

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 and Hawaiian Affairs

March 29, 2022

S.B. No. 2163: RELATING TO NEGLIGENT HOMICIDE

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

The Office of the Public Defender respectfully opposes S.B. No. 2163, which seeks to increase the penalty for Negligent Homicide in the First Degree when certain conditions are met in traffic fatality cases. These conditions include: (1) having a prior OVUII conviction within 20 years of the negligent homicide offense; (2) having operated a vehicle “after license and privilege have been suspended” for OVUII; or (3) the operator of the vehicle was “highly intoxicated” as defined by HRS § 291E-1. The proposed bill would elevate the offense of Negligent Homicide in the First Degree from a class “B” felony to a class “A” felony (when these conditions are met). Violators of this law would face a mandatory 20-year term of imprisonment without the possibility of probation or suspension of sentence. The purpose behind this bill is to deter repeat OVUII offenses and fatal accidents involving high amounts of alcohol or drugs.

First, we do not disagree with the intent of this bill. Negligent Homicide cases are one of the most serious and difficult cases that come through our court system. We only oppose this bill because it creates a *mandatory* 20 year sentence for *any* and *all* persons who violate subsection (1)(a) of the law and satisfy certain conditions regardless of whether “strong mitigating circumstances” exist. We recognize that “strong mitigating circumstances” are extremely rare in traffic fatality cases – especially those involving the consumption of alcohol. Probation in most cases will not be an appropriate sentence and a lengthy term of imprisonment is often warranted. However, in those rare circumstances where “strong mitigating circumstances” do present themselves to the sentencing judge, discretion should be afforded under the law to allow a judge to fashion an appropriate sentence that may favor treatment and rehabilitation over long-term incarceration.

What may constitute “strong mitigating circumstances” in negligent homicide cases are rare. Examples include: an elderly defendant driver with an old OVUII conviction; a driver who at the time of sentencing is suffering from a terminal

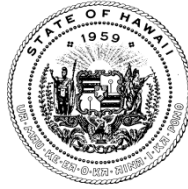
disease; or an 18-year old driver whose blood alcohol content was above 0.15 where the victim's family does not desire a lengthy prison term. In these types of situations, it *may* be appropriate for the sentencing judge to have the discretion to withhold a term of imprisonment. This bill absolutely precludes a judge from doing so.

The concerns laid out in this proposal will not go unaddressed if this bill is not passed into law. Our Manslaughter statute can adequately be applied to, and punish repeat OVUII offenders who continue to drive drunk and end up killing an innocent person, a person that disregards an OVUII license suspension, drives, and does the same, or a person who chooses to drive while highly intoxicated, and causes a tragic accident. Manslaughter can be applied to these situations where the person acted "recklessly" and blatantly disregarded the safety of others. Manslaughter is a class "A" felony punishable by 20 years imprisonment.

If this committee is intent on passing this bill and elevating the offense of Negligent Homicide 1st Degree to a "Class A" felony, the bill should at least be amended to allow the sentencing judge to impose probation.

A person convicted for the offense of Manslaughter, is eligible to receive a probation sentence under our laws. *See* HRS § 706-620(2) (Authority to Withhold Sentence of Imprisonment); *see also* HRS § 706-659 (Sentence of Imprisonment for Class A Felony). Thus, the offense of Manslaughter under HRS § 707-702 is a "probationable" offense. If an individual convicted of manslaughter, with a "reckless" state of mind, is eligible for probation, it is only logical that a person convicted of negligent homicide, with a "negligent" state of mind, should be eligible for probation. Furthermore, it should be pointed out that probation is rarely imposed in manslaughter cases, especially those involving traffic deaths. Therefore, making the offense of negligent homicide a "probationable" offense will *not* mean that offenders will *always* receive a probation sentence. Even in cases where a judge finds it necessary to impose a term of probation, that judge may still under the law, order a defendant to serve up to two (2) years in jail as a condition of probation. *See* HRS § 706-624(2)(a). Thus, it is important that a judge have some range of latitude and discretion to fashion an appropriate sentence, especially in difficult cases such as those involving traffic related deaths. This bill unfortunately creates an all or nothing scenario which will lead to grave injustices in cases where "strong mitigating circumstances" exist.

