

**STATE OF HAWAI‘I**  
**OFFICE OF THE PUBLIC DEFENDER**

**Testimony of the Office of the Public Defender,  
State of Hawai‘i to the House Committee on Judiciary**

February 12, 2020

H.B. No. 2751: RELATING TO FINANCIAL HARDSHIP

Hearing: February 13, 2020, 2:05 p.m.

Chair Lee, Vice Chair Buenaventura, and Members of the Committee:

The Office of the Public Defender supports the intent of HB No. 2751 and offers comments for your consideration. While we appreciate that this bill seeks to lighten the load for low-income residents, we are concerned about the efficacy of such reforms as they are currently written.

Our first concern relates to the amendments to HRS § 286-109. In the experience of our District Court attorneys, the Court does not currently grant restricted licenses under HRS § 286-109. Thus, while we support the expansion of categories of drivers entitled to apply for a restricted license, we feel that a public education component is necessary. Furthermore, it may be helpful to clarify whether permission for a restricted license may be granted by any judge sitting in the District Court or solely by the Chief Administrative Judge. The proposed categories of medical and educational<sup>1</sup> transport are excellent additions to HRS 286-109 and go right to the heart of the issues that many of our clients in traffic court currently face. However, these restricted license categories will not benefit anyone if applicants don't know who to ask for permission.

Our Office is also concerned about the feasibility of proposed amendments to HRS §§ 286-136 and 431:10C-117. The new language would allow a judge to grant defendants additional time to pay fines and fees, reduce the amounts of installment payments, or revoke the unpaid portion of the fine. This would require a significant re-structuring of the District Court fine collection system that is currently in place. Unlike criminal fines, traffic fines are outsourced to a mainland collections agency 90-180 days after a person is convicted of a traffic offense. There is no set installment plan that a person is able to set up with the court, nor is there a scheduled court date for a person to request more time to pay. In order to provide the oversight that this bill suggests, the Judiciary would likely have to take back the responsibility for collecting traffic payments.

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<sup>1</sup> The two educational categories include driving a dependent to school as well as driving oneself to school. We support removing the language of “no form of public transportation” being available between a person’s home and the dependent’s school. It fails to take into account the age and physical needs of the dependent as well as the quality of the public transportation available. We would support the restriction of “no form of . . . school bus is available between the applicant’s place of residence and the educational institution”.

Another feasibility concern for the amendments HRS §§ 286-136 and 431:10C-117 is the availability of community service work for residents who are unable to pay their fine. Currently, a resident who is unable to pay a fine may convert their fine at a rate of \$15 per hour of community service work, with a few notable exceptions. The ability of a judge to cancel outstanding payments seems to create a tension with the current community service sentencing scheme, particularly for defendants sentenced under HRS § 431:10C-117. For a first offense of driving without motor vehicle insurance, the penalty is either a \$500 fine or 75-100 hours of community service work. For any subsequent offense, the penalty is either a \$1,500 fine or 200-275 hours of community service work. If judges were able to apply the standard judiciary conversion rate, a first offense would require approximately 33 hours of community service work, while a subsequent offense would require 100 hours. Under this sentencing scheme, our poorest residents are punished for their inability to pay fines or obtain insurance by forcing them to sacrifice regular work hours and complete community service work at a conversion rate far below the minimum wage. Many defendants agree to pay fines that they know they cannot afford rather than complete community service work hours that will prevent them from providing for their families.

Our final comment to HB No. 2751 relates to the conversion rate of fines to jail time. Our Office supports the increase from \$25 per day to \$50 per day, but we ask that the language of HRS §706-644(3) allow for some discretion on the part of the sentencing judge. Namely, that “[a] person committed for nonpayment of a fee or fine shall be given credit toward payment of the fee or fine for each day of imprisonment, at the rate of *at least* [] \$50 per day.”

Something has got to give. We live in the State with the lowest minimum wage when adjusted for our high cost of living. Residents working multiple jobs can barely afford to pay their rent and feed their families, yet we’re treating them like criminals due to unpaid fees. The Office of the Public Defender is strongly in support of re-thinking this regressive system and finding a way to move forward.

Thank you for the opportunity to comment on H.B. No. 2751.



