



*The Judiciary, State of Hawai'i*

**Testimony to the Thirty-First State Legislature, 2021 Session**

**House Committee on Finance**  
Representative Sylvia Luke, Chair  
Representative Ty J.K. Cullen, Vice Chair

March 2, 2021, 12:00 p.m.  
State Capitol, Conference Room 308  
VIA VIDEOCONFERENCE

By:  
Mark M. Santoki  
Acting Deputy Chief Court Administrator  
First Circuit

**WRITTEN TESTIMONY ONLY**

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**Bill No. and Title:** House Bill No. 631 – Relating to Financial Hardship

**Purpose:** Provides judges with greater discretion to adjust the amount owed or financial circumstances by a person who violates certain traffic offenses based on the person's inability to pay. Decreases the imprisonment term to contumacious nonpayment ratio. Increases the amount of credit given to a person committed for contumacious nonpayment.

**Judiciary's Position:**

The Judiciary supports this measure as it is consistent with the recommendations of the Act 112 Financial Hardship Task Force (2019).

The Judiciary understands that especially now there are those in our community that are experiencing hardships. This bill will allow our judges to have greater discretion when determining if a person is suffering from a hardship and is unable to pay. For clarity, the Judiciary would like to suggest the following technical amendment:

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Page 1, line 15: Section 2 – “(c) [~~Any person cited under this section~~] Any person fined under section 286-102, 286-122, 286-130, 286-131, 286-132, 286-133, or 286-134 shall be given an opportunity to petition . . .”

Page 6, line 20: Section 4 – “(4) [~~Any person cited under this section~~] Any person fined under 431:10C-117 shall be given an opportunity to petition . . .”

Charges brought under these enumerated sections do not automatically result in the imposition of a fine, as they are criminal in nature. Fines and/or other penalties under these sections are only imposed in the event of a conviction. Therefore, the Judiciary believes that these amendments will make it clear that a person must be fined not merely cited, for the respective sections to apply.

Thank you for the opportunity to testify on this measure.

**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 SYLVIA LUKE, CHAIR  
THE HONORABLE TY J.K. CULLEN, VICE CHAIR  
HOUSE COMMITTEE ON FINANCE  
Thirty-First State Legislature  
Regular Session of 2021  
State of Hawai'i**

March 1, 2021

**RE: H.B. 631 – RELATING TO FINANCIAL HARDSHIP**

Chair Luke, Vice Chair Cullen, and members of the House Committee on Finance, the Office of the Prosecuting Attorney of the County of Kaua'i submits the following testimony in support of H.B. 631.

The purpose of this Bill is to provide greater judicial discretion to adjust fines by considering the financial circumstances of defendants who violate certain traffic offenses. This Bill also reduces the imprisonment term to contumacious nonpayment ratio and increases the amount of credit given to a person detained for willful nonpayment.

Allowing for increased judicial discretion to reduce fines and terms of imprisonment for contumacious nonpayment of fines will limit, and reduce, disparate impact discrimination of individuals in the community based on race or socioeconomic status. Furthermore, the current framework for punishment of contumacious nonpayment of certain traffic offenses bars true rehabilitation, reincorporation into society, and the overall welfare of the families impacted by individuals who may be limited to provide for, and support, their families as a result of stringent fines or terms of imprisonment. Lastly, by limiting the offender's ability to provide for family and be productive in society, the judiciary is limiting the tax base from which it draws funding. This is counterproductive to supporting a financially healthy judiciary and criminal justice system.

For these reasons, the Office of the Prosecuting Attorney supports the passage of H.B. 631. Thank you for this opportunity to testify.

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 SYLVIA LUKE, CHAIR**  
**HOUSE COMMITTEE ON FINANCE**  
**Thirty-First State Legislature**  
**Regular Session of 2021**  
**State of Hawai`i**

March 2, 2021

**RE: H.B. 631; RELATING TO FINANCIAL HARDSHIP.**

Chair Luke, Vice-Chair Cullen and members of the House Committee on Finance, the Department of the Prosecuting Attorney of the City and County of Honolulu ("Department") submits the following testimony supporting the intent of H.B. 631 with comments.

The purpose of H.B. 631 is to provide judges with greater discretion as it relates to fines and fees imposed in certain traffic offenses. Although this bill has good intentions, the Department believes that H.B. 631 is premature at this time and fails to consider the unintended consequences associated with a number of amendments proposed.

Last year the Legislature passed Act 59, Session Laws of Hawaii 2020. It was one of the few bills that passed last year, but due to court closures associated with COVID-19 has not been utilized as envisioned. Act 59 essentially prohibited the imposition of restrictions on a person's ability to obtain or renew a driver's license or to register, renew the registration, or transfer or received title to a motor vehicle as a consequence of unpaid monetary obligations. Additionally, Act 59 allowed for certain individuals to petition the court for a driver's license or motor vehicle clearance. The Department believes that allowing the courts to implement Act 59 and substantial time to collect data before introducing potentially duplicative measures would be prudent.

The Department sees the value in Section 4 (pg. 9, ln. 4-14) which increases the conversion rate of imprisonment to \$50. However, as it relates to the proposed flexibility in sentencing, the Department believes that currently, courts already have the inherent ability to "revoke"/waive fees or convert fines to community service. Additionally, programs such as Volunteer Legal Services also provide services relating to the proposed changes in this bill. Therefore, although H.B. 631 provides limited value, it may not be an ideal vehicle for the purpose it is seeking.

For all of the foregoing reasons, the Department of the Prosecuting Attorney of the City and County of Honolulu supports the intent of H.B. 631 with comments. Thank you for the opportunity to testify on this matter.