Thank you for the opportunity to testify on this measure.



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
ROSS M. HIGASHI
EDUARDO P. MANGLALLAN
PATRICK H. MCCAIN
EDWIN H. SNIFFEN

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

March 29, 2022
2:00 P.M.

State Capitol, Conference Room 325/Teleconference

S.B. 2163
RELATING TO NEGLIGENT HOMICIDE

House Committee on Judiciary & Hawaiian Affairs

The Department of Transportation (DOT) **supports the intent** of S.B. 2163 relating to negligent homicide. This bill will make it a class A felony for a person who causes the death of another while operating a vehicle in a negligent manner and under the influence of an intoxicant if the person has one or more convictions for operating a vehicle under the influence of an intoxicant within 20 years of the instant offense, a suspended and revoked license and privilege to operate a vehicle due to driving while under the influence of an intoxicant, or the person is a highly intoxicated driver.

The DOT recommends clarification under this offense for what is meant by the “time of the event,” license revocation qualifications, and what constitutes previous convictions.

Thank you for the opportunity to provide testimony.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

ALII PLACE
1060 RICHARDS STREET • HONOLULU, HAWAII 96813
PHONE: (808) 768-7400 • FAX: (808) 768-7515

STEVEN S. ALM
PROSECUTING ATTORNEY

THOMAS J. BRADY
FIRST DEPUTY
PROSECUTING ATTORNEY



THE HONORABLE MARK M. NAKASHIMA, CHAIR
HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS
Thirty-First State Legislature
Regular Session of 2022
State of Hawai'i

March 29, 2022

RE: S.B. 2163; RELATING TO NEGLIGENT HOMICIDE.

Chair Nakashima, Vice-Chair Matayoshi and members of the House Committee on Judiciary and Hawaiian Affairs, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony in **support** of S.B. 2163 with comments.

The Department agrees with the bill's overall goal of strengthening Hawaii's laws related to operating a vehicle under the influence of an intoxicant ("OVUII") by enhancing the penalty for Negligent Homicide in the First Degree (Hawaii Revised Statute section 707-702.5) to a class A felony if certain conditions related to intoxicated driving are met.

The Department appreciates the amendments proposed by the Maui County Prosecutor's Office, as these changes would further clarify the elements of the heightened offense created by S.B. 2163.

The first amendment to section 707-702.5(3)(b), H.R.S. will clarify that the proposed penalty enhancement will apply when an individual was also committing the offense of section 291E-62, H.R.S. (Operating a vehicle after license and privilege have been suspended or revoked for OVUII). The proposed amendment would cite to the specific section in the Hawaii Revised Statutes that justifies the heightened severity, and ensure that an individual is not subject to the enhancement simply because their license and privilege were suspended or revoked for OVUII at some point in their lifetime (but not suspended or revoked at the time of the present incident).

The second proposed amendment will ensure consistency in the way S.B. 2163 defines a "prior conviction" and its application to the proposed enhancement. The proposed amendment would mirror the current definition of "prior conviction" under section 291E-61(g)(1)-(3).

Adoption of this amendment will help to avoid multiple interpretations of the true legislative intent on how this section should be applied.

[...]

(3) A person who violates subsection (1)(a) is guilty of a class B felony; provided that the person is guilty of a class A felony when the person:

(a) Has been convicted one or more times for the offense of operating a vehicle under the influence within twenty years of the instant offense;

~~(b) Is operating a vehicle after license and privilege have been suspended or revoked for operating a vehicle under the influence of an intoxicant; or~~

(b) Is, at the time of the instant offense, engaging in conduct that would constitute a violation of section 291E-62; or

(c) Is a highly intoxicated driver as defined by section 291E-1.