## *The Judiciary, State of Hawai‘i*

### **Testimony to the House Committee on Judiciary**

Representative Chris Lee, Chair  
Representative Joy A. San Buenaventura, Vice Chair

Thursday, February 13, 2020, 2:05 p.m.  
State Capitol, Conference Room 325

by  
Judge Michael K. Soong  
Deputy Chief Judge  
District Court of the Fifth Circuit

Calvin C. Ching  
Deputy Chief Court Administrator  
District Court of the First Circuit

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**Bill No. and Title:** House Bill No. 2751, Relating to Financial Hardship.

**Purpose:** Expands the conditions for authorizing a restricted license. Provides judges with greater discretion to adjust the amount owed by a person who violates certain traffic offenses based on the person’s inability to pay. Increases the amount of credit given to a contumacious person committed for nonpayment.

### **Judiciary's Position:**

The Judiciary strongly supports this measure as it is consistent with the recommendations of the Act 112 Financial Hardship Task Force (Task Force).

Chief Justice Mark E. Recktenwald established the Task Force pursuant to Act 112 to examine the financial disparity imposed on low-income individuals in the court system and analyze other mechanisms regarding nonpayment of fines rather than suspending driver’s licenses. The Task Force then engaged in a comprehensive review of the current civil traffic infraction and criminal traffic procedures, what options are available for a cited motorist who is experiencing financial hardship, and what changes can be made to improve the current traffic system.



Efforts to improve the current traffic system in Hawai'i began as early as 1978 with the decriminalization of certain traffic offenses deemed non-serious, and continued through 1993 when a streamlined process was established to resolve non-criminal traffic infractions without the need for cited motorists to come to court for in-person appearances. Today, Hawai'i's traffic offenses remain categorized into two basic categories: traffic infractions and traffic crimes.

### **Current Financial Hardship Options**

The Task Force found that the courts currently have the authority to utilize several frequently used options that help a motorist satisfy their legal financial obligation if the motorist is experiencing financial hardship. Among these various options includes the ability to convert traffic fines to community service, adjust down monetary assessments when requested by a motorist facing financial hardship, enlarge the period of time that a motorist has to pay the monetary assessment, and enroll motorists in the HRS § 286-109(c) restricted license program, which allows a motorist to continue to drive while paying down outstanding traffic monetary assessments, much like a payment plan.

More information about these financial hardship options and others are summarized in greater detail in the Final Report of the Act 112 Financial Hardship Task Force.<sup>1</sup>

### **Recommendations of the Act 112 Financial Hardship Task Force**

While these are frequently used options available to help address the needs of those motorists who engage with the court, there are also limitations and areas the Task Force identified as ripe for improvement. The Task Force's final report included a comprehensive list of recommended ways to improve the current traffic system for those cited motorists experiencing financial hardship.

After meeting several times, reviewing the impact that the traffic process has on motorists, especially those motorists who are unable to pay monetary assessments due to financial hardship, analyzing barriers that may prevent motorists from benefitting from the current financial hardship options, and discussing programs that are available in other jurisdictions, the Act 112 Financial Hardship Task Force respectfully made the following recommendations:

1. **Give the courts greater judicial discretion in setting traffic penalties, particularly for those traffic offenses that commonly lead to high monetary assessment amounts.** The Task Force respectfully recommended that the Legislature enact statutory amendments to

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<sup>1</sup> The Final Report of the Act 112 Financial Hardship Task Force is available here:  
[https://www.courts.state.hi.us/wp-content/uploads/2019/12/Act-112\\_SLH2019\\_report-to-post\\_FINAL.pdf](https://www.courts.state.hi.us/wp-content/uploads/2019/12/Act-112_SLH2019_report-to-post_FINAL.pdf)



give the court more discretion to impose alternative sentences rather than mandatory penalties. For example, the Task Force found that the design of penalties, such as HRS §§ 431:10C-117 (No Motor Insurance Policy) and HRS § 286-136 (penalties for Driving Without a License and Driving While License Suspended/Revoked), could be amended to give judges greater discretion to fine defendants who violate those traffic offenses at a reduced rate if the individual is unable to pay, or to impose other appropriate penalties based on the defendant's circumstances and ability to pay. These offenses were identified as carrying particularly significant penalty schemes, pursuant to statute, that the court has limited discretion to adjust down or provide for alternative penalties.