**HB-631**

Submitted on: 2/28/2021 7:06:47 PM

Testimony for FIN on 3/2/2021 12:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Gabe Johnson	Individual	Support	No

Comments:

Aloha.

I'm Gabe Johnson the Council member representing Lana'i for the Maui County Council.

I rise in support of this bill for many reasons, but I would like to state for the record that this bill can help people avoid costly bench warrants that will lead to more costs for everyone.

Mahalo

Gabe Johnson

# STRONG SUPPORT FOR THOSE WITH FINANCIAL NEEDS: PASS HB631!

Chair Sylvia Luke  
Chair, Committee on Finance  
Hawaii State Capitol  
Room 306

**Aloha Chair Luke, Vice Chair Cullen, and Members,**

I write in **strong support** of HB 631 Relating to Financial Hardship, and thank you for hearing this measure.

Individuals experiencing financial hardship often fall into a **cyclical trap in which they accrue fines or other penalties due to traffic infractions, then end up receiving even more penalties and even imprisonment because they are simply unable to pay the original fine.** According to Aloha United Way's (AUW) Study of Financial Hardship Report (2017), roughly half of Hawaii's families cannot afford to meet basic needs, a number that unfortunately is higher now with the COVID-19 pandemic. **This bill argues that disadvantaged individuals should be given the opportunity to redeem themselves and not get trapped forever by fines and imprisonment.**

In 2019 the legislature passed Act 112, which established the Financial Hardship Taskforce, which under Chief Justice Recktenwald published a report with multiple recommendations. Based on these recommendations, this bill seeks to:

- 1). Provides judges with greater discretion to adjust the amount owed by a person who violates certain traffic offenses based purely on the person's inability to pay.
- 2). Decreases the imprisonment term to contumacious nonpayment ratio. Increases the amount of credit given to a person committed for contumacious nonpayment.

I respectfully urge passage of this measure by the committee. Thank you for your consideration.

Mahalo nui loa,

**Daniel Lee**



LATE \*Testimony submitted late may not be considered by the Committee for decision making purposes.

## TESTIMONY IN STRONG SUPPORT of HB631 Relating to FINANCIAL HARDSHIP

Chair Sylvia Luke  
Committee on Finance  
415 S. Beretania Street  
Honolulu, HI 96813

Mahalo piha Chair Luke, Vice Chair Cullen, and Committee Members for hearing this bill.

I write in **strong support** for ending the destructive cyclical trap that people struggling to make ends meet find themselves in, when they face stiffer penalties for their inability to pay. **This bill allows people to make themselves whole again in the eyes of the law.**

Currently judges have **minimum sentencing requirements**, even if an offender can't pay off a citation because they can't afford to. This bill would allow judges to consider an individual's financial hardship **ONLY if they can demonstrate that their inability to pay off a citation is due to financial hardship.**

This is not a, "give them free reign, unequal justice," situation. This is a common sense measure that says, "if someone can't pay off a fine because they need to feed their family and can't afford to pay off the citation, does it make sense to continue fining them?" **Furthermore, the current structure says that if someone isn't paying off their fines, they need to be thrown in jail.** It is tragic that a person of lower income is thrown into jail, where they can't earn income and take care of their family, because they are penalized for not paying off a ticket that they didn't have money to pay off in the first place.

Imagine a person who cannot afford to pay for their registration, which is very high on O'ahu. They receive a ticket while going to work. They can't pay off the ticket, and receive higher fines. They eventually need to go to prison or do community service because they can't pay their fines off even though they want to. They now have this on their record, time away from work, and an even harder time to make ends meet. This does not serve justice, doesn't make our streets safer, doesn't help those in need, and just generally a bad situation.

Thank you for your consideration.

With Aloha,

Rikako Ishiki

TO THE HOUSE OF REPRESENTATIVES  
THE THIRTY-FIRST LEGISLATURE  
REGULAR SESSION OF 2021  
COMMITTEE ON FINANCE  
Rep. Sylvia Luke, Chair  
Rep. Ty J.K. Cullen, Vice Chair  
DATE: Tuesday, March 2, 2021  
TIME: 12:00 p.m.  
PLACE: VIA VIDEOCONFERENCE  
Conference Room 308  
State Capitol  
415 South Beretania Street

POSITION: **STRONG SUPPORT FOR HB631**

House Bill 631 will provide judges with greater discretion to adjust the amount(s) owed and taking into consideration the totality of an offender's financial circumstances regarding certain traffic offenses based on the person's inability to pay.

This bill will allow judges to determine the level of flexibility that a case should have and should increase the ability for persons under judgment to not only pay back the state for offense(s) but also allow the person to live not compounded with other issues such as being forced to pay on offenses and not having means to live and survive. For persons in the lower economic strata areas, this is all too familiar. As the language of the bill states.

“The judge will have the discretion to enter an order that allows the person additional time for payment, reduces the amount of each installment, revokes the fee or fine, or unpaid portion thereof, in whole or in part, or converts any outstanding fine to community service”

By enabling a restorative justice approach as stated in HB 631 and less of a draconian approach to criminal justice offenses, persons that are under judgment will have multiple ways to pay back society aside from just monetary means, this approach is indicative of proposed amendments to **HRS §291D-9**

Whereby the following is proposed:

(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.

This also is in keeping with a restorative justice approach and seeks restoration rather than mere recompense. Reading this bill and looking at the possible pros and cons, I can only see positive effects in my community.

Therefore, I recommend that this bill be passed out of this committee. This bill and its intent will have a positive effect in my community and other socio-economic challenged areas throughout Hawaii. All amendments to this bill should be with the intent of reducing possible ambiguous language or enhancing the intent of the enabling language. Thank you for taking the time in reading my testimony.

Mahalo,

Ken Farm