(4) For the purposes of this section, a person “has been convicted one or more times for the offense of operating a vehicle under the influence” if the person has one or more:

(a) convictions under section 291E-61, section 291E-4(a), section 291E- 61.5 or section 291E-64;

(b) convictions in any other state or federal jurisdiction for an offense that is comparable to operating or being in physical control of a vehicle while having either an unlawful alcohol concentration or an unlawful drug content in the blood or urine or while under the influence of an intoxicant or habitually operating a vehicle under the influence of an intoxicant; or

(c) adjudications of a minor for a law violation that, if committed by an adult, would constitute a violation of section 291E-61, section 291E-4(a), or section 291E-61.5.”

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu **supports** the passage of S.B. 2163 with comments. Thank you for the opportunity to testify on this matter.

MICHAEL P. VICTORINO
Mayor

ANDREW H. MARTIN
Prosecuting Attorney

MICHAEL S. KAGAMI
First Deputy Prosecuting Attorney



DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
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TESTIMONY
ON
S.B. 2163 RELATING TO
NEGLIGENT HOMICIDE

March 28, 2022

The Honorable Mark M. Nakashima
Chair
The Honorable Scot Z. Matayoshi
Vice Chair
and Members of the Committee on Judiciary & Hawaiian Affairs

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

The Department of the Prosecuting Attorney, County of Maui respectfully submits the following comments concerning S.B. 2163, Relating to Negligent Homicide. Specifically, we would like to express our strong support for increasing the penalty for Negligent Homicide in the First Degree to a class A felony if certain conditions related to intoxicated driving are met.

In our view, the increased penalty created by this bill would save lives throughout the State. It does this by discouraging negligent driving behavior for three categories of DUI offenders: Those who have one or more DUI convictions within the past twenty years, those who choose to drive while their license is suspended or revoked for a DUI or DUI-related offense, and those who choose to drive while highly intoxicated. In short, it sends a strong message that the families of those killed by intoxicated drivers have already learned: intoxicated driving has consequences that last well beyond the actual DUI offense.

We do have the following suggestions to clarify some of the provisions within the bill. First, we suggest that the proposed language in subsection 707-702.5(3)(b) be amended to clarify that the intent is to prohibit driving while one's license is suspended or revoked for DUI as set forth in section 291E-62. Second, we suggest that the proposed language in subsection 707-702.5(3)(a) be made consistent with the existing language in 291E-61 relating to prior convictions. These amendments would have the following result:

[...]

(3) A person who violates subsection (1)(a) is guilty of a class B felony; provided that the person is guilty of a class A felony when the person:

(a) Has been convicted one or more times for the offense of operating a vehicle under the influence within twenty years of the instant offense;

(b) Is, at the time of the instant offense, engaging in conduct that would constitute a violation of section 291E-62; or

(c) Is a highly intoxicated driver as defined by section 291E-1.

(4) For the purposes of this section, a person “has been convicted one or more times for the offense of operating a vehicle under the influence” if the person has one or more:

(a) convictions under section 291E-61, section 291E-4(a), section 291E- 61.5 or section 291E-64;

(b) convictions in any other state or federal jurisdiction for an offense that is comparable to operating or being in physical control of a vehicle while having either an unlawful alcohol concentration or an unlawful drug content in the blood or urine or while under the influence of an intoxicant or habitually operating a vehicle under the influence of an intoxicant; or

(c) adjudications of a minor for a law violation that, if committed by an adult, would constitute a violation of section 291E-61, section 291E-4(a), or section 291E-61.5.”

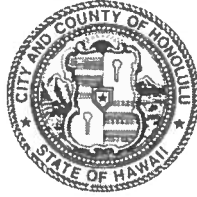
For these reasons, the Department of the Prosecuting Attorney, County of Maui strongly supports the passage of S.B. 2163. Please feel free to contact our office at (808) 270-7777 if you have any questions or inquiries.