2. **Expand the restricted license program under Hawai'i Revised Statutes (HRS) § 286-109(c)(1) to allow more motorists to qualify for the program.** The district court currently has a restricted license program pursuant to HRS 286-109(c) that permits a person to continue to drive while paying down the monetary assessment amount in installments, much like a payment plan, if (a) a motorist is gainfully employed in a position that requires driving and will be discharged if the motorist is unable to drive, or (b) the motorist has no access to alternative transportation and therefore must drive to work. At any time while enrolled in the program, a motorist may ask for an adjustment of remaining monetary assessment amounts. The Task Force recommended expanding the scope of the program by amending HRS § 286-109(c)(1) to apply to situations other than just employment so that more motorists qualify for the program.
3. **Increase the community service conversion rates.** HRS § 291D-9(d) and HRS § 706-644 provide that the court may impose community service in lieu of payment of court-imposed monetary assessments. The community service conversion rate is set by the district courts. Since the convening of the first Task Force meeting in August 2019, the First, Second, and Fifth judicial circuits have increased their community conversion rates from \$10 per hour to the current rate of \$15 per hour, which benefits motorists convicted of both traffic infractions and traffic crimes.
4. **Create uniform procedures for taking into consideration a motorist's ability to pay a monetary assessment.** The court has the authority to take a defendant's ability to pay into consideration when assessing or reducing monetary assessments that are not mandatory by statute, and currently does so. However, to improve this process for the public, the Task Force recommended that the Judiciary establish a uniform procedure to adjust a defendant's monetary assessment when a defendant claims financial hardship. The Task Force noted that this procedure could include developing a uniform petition for ability to pay determinations, or a petition for non-hearing assessments of fine conversions. The Judiciary has begun discussing ways to implement a uniform ability pay procedure



5. **Further decriminalize traffic crimes that are deemed non-serious in nature.** There are several traffic offenses that have not been decriminalized through the 1993 decriminalization effort and subsequent reviews, and therefore still include imprisonment as a potential penalty. The Task Force recommended that the Legislature consider further decriminalizing those traffic crimes that the Legislature deems not serious in nature. Decriminalization would allow a defendant to utilize the civil traffic infraction procedures under HRS Chapter 291D, which does not require an in-court appearance upon issuance of the citation.
6. **Increase imprisonment conversion rates for those defendants with traffic crime cases who opt to satisfy their legal financial obligations as credit for time served (traffic crimes only).** The Task Force recommended that the statutory rate for converting a fine to imprisonment should be increased from its current rate of \$25 per day. These types of conversions are only available upon request from defendants convicted of traffic crimes – not civil traffic infractions – and help defendants satisfy outstanding traffic monetary assessments as credit for time served while being imprisoned for other criminal offenses. While imprisonment is not the ideal way for defendants to satisfy legal financial obligations, a conversion rate higher than the current \$25 a day rate would be appreciated by those who opt to satisfy their outstanding legal financial obligations in this way.
7. **Increase visibility of all financial hardship options that are available.** While there are many options available for motorists who face financial hardship and are unable to pay traffic monetary assessment (e.g., ability to pay determinations, community service conversion, restricted license, etc.), those options are not always known to the wider public. Information is currently available on the Judiciary website and on the citations themselves, but the public may benefit if information about the financial hardship options were made even more visible. The Task Force recommended having more information made available on the Judiciary and partner websites, at district court, and in correspondence with motorists.

