



The Judiciary, State of Hawai‘i

Testimony to the Senate Committee on Judiciary

Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

Monday, February 24, 2020, 12:00 p.m.
State Capitol, Conference Room 016

WRITTEN TESTIMONY ONLY

By
Calvin C. Ching
Deputy Chief Court Administrator
First Circuit

Bill No. and Title: Senate Bill No. 2630, Relating to Monetary Obligations.

Purpose: Prohibits the imposition of restrictions on a person’s ability to obtain or renew a driver’s license or to register, renew the registration of, or transfer or receive title to a motor vehicle, as a consequence of unpaid monetary obligations. Does not affect driver’s license suspensions related to excessive speeding, lack of motor vehicle insurance, or non-compliance with a child support order.

Judiciary’s Position:

The issue at the heart of this bill -- creating alternatives for resolution of traffic infractions and lifting license and registration stoppers so that persons of limited financial means are not precluded from driving -- was explored and discussed in depth by the Final Report of the Financial Hardship Task Force to the Thirtieth Legislature of the State of Hawai‘i. The task force recommendations are covered by HB2751 (relating to financial hardship), and the Judiciary strongly supports that bill. The Judiciary also notes that the alternatives proposed by HB2751 could be implemented immediately.

A. Recommendations of the Act 112 Financial Hardship Task Force



Although the current system provides options for cited motorists who are experiencing financial hardship, the Financial Hardship Task Force recommended ways to build upon these options to improve the traffic system and remove barriers for motorists:

1. Give the courts greater judicial discretion in setting traffic penalties, particularly for those traffic offenses that commonly lead to high monetary assessment amounts.
2. Expand the restricted license program under Hawai'i Revised Statutes (HRS) § 286-109(c)(1), which is similar to a payment plan, to allow more motorists to qualify for the program.
3. Increase the community service conversion rates.
4. Create uniform procedures for taking into consideration a motorist's ability to pay a monetary assessment.
5. Further decriminalize traffic crimes that are deemed non-serious in nature.
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.
7. Increase visibility of all financial hardship options that are available.

More information about the current financial hardship options and final task force recommendations is available in the Final Report of the Act 112 Financial Hardship Task Force.¹

The Financial Hardship Task Force considered, but ultimately did not recommend, the elimination of driver's license and motor vehicle registration stoppers. Nevertheless, the Judiciary recognizes the tension that sometimes exists between laws that impose penalties on motorists who fail to drive safely and laws that prevent those motorists from renewing their drivers' licenses and vehicle registrations because they did not (or could not) timely pay monetary assessments for traffic violations. The Judiciary understands and appreciates that the Legislature must ultimately make a policy decision about how best to balance these competing concerns.

B. Prospective Elimination of License and Registration Stoppers

If the Legislature believes that license and registration stoppers do more harm than good, the Judiciary takes no position as to the *prospective* relief set forth in Section 9.

C. Retroactive Elimination of License and Registration Stoppers

¹ 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



However, as to the *retroactive* relief set forth in Section 10, implementation of retroactive clearances across the board would be costly, requiring the allocation of additional resources or diversion of existing ones to the detriment of the public and the motorist seeking relief. To address these operational concerns, the Judiciary respectfully suggests the process for retroactive clearances be triggered by a motorist's petition for relief, rather than systematic elimination of all retroactive stoppers, which would allow for a more efficient and orderly process of retroactive relief.

1. Operational Concerns Regarding Undistinguishing Retroactive Relief

At present, there are over 154,000 active motor vehicle registration stoppers. Clearing a single stopper requires action by traffic violations bureau or other specialized court staff, a judge, and a fiscal officer; if each of these individuals spent an average of just 20 minutes each to complete the tasks in their assigned areas necessary to clear a stopper, it would equate to approximately 154,000 work hours (*i.e.*, 19,250 days of full-time work) to retroactively lift all stoppers. Unless additional personnel positions were created and funded, these work hours would negatively impact the Judiciary's ability to ensure that all of the cases within the court's jurisdiction – not just traffic citations, but also landlord/tenant disputes, temporary restraining orders, small claims cases, DUI cases, and criminal charges – are heard and adjudicated in a timely manner.

Furthermore, the current language set forth in section 9 of the proposed bill directs the Judiciary to work with the counties to identify affected individuals and to take any further action necessary to effectuate the bill. While the Judiciary is willing to do so, it notes that implementation would therefore appear to require a similar increase in the personnel at the respective county agencies. Put another way, even if the courts were to issue 154,000 orders to clear motor vehicle registration stoppers, the agencies with authority to issue motor vehicle registration registrations may not have the current capacity to immediately lift the stoppers referenced in those orders.