Thank you very much for the opportunity to provide testimony on this bill.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

801 SOUTH BERETANIA STREET · HONOLULU, HAWAII 96813
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RICK BLANGIARDI
MAYOR



RADE K. VANIC
INTERIM CHIEF

OUR REFERENCE JS-TK

March 29, 2022

The Honorable Mark M. Nakashima, Chair
and Members
Committee on Judiciary
and Hawaiian Affairs
House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 325
Honolulu, Hawaii 96813

Dear Chair Nakashima and Members:

SUBJECT: Senate Bill No. 2163, Relating to Negligent Homicide

I am James Slayter, Acting Major of the Traffic Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD supports Senate Bill No. 2163, Relating to Negligent Homicide.

The HPD supports the proposal of stricter penalties for persons convicted of Negligent Homicide in the First Degree when the operator has one or more convictions for the offense of Operating a Vehicle Under the Influence of an Intoxicant within 20 years of the instant offense, a suspended and revoked license and privilege to operate a vehicle due to driving while under the influence of an intoxicant, or the person is a highly intoxicated driver.


Stricter penalties could help deter would-be offenders from driving impaired. Any measure that could prevent these tragedies and keep impaired drivers off of our roadways should be considered.

The Honorable Mark M. Nakashima, Chair
and Members
March 29, 2022
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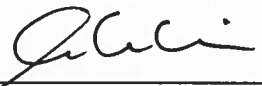
The HPD urges you to support Senate Bill No. 2163, Relating to Negligent Homicide.

Thank you for the opportunity to testify.

Sincerely,


James Slayter, Acting Major
Traffic Division

APPROVED:



Rade K. Vanic
Interim Chief of Police



Mothers Against Drunk Driving HAWAII
745 Fort Street, Suite 303
Honolulu, HI 96813
Phone (808) 532-6232
hi.state@madd.org

March 29, 2022

To: Representative Mark M. Nakashima, Chair
Representative Scot Z. Matayoshi, Vice Chair
Members of the Committee on Judiciary & Hawaiian Affairs

From: Kurt Kendro, Chair, Public Policy Committee; Mothers Against Drunk Driving
(MADD) Hawaii

Re: SENATE BILL 2163- RELATING TO NEGLIGENT HOMICIDE

I am Kurt Kendro, Chair of MADD Hawaii's Public Policy Committee and a retired Major from the Honolulu Police Department, speaking on behalf of the members of MADD Hawaii Advisory Board in STRONG SUPPORT of Senate Bill 2163- Relating to Negligent Homicide.

For far too long, Hawaii has treated impaired drivers who kill people on our roadways much too lenient. Even offenders who have prior convictions for operating a vehicle under the influence of an intoxicant (OVUII) that are involved in a fatal crash have been treated with leniency. With convicted offenders 1.8 more likely to be involved in a fatal crash and four times more likely to have a high blood or breath alcohol content, it is completely unacceptable that these crimes are not more serious.

Senate Bill 2163 does several things, First, it increases penalties for a person convicted of Negligent Homicide in the First Degree to a Class B felony, and second, it increases punishment to a Class A felony when the offender has been previously convicted for an OVUII in the previous 20 years, while operating a vehicle with a license suspended or revoked for OVUII or is a highly intoxicated driver.

Passage of this bill will increase penalties for those impaired drivers who kill on our roadways. This change has been long overdue and is only part of the efforts to provide a strong deterrence to stop drivers from driving while impaired. Finally, this bill will punish offenders involved in impaired driving fatal crashes with an appropriate sentence.

MADD Hawaii STRONGLY SUPPORTS Senate Bill 2163 and ask that this bill be passed.

Thank you for the opportunity to testify.