#### **Additional Suggestions from the Judiciary for Consideration**

The Judiciary offers the following technical edits as highlighted in bold for the committee's consideration to aid implementation of the measure. Page 5, lines 7-17, and page 8, line 13 to page 9, line 4:

Any person cited under this section shall be given an opportunity to **petition the court to** demonstrate that the person's nonpayment or inability to pay is not wilful. **If a person petitions the court, t[he]** judge shall make an individualized assessment of the person's ability to pay based on the totality of the circumstances,



including but not limited to the person's disposable income, financial obligations, and liquid assets. If the judge determines that the person's nonpayment or inability to pay is not wilful, the judge ~~[shall]~~ may enter an order that allows the person additional time for payment, reduces the amount of each installment, ~~[or]~~ revokes the fee or fine, or unpaid portion thereof, in whole or in part[-], or converts any outstanding fine to community service;

In addition, the Judiciary would support further expanding the scope of who qualifies for the restricted license program by eliminating the conditions required for participation in the program. This would open up the program and provide a means for all motorists to engage with the court and take care of their legal financial obligations in a manageable way, while maintaining the ability to drive legally. Because non-compliance with the restricted license program would result in lifting the restricted license, participants would not risk obtaining a bench warrant for failure to appear at a proof of compliance hearing under this program or otherwise for failing to meet the requirements of the program. Furthermore, a motorist who falls out of compliance has the option to reapply for participation in the program.

To accomplish this, HRS § 286-109(c), which is also addressed in Section 1 of this measure, could be amended as provided:

**§286-109 General provision governing the issuance of licenses.**

.....  
(c) Statutes of limitations and other provisions of this chapter notwithstanding, no driver's license or instruction permit shall be issued or renewed under this section, where the examiner of drivers is notified by the district judge, traffic violations bureaus of the district courts, or the judge of the circuit court that the applicant has failed to respond to a traffic citation or summons, or failed to appear in court after an arrest for the violation of any traffic laws of a county, this chapter or chapter 286G, 287, 290, 291, or 291C, or of any motor vehicle insurance laws under article 10C of chapter 431, or of any motorcycle or motor scooter insurance laws under article 10G of chapter 431, and the same remains delinquent and outstanding, or the applicant, has as of the time of the application, failed to comply in full with all orders of the court; provided that the district court with whose order an applicant has failed to comply in full, may approve the issuance or renewal of a driver's license or instruction permit other than a commercial driver's license upon conditions imposed by the court for the satisfaction of the outstanding court order and any other conditions as may be imposed by the court, ~~[if one or more of the following conditions are met:~~



- ~~(1) — The applicant is gainfully employed in a position that requires driving and will be discharged if the applicant is unable to drive; or~~
- ~~(2) — The applicant has no access to alternative transportation and therefore must drive to work;]~~

Provided [~~further~~] that if the applicant has failed to comply in full with orders of the district court of more than one circuit, the applicant shall obtain the approval of the district court of each circuit in which the applicant has an outstanding court order before a driver's license or instruction permit may be issued or renewed under this subsection.

A driver's license or instruction permit issued or renewed under this subsection shall be subject to immediate suspension by the court upon the applicant's failure to remain in full compliance with all conditions imposed by the court for the issuance or renewal of the driver's license or instruction permit. The examiner of drivers may place an indication of restriction upon a driver's license or instruction permit issued or renewed under this subsection. Proof of financial responsibility under section 287-20 shall not apply to the issuance or renewal of driver's licenses or instruction permits under this subsection."

Lastly, as noted previously, the district court currently has the authority to take into consideration a person's ability to pay to adjust down an assessed monetary fine, convert a fine to community service, or extend the period of time that a person has to pay a fine, and frequently does so. To further clarify to the public that this type of modification is permissible and to codify the process that the courts currently undertake when a person raising a claim of inability to pay, the following edits could be made to HRS § 291D-9. These edits would also clarify the court's authority to adjust a monetary assessment at any time prior to payment, which could provide clarity for those who enter in the restricted license program, pay in installments, and wish to request an adjustment:

**[§291D-9] Monetary assessments.** (a) A person found to have committed a traffic infraction shall be assessed a monetary assessment not to exceed the maximum fine specified in the statute defining the traffic infraction. **The court shall consider a person's financial circumstances, if disclosed, in determining the monetary assessment.**

(b) Notwithstanding section 291C-161 or any other law to the contrary, the district court of each circuit shall prescribe a schedule of monetary assessments for





all traffic infractions, and any additional assessments to be imposed pursuant to subsection (c). The particular assessment to be entered on the notice of traffic infraction pursuant to section 291D-5 shall correspond to the schedule prescribed by the district court. Except after proceedings conducted pursuant to section 291D-8 or a trial conducted pursuant to section 291D-13, monetary assessments assessed pursuant to this chapter shall not vary from the schedule prescribed by the district court having jurisdiction over the traffic infraction.