2. Suggested Technical Edits to Facilitate Orderly and Efficient Processing of Requests for Retroactive Relief from License and Registration Stoppers

To address these operational concerns, the Judiciary respectfully suggests that the measure be amended to have individuals petition the court for retroactive stopper clearances. This would create an orderly and efficient way for the Judiciary to address and process driver's license and motor vehicle registration clearances. Such a process would enable the Judiciary to prioritize requests from individuals requiring immediate relief – for example, from individuals who require a motor vehicle registration clearance in order to maintain their status as taxi or rideshare drivers, to renew or obtain motor vehicle insurance, or to transfer title of a vehicle



before relocating to the mainland. Absent such a process, the order in which stoppers are cleared might otherwise be processed in alphabetical or chronological order, leaving someone's fate to the good fortune of having a surname beginning with the letter "A" or the misfortune of a having one beginning with the letter "Z." Furthermore, absent a petitioning process, the Judiciary would need to lift stoppers for individuals who are no longer living, driving, or residing in Hawai'i. As a result, an individual who would obtain no benefit from the lifting of a stopper would be prioritized at the same rate as an individual who would benefit greatly from the immediate stopper relief.

Thus, if the Legislature would like to keep retroactive elimination of stoppers, the Judiciary respectfully suggests the following technical edit:

SECTION 10. Any person prevented from obtaining or renewing a driver's license and/or motor vehicle registration solely due to failure to pay any monetary assessment imposed under Hawaii Revised Statutes chapter 291D may petition the court for a driver's license and/or motor vehicle clearance. ~~All existing restrictions on driver's licenses and motor vehicle registrations or issuances or transfers of title that have been imposed pursuant to section 291D-10, Hawaii Revised Statutes, shall be void and unenforceable as of the effective date of this Act. The judiciary shall work with the counties to identify persons directly affected by the restrictions imposed pursuant to section 291D-10, Hawaii Revised Statutes, and take any actions necessary to effectuate the purposes of this Act.~~

As to the effective date of the bill, the Judiciary respectfully requests that the effective date be extended to give the Judiciary ample time for implementation. The Judiciary also notes that under chapter 291D of the Hawai'i Revised Statutes, a case is commenced on the date a citation is issued. Specifying a citation issuance date in the bill facilitates the computer programming and information systems updates and streamlines processing by staff. To this end, the Judiciary respectfully suggests the following technical edit:

SECTION 12. This Act shall apply to any citation issued on January 1, 2021 [or some other date certain], and shall take effect on _____. ~~This Act shall take effect upon its approval.~~

Thank you for the opportunity to testify on this measure.



SB2630
RELATING TO MONETARY OBLIGATIONS
Ke Kōmike Kenekoa o ka Ho‘okolokolo

Pepeluali 24, 2020

12:00 p.m.

Lumi 016

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on SB2630, which would limit the imposition of restrictions on a person’s ability to obtain or renew a driver’s license or motor vehicle registration, commonly referred to as “stoppers,” as a consequence of certain unpaid monetary obligations.

OHA seeks to promote ho‘okahua waiwai or economic self-sufficiency for our beneficiaries, who are disproportionately affected by financial hardship. OHA accordingly has concerns regarding the cascading financial impacts that stoppers may have on indigent Native Hawaiians, insofar as stoppers may be issued due to an indigent individual’s inability to pay fines or fees, and may only further inhibit such an individual’s ability to earn a living and remain economically stable and to provide for their families and themselves. Notably, if a person cannot afford to pay their traffic or parking ticket, they will still be too poor to pay it if their ability to renew their driver’s license or vehicle registration is suspended; a stopper and the resulting inability to (legally) drive may instead limit their ability to maintain a job or earn a living and only drive them deeper into poverty. Therefore, OHA appreciates this measure’s intent to reduce the unnecessary and harsh financial impacts of stoppers on indigent individuals, including Native Hawaiians.¹

OHA also has longstanding concerns regarding the disparate impact of the criminal justice system on Native Hawaiians, which stoppers may only exacerbate. For example, should an indigent individual subject to a stopper choose to drive without a valid license – in order to maintain employment necessary to cover housing or family expenses or for other reasons – they may risk being subject to criminal liability including imprisonment and a \$1,000 fine. Stoppers can therefore act as a mechanism to further criminalize those with financial challenges, including a disproportionate number of Native Hawaiians. Accordingly, OHA also appreciates that this measure may help to mitigate a contributing factor to the overrepresentation of Native Hawaiians in our criminal justice system.

