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## A BILL FOR AN ACT

RELATING TO PENALTIES.

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

1           SECTION 1. The legislature finds that the State's current  
2 civil fine system is inherently regressive. People of limited  
3 means rarely have the time, opportunity, or knowledge necessary  
4 to appear before court and contest a traffic penalty or request  
5 a downward departure from an assessed amount. As a result,  
6 courts frequently issue default judgments against people with no  
7 meaningful opportunity to pay. Courts refer default judgment  
8 cases to collection agencies and stop defendants from  
9 registering their vehicle. Therefore, under the current system,  
10 defendants enter a downward spiral fueled by escalating fees and  
11 diminishing opportunities to earn income.

12           The legislature further finds that an income-based civil  
13 fine system creates more equitable results than a flat fine  
14 system, and that there is significant evidence that an income-  
15 based system generates more revenue than a flat fine system. An  
16 income-based pilot program in Staten Island, New York, showed  
17 that graduated civil fine programs can increase gross revenue



1 collection by eighty per cent. Pilot programs in Milwaukee,  
2 Wisconsin; Maricopa County, Arizona; and Polk County, Iowa;  
3 demonstrate that graduated civil fine programs can increase the  
4 frequency at which defendants pay their civil fines and the  
5 percentage of each civil fine that a defendant pays.

6 The legislature also finds that an income-based system can  
7 deter civil infractions better than the State's current civil  
8 fine system. A study from the National Academy of Science found  
9 that wealthy individuals are less likely to respond to changes  
10 in ungraduated fine levels because fines are relatively less  
11 costly to them. Scaling fines to income would ensure that  
12 financial sanctions exact a meaningful deterrent for all would-  
13 be offenders.

14 Accordingly, the purpose of this Act is to establish within  
15 the traffic violations bureau of the district court of the first  
16 circuit of the State of Hawaii a three-year pilot project that  
17 requires the district court to adjust the amount of monetary  
18 assessments based on the income of drivers when requested by the  
19 driver, and to develop and implement additional reminders,  
20 procedures, and public education materials to make drivers more



1 aware of their ability to request their monetary assessments to  
2 be adjusted based on their income.

3       SECTION 2. **Pilot project; establishment.** There is  
4 established within the traffic violations bureau of the district  
5 court of the first circuit of the State of Hawaii a three-year  
6 pilot project to require the court to adjust fines based on a  
7 person's income when requested to do so by the person and in  
8 accordance with the provisions of this Act. The pilot project  
9 shall commence on January 1, 2021, and shall cease to exist on  
10 December 31, 2023.

11       SECTION 3. **Definitions.** For purposes of this Act:

12       "Court" means the district court of the first circuit of  
13 the State of Hawaii.

14       "Fine" means a monetary penalty imposed as punishment for a  
15 traffic-related infraction by the district court of the first  
16 circuit of the State of Hawaii.

17       "Income-based adjustment" means the calculation of a fine  
18 based on a percentage of a person's monthly income.

19       "Monthly-income" means a calculation based on the  
20 administrative driver's license revocation office form no. 15,



1 "Request for Waiver of Administrative Hearing Fee and  
2 Declaration in Support".

3 SECTION 4. Income-based adjustment for traffic fines;  
4 right. (a) All persons who have been charged with a fine by  
5 the court or who owe a fine to the court shall be entitled to an  
6 income-based adjustment in accordance with this Act.

7 (b) All persons who have received a traffic ticket, have  
8 been charged with a fine by the court, or owe a fine to the  
9 court shall be notified of their right to request an income-  
10 based adjustment at the following times:

11 (1) The notice shall be displayed conspicuously in a  
12 large, bold font on the front of the written citation  
13 form given to the driver at the time the infraction  
14 occurred;

15 (2) When a fine is charged or imposed, whether at a court  
16 hearing or via summons or mail notification;

17 (3) At any point prior to full payment, an individual who  
18 owes a fine may make a request by mail, telephone,  
19 online, or in person; and

20 (4) When the court seeks to collect a fine using a formal  
21 legal process, including referral to a debt collection



1           agency or a stopper on the driver's license or motor  
2           vehicle registration.

3           (c) Notice of the right to an income-based adjustment  
4 shall include:

5           (1) An explanation of the person's right to an income-  
6           based adjustment; and

7           (2) Notice that the person may, but is not required to,  
8           provide documentation regarding the individual's  
9           income and expenses that the court should consider in  
10          determining the person's monthly income.

11          (d) Where notice of the right to an income-based  
12 adjustment occurs via summons, mail, or online, the notice shall  
13 include:

14          (1) A request form by which the individual can request an  
15          income-based adjustment with the option to request  
16          that the income-based adjustment be conducted by the  
17          court via mail, online, or in person; and

18          (2) A preaddressed envelope that can be returned to the  
19          traffic violations bureau of the district court of the  
20          first circuit of the State of Hawaii or a fax number  
21          or email address for the traffic violations bureau of



1           the district court of the first circuit of the State  
2           of Hawaii.

