to another
16 person,

17 solely because that person is unable to pay any court-ordered
18 financial obligation; provided that the person is a participant
19 in and is in compliance with the hardship program established
20 under this section; provided further that this subsection shall



1 not preclude any court from acting in compliance with federal
2 law.

3 (e) The judiciary shall order the reinstatement of any
4 driver's license that was suspended if the:

5 (1) Driver's license was suspended solely because the
6 licensee was unable to pay any court-ordered financial
7 obligation;

8 (2) Licensee is a participant in and is in compliance with
9 the hardship program established under this section;
10 and

11 (3) The reinstatement is not inconsistent with federal
12 law.

13 (f) For the purposes of this section, "court-ordered
14 financial obligation" means any fine, fee, surcharge, cost, or
15 monetary assessment ordered by a court of this State."

16 SECTION 3. Section 286-245, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) Whenever a person is convicted of a moving traffic
19 violation based on a statute, ordinance, or rule[7]; fails to
20 appear for a hearing, trial, or other court or administrative
21 proceeding on the moving traffic violation[7]; or fails to pay a



1 fine or court cost ordered for a moving violation, the state
2 judiciary shall forward to the examiner of drivers the record of
3 the conviction. A person shall not be deemed to have failed to
4 pay a fine or court cost under this subsection if the person is
5 a participant in and is in compliance with the hardship program
6 established under section 601- for that same fine or court
7 cost. The record of conviction shall include whether the
8 offender was operating a commercial motor vehicle at the time of
9 the offense, whether the offender was transporting hazardous
10 materials requiring placarding under title 49 Code of Federal
11 Regulations part 172, subpart F, the citation date, the
12 conviction date, the citation number, the court in which the
13 conviction occurred, and the offenses for which the person has
14 been convicted. No record of conviction transmitted and
15 maintained in the statewide traffic records system shall be used
16 for purposes other than the licensing of drivers, including any
17 record of:

- 18 (1) Driving a motor vehicle under the influence of
19 alcohol, a controlled substance, or any drug that
20 impairs driving ability;



- 1 (2) Driving a commercial motor vehicle while the alcohol
2 concentration of the driver's blood is 0.04 or more
3 grams of alcohol per two hundred ten liters of breath
4 or 0.04 or more grams of alcohol per one hundred
5 milliliters or cubic centimeters of blood;
- 6 (3) Refusing to submit to a test to determine the driver's
7 alcohol concentration while driving a motor vehicle as
8 required under sections 286-243 and 291E-11;
- 9 (4) Using a motor vehicle in the commission of any felony;
- 10 (5) Leaving the scene of an accident involving the motor
11 vehicle driven by the person;
- 12 (6) Unlawful transportation, possession, or use of a
13 controlled substance while on duty;
- 14 (7) Driving a commercial motor vehicle if, as a result of
15 prior violations committed while operating a
16 commercial motor vehicle, the driver's commercial
17 learner's permit or commercial driver's license has
18 been revoked, suspended, or canceled, or the driver
19 has been otherwise disqualified from operating a
20 commercial motor vehicle; or



1 (8) Causing a fatality through the operation of a
2 commercial motor vehicle, including in the commission
3 of the crimes of manslaughter and negligent homicide
4 in any degree."

5 SECTION 4. Section 291C-170, Hawaii Revised Statutes, is
6 amended to read as follows:

7 **"§291C-170 Revocation or suspension of license.** In
8 addition to the penalties heretofore provided, the court may
9 revoke or may suspend, for a period not to exceed one year, the
10 license of any driver convicted of a violation of any section or
11 provision of the state traffic laws involving a vehicle in
12 motion[-]; provided that the court shall not order the
13 revocation or suspension of a driver's license solely on the
14 basis of the driver's nonpayment of a court-ordered fine, fee,
15 surcharge, cost, or monetary assessment if the driver is a
16 participant in and is in compliance with the hardship program
17 established under section 601- for that same court-ordered
18 fine, fee, surcharge, cost, or monetary assessment."