Mahalo piha for the opportunity to testify on this measure.

¹ Should the Committee or legislature wish to explore further ways to avoid disproportionately punishing indigent individuals for their poverty, OHA recommends the examination and adoption of recommended American Bar Association guidelines, available at https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_ind_10_guidelines_court_fines.pdf.



Pono Hawai'i Initiative

Josh Frost - President • Patrick Shea - Treasurer • Kristin Hamada
Nelson Ho • Summer Starr

Monday, February 24, 2020

Relating to Monetary Obligations
Testifying in Support

Aloha Chair and members of the committee,

The Pono Hawai'i Initiative (PHI) **supports SB2630 Relating to Monetary Obligations**, which prohibits monetary fines from restricting a person's ability from renewing or obtaining your driver's license or car registration; commonly referred to as "stoppers".

These "stoppers" end to create roadblocks for low-income individuals and can lead to further financial issues because of the inability to get a job without legal identification or get to a job without means of transportation. Several states have already enacted reforms to repeal this practice. Let's remove these "stoppers" and unnecessary punishments on our low-income community.

For all these reasons, we urge you to move this bill forward.

Mahalo for the opportunity,
Gary Hooser
Executive Director
Pono Hawai'i Initiative

LATE



Committee: Committee on Judiciary
Hearing Date/Time: Monday, February 24, 2020, 12:00 p.m.
Place: Conference Room 016
Re: *Testimony of the ACLU of Hawai'i in support of S.B. 2630, Relating to Monetary Obligations*

Dear Chair Rhoads, Vice Chair Keohokalole, and Committee Members:

The American Civil Liberties Union of Hawai'i (ACLU of Hawai'i) writes **in support of S.B. 2630**, a bill to end the counterproductive practice of driver's license and motor vehicle registration stoppers. S.B. 2630 will save the state money, increase the number of insured drivers, and end a harmful practice that pushes vulnerable communities into poverty.

Stoppers are ineffective and disproportionately burden Hawaii's working poor. Roughly half of Hawaii's families struggle to meet basic needs.¹ 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 fine—away from financial ruin.² License and registration stoppers, which prevent a person from obtaining or renewing their license or registration until they pay outstanding traffic or parking tickets, unfairly punish this population, who stand to lose much more than their ability to drive. Since the vast majority of Hawaii's workforce drives to work,³ losing your license can often mean losing your job, or being unable to take your kids to school or to the doctor. This disproportionately impacts Native Hawaiians, who are more likely to live in poverty and therefore less likely to be able to afford an unanticipated expense.⁴ While courts may consider an individual's ability to pay and may adjust or waive fines, the burden is on motorists to request this and it is the understanding of the ACLU of Hawai'i that this option is not often utilized; 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 a fine adjustment.

¹ ALICE, a Study of Financial Hardship in Hawai'i, 2017 Report. Aloha United Way (2017).

² 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>.

³ U.S. Census Bureau, 2018. American Community Survey, *Hawaii 5-Year Estimates Data Profiles*.

⁴ U.S. Census Bureau, 2018. 2017 American Community Survey, *1-Year Estimates*.

Recognizing the burden imposed by stoppers, a growing body of scholarship condemns the practice.⁵ Many states are considering or have already enacted reforms similar to S.B. 2630.⁶ The American Bar Association recently denounced the use of license revocations for nonpayment and instead recommends proportionate income-based fines.⁷

License and registration stoppers do not work. According to a Washington Post study, up to 204,067 Hawai'i drivers had stoppers on their record in 2017, or roughly 18% of the state's driving age population in that year.⁸ Over half of these cases were already in collections at the time of the study. These high numbers suggest that the problem is not willful nonpayment, but rather, an inability to pay. Stoppers, then, will never be an effective solution because they do not cure the motorist's inability to afford to pay their ticket.

License and registration stoppers are not only ineffective—they're counterproductive. As we've found in other jurisdictions, Hawaii's system of license and registration stoppers only makes it *more* difficult for people to pay their traffic and parking fines. The main reason for this is clear: revoking a person's ability to drive cuts out their primary mode of transportation to get to the job that will allow them to earn money to pay their ticket. This is especially true for residents in rural areas and on neighbor islands, where public transportation is generally less available. While restricted licenses *may* be granted, eligibility criteria are strict and do not include transportation outside of what is required to work, such as taking your child to the doctor. It is no wonder that the lack of legal ability to drive has been found to have a strong correlation to unemployment or underemployment.⁹

Worse still, after a certain amount of time, people must pay not only the full amount of the ticket, but a hefty surcharge to the Texas-based private collection agency as well.¹⁰ This makes it even *less* likely that they will be able to afford to lift their stopper.