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

- (1) Failure to pay a monetary assessment by the scheduled date of payment; or
- (2) The cost of service of a penal summons issued pursuant to this chapter.

(d) **Upon request of a person claiming inability to pay a monetary assessment, t[F]he court may grant [to a person claiming inability to pay,] an extension of the period in which the monetary assessment shall be paid or may impose community service in lieu thereof. If the assessment is not paid or the community service is not performed on or before the date established and the court has not extended the time, the court shall take action as provided in section 291D-10.**

**(e) At any point prior to full payment of a monetary assessment, any person who suffers a change in financial circumstances may request a hearing to modify the monetary assessment or to request community service in lieu thereof.**

In sum, the Judiciary strongly supports the HB2751 as it reflects the recommendations of the traffic Financial Hardship Task Force, offers technical amendments to support implementation, and offers additional suggested statutory amendments to further expand the scope of who is eligible for participation in the restricted license program and to clarify the court's current authority to adjust monetary assessments when a motorist is experiencing financial hardship. The Judiciary welcomes the opportunity to work with the Legislature and other stakeholders to discuss these issues and recommendations further.

Thank you for the opportunity to testify on this measure.



House Bill No. 2751, Relating to Penalties  
House Committee on Judiciary  
Thursday, February 13, 2020  
Page 8

**Justin F. Kollar**  
Prosecuting Attorney



**Rebecca Vogt Like**  
Second Deputy

**Jennifer S. Winn**  
First Deputy

**Diana Gausepohl-White**  
Victim/Witness Program Director

**OFFICE OF THE PROSECUTING ATTORNEY**

**County of Kaua'i, State of Hawai'i**

3990 Ka'ana Street, Suite 210, Līhu'e, Hawai'i 96766  
808-241-1888 ~ FAX 808-241-1758  
Victim/Witness Program 808-241-1898 or 800-668-5734

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**THE HONORABLE CHRIS LEE, CHAIR  
THE HONORABLE JOY A. SAN BUENAVENTURA, VICE CHAIR  
HOUSE COMMITTEE ON JUDICIARY  
Thirtieth State Legislature  
Regular Session of 2020  
State of Hawai'i**

February 13, 2020

**RE: H.B. 2750; RELATING TO FINANCIAL HARDSHIP.**

Chair Lee, Vice Chair San Buenaventura, and members of the House Committee on Judiciary, the Office of the Prosecuting Attorney of the County of Kaua'i submits the following testimony in support of H.B. 2751.

The purpose of H.B. 2751 is to expand the conditions for authorizing a restricted license, provide judges with greater discretion to adjust the amount owed by a person who violates certain traffic offenses based on the person's inability to pay and to increase the amount of credit given to a contumacious person committed for nonpayment. vehicle

A substantial portion of the District Court caseload in Hawai'i is devoted to litigating the cases of individuals who cannot obtain driver licenses, absorbing substantial resources of prosecutors and public defenders statewide with little to no benefit to public safety. When unlicensed drivers who cannot afford to clear their court fees make the decision to drive, they end up incurring more court debt which they cannot pay, because they cannot drive, because they cannot work, etc. Particularly in rural or suburban communities like Kaua'i, it is virtually impossible to survive without driving a motor vehicle. Defendants become trapped in a vicious cycle. Courts, prosecutors, and public defenders have limited resources that can be put to better use addressing cases that impact public safety.

This Bill also recognizes that some license stoppers are imposed to address valid safety and public policy concerns; that is appropriate.

For these reasons, the Office of the Prosecuting Attorney supports the passage of H.B. 2751. Thank you for this opportunity to testify.