3           SECTION 5.   **Income-based adjustment; calculation.**   (a)

4   Notwithstanding any state or county laws to the contrary:

5           (1)   The collective amount of fines imposed by the court  
6           may not exceed one per cent of a person's monthly  
7           income; and

8           (2)   No person shall be required to pay more than 2.5 per  
9           cent of their monthly income for the total amount of  
10          fines issued in the court case within a twelve-month  
11          period.

12          (b)   Where a person's calculated monthly income is  
13          \$           or less, the court shall waive the fine.

14          (c)   Any fines that exceed the maximum amounts established  
15          in subsection (a) shall be reduced accordingly by the court.

16          (d)   Nothing shall prohibit the court from imposing a fine  
17          that is less than the maximum amount established in subsection  
18          (a) or from reducing or waiving a fine in the interest of  
19          justice.



1           SECTION 6. **Payment options.** (a) Following an income-  
2 based adjustment, the individual shall be provided with the  
3 following options:

4           (1) Payment of the fine in full;

5           (2) Payment of the fine in twelve equal monthly  
6 installments; or

7           (3) In lieu of payment, participation in a court-approved  
8 program.

9           (b) Payment shall be accepted in person or by mail, phone,  
10 or electronically.

11           (c) A person shall not be required to appear in court to  
12 make a payment.

13           (d) No additional interest, surcharges, fees, or penalties  
14 shall be charged to any person for any of the options provided  
15 in this section.

16           SECTION 7. **Failure to pay.** (a) Prior to the imposition  
17 of a penalty for failure to pay a fine, the court shall:

18           (1) Provide notice of the right to an income-based  
19 adjustment in accordance with section 4, based on the  
20 person's current monthly income if the person's



1 current monthly income is lower than at the time the  
2 fine was imposed; and

3 (2) If the person's current monthly income is lower, re-  
4 adjust the amount of the fine in accordance with  
5 section 5.

6 (b) The court shall not impose a penalty for failure to  
7 pay without making a finding on the record that the failure to  
8 pay was wilful. Failure to pay is not wilful if:

9 (1) The collective amount of fines owed by a person  
10 exceeds the limitations in section 5, based on the  
11 person's current income; or

12 (2) The court, in its discretion, determines that failure  
13 to pay is not wilful based on circumstances presented  
14 by the person or ascertainable by the court.

15 SECTION 8. **Reports to the legislature.** The traffic  
16 violations bureau of the district court of the first circuit  
17 shall submit the following reports to the legislature:

18 (1) An interim report no later than twenty days before the  
19 convening of the regular session of 2023, including  
20 findings and recommendations, regarding the effect of  
21 the pilot project on:





- 1 (A) Increasing the amount of monetary assessments
- 2 collected by the court;
- 3 (B) Increasing the number of requests to the court
- 4 for consideration of the person's ability to pay
- 5 fines;
- 6 (C) Decreasing the court's referrals of unpaid
- 7 monetary assessments to collections; and
- 8 (D) Any estimated administrative costs associated
- 9 with making permanent the rights and procedures
- 10 established by the pilot project under this Act;
- 11 and
- 12 (2) A final report no later than twenty days prior to the
- 13 convening of the regular session of 2024, including
- 14 findings, recommendations, and any proposed
- 15 legislation, related to the pilot project.

16 SECTION 9. **Public education.** The traffic violations  
17 bureau of the district court of the first circuit of the State  
18 of Hawaii shall review existing information and systems in place  
19 that notify drivers of the option to request the court to  
20 consider their ability to pay fines and shall, to the extent  
21 feasible, amend existing notifications and create additional



# H.B. NO. 2679

1 procedures, notifications, and public education materials that  
2 the traffic violations bureau determines will likely increase  
3 awareness of the options available to drivers.

4 SECTION 10. There is appropriated out of the general  
5 revenues of the State of Hawaii the sum of \$ or so  
6 much thereof as may be necessary for fiscal year 2020-2021 to  
7 establish and carry out the purposes of the three-year pilot  
8 project under this Act.

9 The sum appropriated shall be expended by the judiciary for  
10 the purposes of this Act.

11 SECTION 11. This Act shall take effect upon its approval;  
12 provided that section 10 shall take effect on July 1, 2020; and  
13 provided further that this Act shall be repealed on December 31,  
14 2023.

15

INTRODUCED BY: *Sam*

JAN 23 2020



# H.B. NO. 2579

**Report Title:**

Income-based Adjustment Pilot Project; Courts; Payment Plan; Appropriation

**Description:**

Establishes on January 1, 2021, a three-year pilot project within the traffic violations bureau of the district court of the first circuit that requires the court to adjust court-imposed monetary assessments resulting from motor vehicle moving violations. Establishes income-based adjustments for traffic fines. Appropriates funds. Repeals the pilot project on December 31, 2023.

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