Erik K. Abe
55 South Kukui Street, #1606
Honolulu, Hawaii. 96813
Ph. (808) 537-3081. Cell: (808) 537-3081

TESTIMONY TO THE HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS
TUESDAY, MARCH 29, 2022; 2:00 P.M.
STATE CAPITOL, CONFERENCE ROOM 325
VIA VIDEOCONFERENCE

RE: SENATE BILL NO. 2162, RELATING TO NEGLIGENT HOMICIDE.

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

My name is Erik Abe, and I am the Public Affairs and Policy Director for the Hawaii Primary Care Association (HPCA). I am testifying today solely in my capacity as a concerned citizen, and my views expressed do not necessarily nor officially reflect those of the HPCA.

I am testifying in **SUPPORT OF THE INTENT** of Senate Bill No. 2162, RELATING TO NEGLIGENT HOMICIDE., and offer **PROPOSED AMENDMENTS** for your consideration.

As received by your Committee, this bill would clarify the penalties for persons convicted of Negligent Homicide in the First Degree to make it a class A felony if a person causes the death of another person by the operation of a vehicle in a negligent manner while under the influence of drugs or alcohol, provided that either:

- (1) The person was previously convicted of operating a vehicle under the influence within the past twenty years of the incident;
- (2) The person was operating a vehicle after his or her license and privilege was suspended or revoked for operating a vehicle under the influence of an intoxicant;
or
- (3) The person was a highly intoxicated driver.

Four years ago, I was requested by a friend, Mr. Ron Shimabuku, to assist his family draft legislation before the Hawaii State Legislature to strengthen Hawaii's laws applicable to driving under the influence of an intoxicant. At that time, Mr. Shimabuku informed me that his hanai brother, Kaulana Werner, was killed by an intoxicated driver in Nanakuli, Island of Oahu, and that

his family wanted to change the laws to prevent similar situations from occurring in the future to ease the suffering of families of victims.

Shortly after the accident, the Prosecutor informed the Werner Ohana that they would charge the driver with Negligent Homicide. The penalty for Manslaughter is a class A felony (20 years to life). The penalty for Negligent Homicide in the First Degree is a class B felony (no more than 10 years).

The Werner Ohana felt that a 10-year sentence was insufficient for the crime that was committed, especially in light of the fact that Kaulana was thrown more than 200 feet from the impact due to the driver's high rate of speed, and that the driver failed to stop at the scene of the accident and was apprehended nearly a mile away while in the process of having her car towed by a friend.

Despite these objections, the driver was charged with Negligent Homicide, and on November 1, 2019, Myisha Lee Armitage was convicted of Accidents Involving Death or Serious Bodily Injury, in violation of Section 291C-12, HRS, and Negligent Homicide in the First Degree, in violation of Sections 707-702.5(1)(a) and 707-702.5(1)(b), HRS. On appeal, the Intermediate Court of Appeals vacated this conviction and remanded the case back to the Circuit Court of the First Circuit for a new trial.

The Intermediate Court of Appeals held that based on the Hawaii Supreme Court's ruling in *State v. Niceloti-Velazquez*, 139 Hawaii 203, 386 P.3d 487 (2016), the police in the *Armitage* case (*State of Hawaii v. Myisha Lee Armitage*, (CASE NO. 1CPC-17-0000342)), failed to adequately develop the record to demonstrate the existence of exigent circumstances that would have justified the arresting officer's requesting a warrantless blood draw from the defendant.

At the time of Kaulana's accident, both the Honolulu Police Department and the City Prosecutor's Office followed both the statutory and common law applicable to the collection of evidence in accidents involving death or serious injury in Hawaii, despite the fact that the common law in the United States was evolving around that time.

The plight of the Werner Ohana also brings to light ambiguity between the crimes of Manslaughter, Section 707-702, HRS, and Negligent Homicide in the First Degree, Section 707-702.5, HRS. Both are applicable where a person's negligence or reckless behavior leads to the death of another. However, Negligent Homicide in the First Degree specifically applies to cases involving the reckless operation of a vehicle under the influence of an intoxicant that leads to the death of another.