**HB-2751**

Submitted on: 2/12/2020 4:50:08 PM

Testimony for JUD on 2/13/2020 2:05:00 PM

**LATE**

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kat Brady	Community Alliance on Prisons	Support	Yes

Comments:



**LATE**

Committee: Committee on Judiciary  
Hearing Date/Time: Thursday, February 13, 2020, 2:05 p.m.  
Place: Conference Room 325  
Re: Testimony of the ACLU of Hawai'i with comments on H.B. 2751, Relating to Financial Hardship

Dear Chair Lee, Vice Chair San Buenaventura, and Committee Members:

The American Civil Liberties of Hawai'i (ACLU of Hawai'i) **offers comments on H.B. 2751**, which would codify certain recommendations of the Act 112 Financial Hardship Task Force. While the reforms proposed in this measure would be a small step forward, the bill fails to incorporate some of the more meaningful reforms proposed by the Act 112 Task Force—such as the further decriminalization of non-serious traffic crimes and uniform ability to pay procedures—and simply does not go far enough to fix the hardship created by hefty court fines and fees. Hawaii's families are being buried under court debt and held back from career or educational opportunities by harsh penalties imposed for nonpayment. The legislature should pursue reforms that create a more equitable and proportionate approach to monetary penalties. To achieve this, we respectfully request that the Committee amend this measure by adding the statutory changes included in H.B. 2750 to halt the harsh and counterproductive practice of license and registration stoppers imposed as a penalty for unpaid traffic and parking tickets.

Amending this measure is consistent with the intent of the bill and would complement its other components, making it a much stronger measure that addresses two related but separate issues:

- 1) People cannot afford to pay their court debt.
- 2) Penalties imposed for nonpayment of court debt create *more harm* and are *counterproductive*.

The proposed amendment would address a real community need.

The ACLU of Hawai'i appreciates the work of the Act 112 Financial Hardship Task Force report and commends the judiciary for its willingness to address this issue. We note, however, that the Task Force was comprised **solely** of government officials, mostly law enforcement: members included representatives from the judiciary, the Department of the Attorney General, the Department of Public Safety, the Department of Transportation, and the police department of each county. The Task Force did not include criminal justice advocates, public defenders or other lawyers who represent indigent clients, or individuals personally impacted by financial hardship caused by court-ordered debt. The ACLU of Hawai'i chose to prioritize the issue of ending license and registration stoppers this year in direct response to community concerns that have

been raised throughout the state, and we request this amendment as a way to include a perspective that was absent on the Task Force. Nothing in this measure would be precluded or rendered obsolete by our proposed amendment; this amendment will only strengthen the bill. As the judiciary tests new approaches to address the underlying problem of unaffordability of monetary assessments, we must **immediately end** the practice of imposing license and registration stoppers, which cause real harm to working families.

Traffic fines bury people under insurmountable debt and penalties for nonpayment lead to incarceration.

Roughly half of Hawaii’s families cannot afford to meet basic needs.<sup>1</sup> A recent study found that four in ten adults do not have access to \$400 at any given time, making them one emergency—or court-ordered fine—away from financial ruin.<sup>2</sup> “Flat” traffic fines (fines based solely on offense) create the appearance of equality, but disproportionately punish this population, who stand to lose much more than their wealthier counterparts.

Those who receive a traffic citation in Hawai‘i and are unable to afford to pay the ticket have few meaningful options available to them. While paper citations for civil traffic infractions include a notice to the motorist that they may request that the court consider their ability to pay, it is the understanding of the ACLU of Hawai‘i that this option is not often utilized by motorists; even when an adjustment is requested, the decision of whether to do so is purely at the discretion of the court and there is no set formula for an adjustment of monetary assessments. If you fail to pay a citation within 30 days of a default judgment being entered, a “stopper” is placed on your driving record that prevents you from renewing or obtaining a driver’s license<sup>3</sup> and your case will eventually be sent to collections.<sup>4</sup>

A devastating cycle ensues in which an individual cannot afford to pay a traffic ticket, cannot renew or obtain their license as a consequence, then faces the impossible choice between driving without a license (a traffic crime punishable by up to a \$1,000 fine or up to one year in jail<sup>5</sup>) and risk losing their job, or not taking their children to the doctor. Because the vast majority of

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<sup>1</sup> ALICE, a Study of Financial Hardship in Hawai‘i, 2017 Report. Aloha United Way (2017).