19 SECTION 5. Section 291D-5, Hawaii Revised Statutes, is
20 amended by amending subsection (d) to read as follows:



1 "(d) The notice of traffic infraction shall include the
2 following:

3 (1) A statement of the specific traffic infraction for
4 which the notice was issued;

5 (2) Except in the case of parking-related traffic
6 infractions, a brief statement of the facts;

7 (3) A statement of the total amount to be paid for each
8 traffic infraction, which amount shall include any
9 fee, surcharge, or cost required by statute,
10 ordinance, or rule, and any monetary assessment,
11 established for the particular traffic infraction
12 pursuant to section 291D-9, to be paid by the driver
13 or registered owner of the vehicle, which shall be
14 uniform throughout the State;

15 (4) A statement of the options provided in section 291D-
16 6(b) for answering the notice and the procedures
17 necessary to exercise the options;

18 (5) A statement that the person to whom the notice is
19 issued must answer, choosing one of the options
20 specified in section 291D-6(b), within twenty-one days
21 of issuance of the notice;



- 1 (6) A statement that failure to answer the notice of
2 traffic infraction within twenty-one days of issuance
3 shall result in the entry of judgment by default for
4 the State and may result in the assessment of a late
5 penalty, and, that if the person to whom the notice
6 was issued fails to pay the total amount specified in
7 the default judgment within an additional thirty days,
8 enter into the hardship program established under
9 section 601-___, or [~~to~~] otherwise take action to set
10 aside the default, notice shall be sent to the
11 director of finance of the appropriate county:
- 12 (A) That the person to whom the notice of infraction
13 not involving parking was issued shall not be
14 permitted to renew or obtain a driver's license;
15 or
- 16 (B) Where the notice was issued to a motor vehicle,
17 that the registered owner shall not be permitted
18 to register, renew the registration of, or
19 transfer title to the motor vehicle until the
20 traffic infraction is finally disposed of



1 pursuant to this chapter, except as provided in
2 section 291D-10(b);

3 (7) A statement that, at a hearing requested to contest
4 the notice of traffic infraction conducted pursuant to
5 section 291D-8, no officer shall be present unless the
6 driver timely requests the court to have the officer
7 present, and that the standard of proof to be applied
8 by the court is whether a preponderance of the
9 evidence proves that the specified traffic infraction
10 was committed;

11 (8) A statement that, at a hearing requested for the
12 purpose of explaining mitigating circumstances
13 surrounding the commission of the infraction or in
14 consideration of a written request for mitigation, the
15 person shall be considered to have committed the
16 traffic infraction;

17 (9) A space in which the signature of the person to whom
18 the notice was issued may be affixed; and

19 (10) The date, time, and place at which the person to whom
20 the notice was issued must appear in court, if the



1 person is required by the notice to appear in person
2 at the hearing."

3 SECTION 6. Section 291D-9, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) In addition to any monetary assessment imposed for a
6 traffic infraction, the court may impose additional assessments
7 for:

- 8 (1) Failure to pay a monetary assessment by the scheduled
9 date of payment~~[+or]~~, including failure to timely pay
10 an installment payment required by a payment plan
11 established under section 601- (b);
- 12 (2) Failure to timely perform community service required
13 by a community service plan established under section
14 601- (c); or
- 15 ~~[+2]~~ (3) The cost of service of a penal summons issued
16 pursuant to this chapter."

17 SECTION 7. Section 291D-10, Hawaii Revised Statutes, is
18 amended to read as follows:

19 **"§291D-10 Restriction on driver's license and motor**
20 **vehicle registration.** (a) When the person issued a notice of
21 traffic infraction not involving parking fails to pay the total



1 amount of fines, fees, surcharges, costs, or monetary
2 assessments that has been ordered, the court shall cause an
3 entry to be made in the driver's license record so as to prevent
4 the person from acquiring or renewing the person's driver's
5 license until the outstanding amount is paid or the notice of
6 traffic infraction is otherwise disposed of pursuant to this
7 chapter[-]; provided that if a person is a participant in and is
8 in compliance with the hardship program established under
9 section 601- for the same fines, fees, surcharges, costs, or
10 monetary assessments, this subsection shall not prevent the
11 person from acquiring or renewing the person's driver's license.