Testimony on Senate Bill No. 2163
Tuesday, March 29, 2022; 2:00 p.m.
Page 3

It should be noted that in rendering the *Armitage* decision, the Intermediate Court of Appeals applied a drastic change in enforcement policy on a crime that was committed BEFORE that change in policy had taken effect. Subsequently, the *Armitage* ruling puts into question all previous convictions that relied on a warrantless blood draw based on the categorical "exigent circumstance" exception.

Despite this, the bill before you seeks to clarify the law to address the most egregious cases involving deaths that result from driving under the influence. However, as presently written, this bill would not change anything for a situation like that experienced by the Werner Ohana. In Kaulana's incident, the driver was never previously convicted of driving under the influence, nor was she operating a vehicle after her license and privilege was suspended or revoked. And while she was highly intoxicated, because of conflicts between statutory and common law, the police and prosecutor failed to obtain the necessary warrant to test the driver's blood.

The Werner Ohana is deeply disappointed by these developments but hope that this measure can be amended to address some of our concerns. Ultimately, it is the desire of the Werner Ohana to prevent others from ever having to experience the pain and anguish that they have had to live through.

For your consideration, attached please find a draft bill that would recategorize the penalty categories for each of the 3 degrees of the offense to the next highest level of severity.

With these amendments, I respectfully urge your favorable consideration of this bill.

Thank you for the opportunity to testify. Should you have any questions, please do not hesitate to contact me.

A BILL FOR AN ACT

RELATING TO NEGLIGENT HOMICIDE.

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

SECTION 1. Section 707-702.5, Hawaii Revised Statutes, is amended to read as follows:

"§707-702.5 Negligent homicide in the first degree. (1)

A person commits the offense of negligent homicide in the first degree if that person causes the death of:

- (a) Another person by the operation of a vehicle in a negligent manner while under the influence of drugs or alcohol; or
- (b) A vulnerable user by the operation of a vehicle in a negligent manner.

(2) Negligent homicide in the first degree is a class [B] A felony."

SECTION 2. Section 707-703, Hawaii Revised Statutes, is amended to read as follows:

"§707-703 Negligent homicide in the second degree. (1) A person commits the offense of negligent homicide in the second degree if that person causes the death of:

- (a) Another person by the operation of a vehicle in a negligent manner; or
- (b) A vulnerable user by the operation of a vehicle in a manner that constitutes simple negligence as defined in section 707-704(2).

(2) Negligent homicide in the second degree is a class [C] B felony."

SECTION 3. Section 707-704, Hawaii Revised Statutes, is amended to read as follows:

"§707-704 Negligent homicide in the third degree. (1) A person is guilty of the offense of negligent homicide in the third degree if that person causes the death of another person by the operation of a vehicle in a manner which is simple negligence.

(2) "Simple negligence" as used in this section:

- (a) A person acts with simple negligence with respect to the person's conduct when the person should be aware of a risk that the person engages in that conduct.
- (b) A person acts with simple negligence with respect to attendant circumstances when the person should be aware of a risk that those circumstances exist.
- (c) A person acts with simple negligence with respect to a result of the person's conduct when the person should be aware of a risk that the person's conduct will cause that result.
- (d) A risk is within the meaning of this subsection if the person's failure to perceive it, considering the nature and purpose of the person's conduct and the circumstances known to the person, involves a deviation from the standard of care that a law-abiding person would observe in the same situation.

(3) Negligent homicide in the third degree is a ~~[misdemeanor.]~~ class C felony."

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

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval.

DRAFT

Report Title:

Homicide

Description:

Recategorizes the penalty categories for each of the 3 degrees of the offense of negligent homicide to the next highest level of severity.

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

SB-2163

Submitted on: 3/28/2022 3:25:10 PM

Testimony for JHA on 3/29/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Ashley A. Menor	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Rhoads and Members of the Committee on Judiciary,

My name is Ashley A. Menor. I am a graduate student at the University of Hawaii at Manoa in the Masters of Social Work program. I am writing as a concerned citizen to express my support of SENATE BILL 2163 to increase the penalty for those who caused the death of another while OVUII to a first-degree class A felony if the person has prior convictions OVUII.