<sup>2</sup> Bd. of Governors of the Fed. Reserve Sys., Report on the Economic Well-Being of U.S. Households in 2017 at 2 (May 2018), <https://www.federalreserve.gov/publications/files/2017-report-economic-well-being-us-households-201805.pdf>.

<sup>3</sup> HCTR Rule 15 (b).

<sup>4</sup> If you fail to pay within 90 days (for judgments of \$500 or less) or 180 days (\$500 or more)<sup>4</sup>, you can no longer make payments to courts and your case is sent to collections. HCTR Rule 20(C). Once the case goes to collections, you must pay the total amount owed, plus an additional **twenty-one percent** as a fee to the agency. *Resolving Cases Submitted to the Collection Agency (MSB)*, Hawaii State Judiciary, [https://www.courts.state.hi.us/self-help/traffic/resolving\\_cases\\_submitted\\_to\\_the\\_collection\\_agency#2](https://www.courts.state.hi.us/self-help/traffic/resolving_cases_submitted_to_the_collection_agency#2).

<sup>5</sup> H.R.S. § 286-136.

Hawaii's workers drive themselves to work,<sup>6</sup> a license revocation compromises a family's ability to make ends meet.

The collateral consequences of being unable to afford traffic tickets carry financial costs for the state and drive people further into poverty. This disproportionately impacts Native Hawaiians, who are more likely to live in poverty and therefore less likely to be able to meet an unanticipated expense.<sup>7</sup> It was in part due to this disproportionate burden on communities of color that the American Bar Association recently condemned the use of license revocations for nonpayment like those we have in Hawai'i and recommended income-based systems.<sup>8</sup>

It is imperative that Hawai'i reevaluate current practices around court-ordered monetary assessments and move towards a more equitable system. For the above reasons, we respectfully request that the Committee amend this measure by inserting the prohibition on license and registration stoppers provided in H.B. 2750. Thank you for the opportunity to testify.

Sincerely,

Mandy Fernandes  
Policy Director  
ACLU of Hawai'i

*The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for 50 years.*

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<sup>6</sup> U.S. Census Bureau, 2018. American Community Survey, *Hawaii 5-Year Estimates Data Profiles*.

<sup>7</sup> U.S. Census Bureau, 2018. 2017 American Community Survey, *1-Year Estimates*.

<sup>8</sup> *ABA Ten Guidelines on Court Fines and Fees*, American Bar Association (August 2018), available at <https://finesandfeesjusticecenter.org/content/uploads/2018/12/Ten-Guidelines-on-Court-Fines-and-Fees.pdf>.



**LATE**

**HB-2751**

Submitted on: 2/12/2020 5:43:57 PM

Testimony for JUD on 2/13/2020 2:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marsha Joyner	Individual	Support	No

Comments:

MarshaRose Joyner

marshajoyner1938@gmail.com

Aloha Pumehana,

I write in support of HB2751

RELATING TO FINANCIAL HARDSHIP.

I'm writing in support of HB2751

Expands the conditions for authorizing a restricted license. It provides judges with greater discretion to adjust the amount owed by a person who violates certain traffic offenses based on the person's inability to pay. Increases the amount of credit given to a contumacious person committed for nonpayment.

**LATE**

**JUDtestimony**

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**From:** melcupchoy@everyactioncustom.com on behalf of Mel Cup Choy  
<melcupchoy@everyactioncustom.com>  
**Sent:** Thursday, February 13, 2020 12:37 PM  
**To:** JUDtestimony  
**Subject:** Amend the Pesticide Disposal Amnesty Bill HB2565 HD1

Dear Judiciary Committee,

I am writing to ask for you to amend HB2565 HD1, which authorizes the Hawai'i Department of Agriculture to create a one-time amnesty program for disposing pesticides.

While on the surface that seems like a good idea, as written this bill provides a free pesticide disposal option for large agrichemical companies to shift the financial and legal responsibility of their safe disposal entirely to Hawai'i's taxpayers.

I appreciate the intent of the bill, but feel strongly that large agrichemical users, not the State nor its resources, should bear the financial and legal responsibility for their use of these dangerous chemicals.

Sincerely,  
Mel Cup Choy  
45 -396 Kamehameha Hwy Kaneohe, HI 96744-5213