⁵ See, e.g. Danielle Conley and Ariel Levinson-Waldman, *Discriminatory Driver's License Suspension Schemes*, American Constitution Society (March 2019).

⁶ This year, Illinois ended license suspensions for unpaid parking tickets. In 2019, Montana ended license suspensions for unpaid court debt. In 2018, Idaho ended license suspensions for unpaid court fines and fees, and decriminalized driving on a suspended license. In 2017, California ended license suspensions for unpaid traffic fines. New York and Colorado are both considering similar legislation this year.

⁷ *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>.

⁸ Justin Wm. Moyer, *More than 7 million people may have lost driver's licenses because of traffic debt*, Washington Post (May 19, 2018), https://www.washingtonpost.com/local/public-safety/more-than-7-million-people-may-have-lost-drivers-licenses-because-of-traffic-debt/2018/05/19/97678c08-5785-11e8-b656-a5f8c2a9295d_story.html#comments-wrapper.

⁹ Conley and Levinson-Waldman, *supra*.

¹⁰ If you fail to pay within 90 days (for judgments of \$500 or less) or 180 days (\$500 or more), 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.

S.B. 2630 will increase the number of insured motorists. Stoppers make it impossible for a person to obtain motor vehicle insurance. This is generally true for private auto insurers, and though Hawai‘i offers no-fault insurance for low-income drivers, motorists who would otherwise meet the eligibility requirements but who have an expired license or registration due to a stopper cannot qualify for the state program.¹¹ This exposes other motorists to liability in the event of an accident.

Stoppers act as a funnel into the criminal legal system. The ACLU of Hawai‘i has heard from public defenders across the state that much of their workload involves cases of driving without a license after a stopper had been placed on the defendant’s record for an unpaid ticket. Many people are forced into the impossible choice between driving illegally and losing their job, and many will make the desperate decision to continue driving, a traffic crime punishable by up to a \$1,000 fine or up to one year in jail.¹² This potentially life-ruining consequence pulls families deeper into poverty and wastes taxpayer money prosecuting and defending criminal cases that stem from these stoppers. Other jurisdictions have found that the money spent enforcing unpaid tickets exceeded the value of the debt itself.

Hawaii’s system of license stoppers may be unconstitutional. In late 2019, the national American Civil Liberties Union, alongside ACLU of South Carolina, Southern Poverty Law Center, Terrell Marshall Law Group PLLC, and the South Carolina Appleseed Legal Justice Center filed a federal lawsuit challenging South Carolina Department of Motor Vehicles’ policy of automatically suspending the drive’s licenses of people who cannot afford their traffic tickets.¹³ The lawsuit argues that these suspension schemes violate an individual’s rights to Equal Protection and Due Process under the Fourteenth Amendment of the United States Constitution, which require an ability-to-pay consideration before an individual is punished for an unpaid fine. Similar constitutional challenges have been filed in Michigan, Montana, Tennessee, Virginia, and Oregon.

For the above reasons, the ACLU of Hawai‘i respectfully requests that your Committee support this measure. 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 over 50 years.

¹¹ H.A.R. § 17-654-3.

¹² H.R.S. § 286-136.

¹³ See Complaint, *White v. Shwedo* (D.S.C., filed Oct. 30, 2019).



Parents And
Children Together
BUILDING THE RELATIONSHIPS THAT MATTER MOST

LATE

TO: Chair Rhoads, Vice Chair Keohokalole, and Members of the Senate Committee on Judiciary

FROM: Ryan Kusumoto, President & CEO of Parents And Children Together (PACT)

DATE/LOCATION: February 24, 2020; 12:00 p.m., Conference Room 016

RE: TESTIMONY IN SUPPORT OF SB 2630– RELATING TO MONETARY OBLIGATIONS

We ask you to support SB 2630 which prohibits the imposition of restrictions on a person's ability to obtain or renew a driver's license or to register, renew the registration of, or transfer or receive title to a motor vehicle, as a consequence of unpaid monetary obligations. Does not affect driver's license suspensions related to excessive speeding, lack of motor vehicle insurance, or non-compliance with a child support order. We support this bill which prohibits fines and fees that penalize those who are under-resourced and simply do not have the means to pay meanwhile who pose zero threat to public safety.