12 (b) In [~~all cases~~] any case where the registered owner of
13 a motor vehicle to which a notice of traffic infraction has been
14 issued fails to pay the total amount of fines, fees, surcharges,
15 costs, or monetary assessments that have been ordered, other
16 than a case where the registered owner is a participant in and
17 is in compliance with the hardship program established under
18 section 601- for the same fines, fees, surcharges, costs, or
19 monetary assessments, the court shall cause an entry to be made
20 in the motor vehicle's record so as to prevent issuance or
21 renewal of the motor vehicle's certificate of registration and



1 transfer of title to the motor vehicle until the outstanding
2 amount is paid or the notice of traffic infraction is otherwise
3 disposed of pursuant to this chapter; provided that if the
4 traffic infraction involves an unpaid parking violation, this
5 subsection shall not prevent the issuance or renewal of the
6 motor vehicle's certificate of registration and transfer of
7 title to the motor vehicle to another person, in which case the
8 clerk of the court shall issue a clearance to effectuate the
9 registration and transfer of title; and provided further that in
10 no event shall a clearance:

11 (1) Absolve the registered owner of the motor vehicle at
12 the time the parking violation was incurred from
13 paying the fine;

14 (2) Prevent any subsequent issuance or renewal of the
15 motor vehicle's certificate of registration and
16 transfer of title to the motor vehicle; or

17 (3) Otherwise encumber the title of that motor vehicle."

18 SECTION 8. Section 291D-12, Hawaii Revised Statutes, is
19 amended to read as follows:

20 **"§291D-12 Powers of the district court judge sitting in**
21 **the traffic division.** A district court judge sitting in the



1 traffic division and hearing cases pursuant to this chapter
2 shall have all the powers of a district court judge under
3 chapter 604, including the following powers:

4 (1) To conduct traffic infraction hearings and to impose
5 monetary assessments;

6 (2) To permit deferral of monetary assessment or impose
7 community service in lieu thereof;

8 (3) To dismiss a notice of traffic infraction, with or
9 without prejudice, or to set aside a judgment for the
10 State;

11 (4) To order temporary driver's license suspension or
12 driver's license reinstatement; provided that if a
13 person is a participant in and is in compliance with
14 the hardship program established under section
15 601- , the court shall not order the suspension of
16 that person's driver's license solely on the basis of
17 the person's nonpayment of any court-ordered fines,
18 fees, surcharges, costs, or monetary assessments
19 covered by the payment plan;

20 (5) To order the director of finance not to issue or renew
21 the driver's license, or to register, renew the



1 registration of, or issue title to a motor vehicle, of
2 any person who has not paid a monetary assessment, has
3 not performed community service in lieu thereof, or
4 has not otherwise satisfied a judgment for the State
5 entered pursuant to this chapter; provided that if the
6 person is a participant in and is in compliance with
7 the hardship program established under section
8 601- , the court shall not issue an order under this
9 paragraph solely on the basis of the person's
10 nonpayment of any court-ordered fines, fees,
11 surcharges, costs, or monetary assessments covered by
12 the payment plan;

13 (6) To approve the issuance or renewal of a driver's
14 license or instruction permit pursuant to section
15 286-109(c);

16 (7) To issue penal summonses and bench warrants and
17 initiate contempt of court proceedings in proceedings
18 conducted pursuant to section 291D-13;

19 (8) To issue penal summonses and bench warrants and
20 initiate failure to appear proceedings in proceedings
21 conducted pursuant to section 291D-5(d)(10); and



1 (9) To exercise other powers the court finds necessary and
 2 appropriate to carry out the purposes of this
 3 chapter."

4 SECTION 9. This Act does not affect rights and duties that
 5 matured, penalties that were incurred, and proceedings that were
 6 begun before its effective date.

7 SECTION 10. Statutory material to be repealed is bracketed
 8 and stricken. New statutory material is underscored.

9 SECTION 11. This Act shall take effect on July 1, 2019.

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H.B. NO. 903

Report Title:

Hardship Program; Driver's License; Motor Vehicle Registration and Title

Description:

Requires the Judiciary to implement a program that offers any qualifying person the option to fulfill any court-ordered financial obligation through: (1) installment payments in a payment plan; or (2) the performance of community service. Prohibits the courts from taking certain actions against a person solely because of that person's inability to pay if the person has entered into and is in compliance with the programs. Reinstates driver's licenses that were suspended for nonpayment under certain circumstances.

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