I was involved in prevention efforts by working closely with children and families to educate them about the dangers of alcohol and drug use, and current laws in place. My efforts were to bring awareness and to help them make responsible decisions. Hearing the news about the deadly hit and run that occurred in January with the 73-year old man named Augustin Dela Cruz made me very upset because the driver, Saul Martinez, did not learn from his previous DUI convictions. This incident proves that drivers with previous convictions need to be held accountable for their actions with a higher penalty. Kaulana's Law which was in effect in 2018 increased the penalties for those who OVUII and flee the scene of a fatal crash. It would be prominent to increase the penalty for those who OVUII and have prior convictions of OVUII as well.

This bill will cause accountability, and bring justice to those families such as the Dela Cruz family. I support SENATE BILL 2163, relating to negligent homicide. Thank you for the opportunity to testify. You may contact me if you have any questions.

Mahalo,

Ashley A. Menor

SB-2163

Submitted on: 3/28/2022 3:55:41 PM

Testimony for JHA on 3/29/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Tiana Tamura	Individual	Support	Written Testimony Only

Comments:

Aloha Chair and Sentate Committee,

My name is Tiana and I am currently completing my Master's degree of Social Work from the University of Hawaii. I am writing this testimony to support SB2163. Killing another individual while operating a vehicle under the influence should be taken very seriously, which is why I support the changing of the charge to a class A felony. Hopefully by increasing the penalty to a class A felony will encourage the residents of Hawaii to stop operating a vehicle under the influence. Hawaii should do whatever it takes to protects their residents, kupuna, and keiki and this change of a class A felony is a step in the right direction. Thank you for your time and consideraton.

Mahalo,

Tiana

University of Hawaii Manoa MSW student

LATE

Representative Mark M. Nakashima, Chair
Representative Scot Z. Matayoshi, Vice Chair
Committee on Judiciary and Hawaiian Affairs

River C. Nygard
rcnygard@hawaii.edu

Tuesday, March 29th, 2022 at 2:00PM

Support for S.B. No. 2163, RELATING TO NEGLIGENT HOMICIDE

I am a graduate student at the Thompson School of Social Work at UH Mānoa, having lived on O‘ahu for six years after being born and raised in Alaska. Drunk driving had affected my life personally on both sides of the issue, losing a friend’s life to a drunk driver as well as having acquaintances and close community members being arrested for the offense. This issue had impacted my life and the lives of so many I know because Alaska has such incredibly high rates of driving under the influence of alcohol and other drugs.

Moving here I thought, surely it would be different - Hawai‘i is more focused on the collective, with more value placed on ‘ohana and love thy neighbor. The culture here (referring to both Hawaiian culture and local culture) places emphasis on accountability for one’s actions and working together to improve where you live and love. How is it possible then, that in my six years here, I have already lost another loved one to someone driving under the influence? In my age group I very frequently hear people bragging about how they were “so drunk when they drove home last night” touting how “good” they are at drunk driving. This problem is not unique to Hawai‘i, of course, but with the aloha spirit and sense of tight-knit community of these islands we have an opportunity to use those strengths to tackle a problem that has already touched too many lives in our home. We need to shift the view of drunk driving from something casual that everyone does, something that you get a slap on the wrist your first offense for, to something with consequences that shows how strongly we feel about driving under the influence.

I understand that people make mistakes, but once you make the same mistake twice and your selfishness kills someone I urge the state to exercise more empathy for the victims and their families than the person who refused to pay \$30 for a taxi. People that have already been caught for this offense and kill someone deserve a class A felony, which is why I urge the committee to pass S.B. No. 2163. Mahalo nui loa for your time and the opportunity to testify on an issue as important and close to my heart as this one.