License and motor vehicle stoppers have not proven to be effective, in fact, they are counterproductive and push people further into cycles of debt and instability. If an individual gets their licensed revoked simply because they could not pay a fine, this could make it difficult to continue with daily tasks like taking care of children and getting to work on time. This will only create greater hardship, not create an incentive to make payment. Many states have already enacted reforms to repeal this dangerous practice.

The number of individuals and families whose lives are affected by economic instability in Hawaii is disheartening. The costs associated with economic instability and poverty are well documented. The long-term effects of economic instability and the related chronic stress on individuals and families, especially children, are harmful and detrimental to the potential for healthy and promising futures. Even our working families and tax paying citizens are facing increasing economic pressures with Hawaii's high cost of living and struggle to make ends meet.

Aloha United Way's ALICE (Asset Limited Income Constrained, Employed) Report notes:

- In Hawai'i, there are 165,013 ALICE® households (37% of total households) while another 47,066 households (11% of total households) live below the Federal Poverty Level.
- In total, 48% of Hawaii's families with children have incomes below the ALICE survival budget.
- The average annual household survival budget for a single adult in Hawaii is \$28,128, which translates to an hourly wage of \$14.06.
- \$72,336 is the average annual Household Survival Budget for a family of four living in Hawaii.
- 37% of senior households in Hawaii qualify as ALICE.
- Many of our ALICE and below families do not have adequate savings.

Economic instability and poverty across the globe has reached epidemic proportions. In Hawaii, it is no different. As one of Hawaii's social service providers, serving over 15,000 clients annually, we have a vested interest in working together with all sectors to help Hawaii's residents break the cycles of poverty. Over 90% of the clients PACT serves are living in deep poverty. Many factors contribute to poverty: political and economic structures, community conditions, exploitation and the least of which is an individual's choice. We applaud the legislature for helping to break down some of the political barriers and structures that perpetuate cycles of instability for Hawaii families.

Founded in 1968, Parents And Children Together (PACT) is one of Hawaii's not-for-profit organizations providing a wide array of innovative and educational social services to families in need. PACT helps families identify, address and successfully resolve challenges through its 18 programs. Among its services are: early education programs, domestic violence prevention and intervention programs, child abuse prevention and intervention programs, childhood sexual abuse supportive group services, child and adolescent behavioral health programs, sex trafficking intervention, poverty prevention and community building programs.

Thank you for the opportunity to testify in **support of SB 2630**, please contact me at (808) 847-3285 or rkusumoto@pacthawaii.org if you have any questions.



Hawaii
Children's Action Network Speaks!
Building a unified voice for Hawaii's children

Hawai'i Children's Action Network Speaks! is a nonpartisan 501c4 nonprofit committed to advocating for children and their families. Our core issues are safety, health, and education.

To: Senator Rhoads, Chair
Senator Keohokalole Chair
Senate Committee on Judiciary

LATE

Re: SB 2630- Relating to monetary obligations
Hawai'i State Capitol, Room 016
12:00PM , 2/24/2020

Chair Rhoads, Vice Chair Keohokalole, and committee members,

On behalf of Hawaii Children's Action Network Speaks!, I am writing **in support of SB 2630**-relating to monetary obligations, which would prohibits the imposition of restrictions on a person's ability to obtain or renew a driver's license or to register, renew the registration of, or transfer or receive title to a motor vehicle, as a consequence of unpaid monetary obligations.

The current practice of placing a "stopper" on a driver's license due to failure to pay a traffic or parking fine can have a tremendous impact on a family. For lower socioeconomic status families, the unpaid fine may be related to inability to pay, rather than delinquency. A stopper isn't a motivator for payment, it becomes a deterrent to the person being able to pay. By taking away a person's ability to drive you also risk the person maintaining employment and the future prospect of ever paying down their fine. Almost half of our families are struggling to make ends meet and the practice of stoppers can put a family's well-being in jeopardy. As this legislature considers ways to improve the lives of working families in Hawaii, the practice of stoppers should be heavily scrutinized and hopefully ended.

For these reasons, HCAN Speaks! respectfully requests the Committee to support this measure.

Thank you,

Kathleen Algire
Director, Public Policy and Research

LATE

SB-2630

Submitted on: 2/24/2020 10:46:32 PM

Testimony for JDC on 2/24/2020 12:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Raelyn Reyno Yeomans	Individual	Support	No

Comments: