

JAN 24 2018

A BILL FOR AN ACT

RELATING TO THE JUDICIARY.

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

1 SECTION 1. The legislature finds that the imposition of
2 excessive fines and fees has dire consequences for low-income
3 individuals. Under Hawaii law, an individual who cannot afford
4 to pay a court-ordered fine or fee may have their driver's
5 license suspended for failure to pay. For many individuals,
6 especially those living in more remote areas with minimal or no
7 public transportation, a driver's license suspension may deprive
8 that individual of their only means of transportation to and
9 from work. Furthermore, if an individual with a suspended
10 driver's license is unable to find an alternative means of
11 transportation, that individual may risk losing their
12 employment. With limited or no income, individuals are even
13 less likely to pay the fine or fee, which may lead to greater
14 penalties simply because the individual is unable to pay an
15 initial fine or fee in one lump sum.

16 The purpose of this Act is to address the financial
17 disparity imposed on low-income individuals by:



(1) Requiring the judiciary to implement a payment plan program that offers any person who is unable to pay any court-ordered fines, fees, surcharges, costs, or monetary assessments the option of entering into a payment plan;

(2) Prohibiting the courts from taking certain actions against a person solely because that person is unable to pay any fines, fees, surcharges, costs, or monetary assessments; and

(3) Reinstating driver's licenses that were suspended for nonpayment under certain circumstances.

SECTION 2. Chapter 601, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

"§601-A Payment plan program. (a) The judiciary shall implement a payment plan program that offers any person who is unable to pay any court-ordered fines, fees, surcharges, costs, or monetary assessments the option of entering into a payment plan.



1 (b) The length of the payment plan shall not exceed one
2 year and the amount of the payments shall be adjusted based on
3 the person's income.

4 (c) The judiciary shall order the reinstatement of any
5 driver's license that was suspended if the:

6 (1) Driver's license was suspended solely because the
7 person was unable to pay any fines, fees, surcharges,
8 costs, or monetary assessments; and

9 (2) Person has entered into a payment plan authorized
10 under this section.

11 **§601-B Prohibited court actions.** Notwithstanding any
12 other law to the contrary, a court shall not suspend a person's
13 driver's license or prevent the:

14 (1) Issuance or renewal of the driver's license;

15 (2) Registration or renewal of a motor vehicle's
16 certificate of registration; or

17 (3) Transfer of title to a motor vehicle to another
18 person,

19 solely because that person is unable to pay any fines, fees,
20 surcharges, costs, or monetary assessments ordered by the court;
21 provided that the person has entered into a payment plan



1 authorized pursuant to section 601-A; provided further that this
2 section shall not preclude any court from acting in compliance
3 with federal law."

4 SECTION 3. Section 286-245, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) Whenever a person is convicted of a moving traffic
7 violation based on a statute, ordinance, or rule, fails to
8 appear for a hearing, trial, or other court or administrative
9 proceeding on the moving traffic violation, or fails to pay a
10 fine or court cost ordered for a moving violation, the state
11 judiciary shall forward to the examiner of drivers the record of
12 the conviction[-]; provided that if a person has entered into a
13 payment plan authorized pursuant to section 601-A, the judiciary
14 shall not forward to the examiner of drivers the record of the
15 conviction of any person solely because that person fails to pay
16 any fines, fees, surcharges, costs, or monetary assessments
17 ordered by the court for a moving violation. The record of
18 conviction shall include whether the offender was operating a
19 commercial motor vehicle at the time of the offense, whether the
20 offender was transporting hazardous materials requiring
21 placarding under title 49 Code of Federal Regulations part 172,



1 subpart F, the citation date, the conviction date, the citation
2 number, the court in which the conviction occurred, and the
3 offenses for which the person has been convicted. No record of
4 conviction transmitted and maintained in the statewide traffic
5 records system shall be used for purposes other than the
6 licensing of drivers, including any record of:

- 7 (1) Driving a motor vehicle under the influence of
8 alcohol, a controlled substance, or any drug that
9 impairs driving ability;
- 10 (2) Driving a commercial motor vehicle while the alcohol
11 concentration of the driver's blood is 0.04 or more
12 grams of alcohol per two hundred ten liters of breath
13 or 0.04 or more grams of alcohol per one hundred
14 milliliters or cubic centimeters of blood;
- 15 (3) Refusing to submit to a test to determine the driver's
16 alcohol concentration while driving a motor vehicle as
17 required under sections 286-243 and 291E-11;
- 18 (4) Using a motor vehicle in the commission of any felony;
- 19 (5) Leaving the scene of an accident involving the motor
20 vehicle driven by the person;



- 1 (6) Unlawful transportation, possession, or use of a
2 controlled substance while on duty;
- 3 (7) Driving a commercial motor vehicle if, as a result of
4 prior violations committed while operating a
5 commercial motor vehicle, the driver's commercial
6 learner's permit or commercial driver's license has
7 been revoked, suspended, or canceled, or the driver
8 has been otherwise disqualified from operating a
9 commercial motor vehicle; or
- 10 (8) Causing a fatality through the operation of a
11 commercial motor vehicle, including in the commission
12 of the crimes of manslaughter and negligent homicide
13 in any degree."

14 SECTION 4. Section 291C-170, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§291C-170 Revocation or suspension of license. In
17 addition to the penalties heretofore provided, the court may
18 revoke or may suspend, for a period not to exceed one year, the
19 license of any driver convicted of a violation of any section or
20 provision of the state traffic laws involving a vehicle in
21 motion[-]; provided that if a person has entered into a payment



1 plan authorized pursuant to section 601-A, the court shall not
2 order the revocation or suspension of that person's driver's
3 license solely because the person is unable to pay any fines,
4 fees, surcharges, costs, or monetary assessments ordered by the
5 court."

6 SECTION 5. Section 291D-5, Hawaii Revised Statutes, is
7 amended by amending subsection (d) to read as follows:

8 "(d) The notice of traffic infraction shall include the
9 following:

10 (1) A statement of the specific traffic infraction for
11 which the notice was issued;

12 (2) Except in the case of parking-related traffic
13 infractions, a brief statement of the facts;

14 (3) A statement of the total amount to be paid for each
15 traffic infraction, which amount shall include any
16 fee, surcharge, or cost required by statute,
17 ordinance, or rule, and any monetary assessment,
18 established for the particular traffic infraction
19 pursuant to section 291D-9, to be paid by the driver
20 or registered owner of the vehicle, which shall be
21 uniform throughout the State;



(4) A statement of the options provided in section 291D-6(b) for answering the notice and the procedures necessary to exercise the options;

(5) A statement that the person to whom the notice is issued must answer, choosing one of the options specified in section 291D-6(b), within twenty-one days of issuance of the notice;

(6) A statement that failure to answer the notice of traffic infraction within twenty-one days of issuance shall result in the entry of judgment by default for the State and may result in the assessment of a late penalty, and, that if the person to whom the notice was issued fails to pay the total amount specified in the default judgment within an additional thirty days, enter into a payment plan authorized under section 601-A, or ~~[to]~~ otherwise take action to set aside the default, notice shall be sent to the director of finance of the appropriate county:

(A) That the person to whom the notice of infraction not involving parking was issued shall not be



1 permitted to renew or obtain a driver's license;

2 or

3 (B) Where the notice was issued to a motor vehicle,
4 that the registered owner shall not be permitted
5 to register, renew the registration of, or
6 transfer title to the motor vehicle until the
7 traffic infraction is finally disposed of
8 pursuant to this chapter, except as provided in
9 section 291D-10(b);

10 (7) A statement that, at a hearing requested to contest
11 the notice of traffic infraction conducted pursuant to
12 section 291D-8, no officer shall be present unless the
13 driver timely requests the court to have the officer
14 present, and that the standard of proof to be applied
15 by the court is whether a preponderance of the
16 evidence proves that the specified traffic infraction
17 was committed;

18 (8) A statement that, at a hearing requested for the
19 purpose of explaining mitigating circumstances
20 surrounding the commission of the infraction or in
21 consideration of a written request for mitigation, the



1 person shall be considered to have committed the
2 traffic infraction;

3 (9) A space in which the signature of the person to whom
4 the notice was issued may be affixed; and

5 (10) The date, time, and place at which the person to whom
6 the notice was issued must appear in court, if the
7 person is required by the notice to appear in person
8 at the hearing."

9 SECTION 6. Section 291D-9, Hawaii Revised Statutes, is
10 amended by amending subsection (c) to read as follows:

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

14 (1) Failure to pay a monetary assessment by the scheduled
15 date of payment; provided that the court shall not
16 impose additional assessments under this paragraph for
17 any person who has entered into a payment plan
18 authorized under section 601-A; or

19 (2) The cost of service of a penal summons issued pursuant
20 to this chapter."



SECTION 7. Section 291D-10, Hawaii Revised Statutes, is amended to read as follows:

"§291D-10 Restriction on driver's license and motor vehicle registration. (a) When the person issued a notice of traffic infraction not involving parking fails to pay the total amount of fines, fees, surcharges, costs, or monetary assessments that has been ordered, the court shall cause an entry to be made in the driver's license record so as to prevent the person from acquiring or renewing the person's driver's license until the outstanding amount is paid or the notice of traffic infraction is otherwise disposed of pursuant to this chapter[-]; provided that if a person has entered into a payment plan authorized under section 601-A, this subsection shall not prevent the person from acquiring or renewing the person's driver's license.

(b) In all cases where the registered owner of a motor vehicle to which a notice of traffic infraction has been issued fails to pay the total amount of fines, fees, surcharges, costs, or monetary assessments that have been ordered, the court shall cause an entry to be made in the motor vehicle's record so as to prevent issuance or renewal of the motor vehicle's certificate



1 of registration and transfer of title to the motor vehicle until
2 the outstanding amount is paid or the notice of traffic
3 infraction is otherwise disposed of pursuant to this chapter;
4 provided that if a person has entered into a payment plan
5 authorized under section 601-A or the traffic infraction
6 involves an unpaid parking violation, this subsection shall not
7 prevent the issuance or renewal of the motor vehicle's
8 certificate of registration and transfer of title to the motor
9 vehicle to another person, in which case the clerk of the court
10 shall issue a clearance to effectuate the registration and
11 transfer of title; and provided further that in no event shall a
12 clearance:

13 (1) Absolve the registered owner of the motor vehicle at
14 the time the parking violation was incurred from
15 paying the fine;

16 (2) Prevent any subsequent issuance or renewal of the
17 motor vehicle's certificate of registration and
18 transfer of title to the motor vehicle; or

19 (3) Otherwise encumber the title of that motor vehicle."

20 SECTION 8. Section 291D-12, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§291D-12 Powers of the district court judge sitting in
2 the traffic division. A district court judge sitting in the
3 traffic division and hearing cases pursuant to this chapter
4 shall have all the powers of a district court judge under
5 chapter 604, including the following powers:

6 (1) To conduct traffic infraction hearings and to impose
7 monetary assessments;

8 (2) To permit deferral of monetary assessment or impose
9 community service in lieu thereof;

10 (3) To dismiss a notice of traffic infraction, with or
11 without prejudice, or to set aside a judgment for the
12 State;

13 (4) To order temporary driver's license suspension or
14 driver's license reinstatement; provided that if a
15 person has entered into a payment plan authorized
16 pursuant to section 601-A, the court shall not order
17 the suspension of that person's driver's license
18 solely because the person is unable to pay any fines,
19 fees, surcharges, costs, or monetary assessments
20 ordered by the court;



- 1 (5) To order the director of finance not to issue or renew
2 the driver's license, or to register, renew the
3 registration of, or issue title to a motor vehicle, of
4 any person who has not paid a monetary assessment, has
5 not performed community service in lieu thereof, or
6 has not otherwise satisfied a judgment for the State
7 entered pursuant to this chapter; provided that if the
8 person has entered into a payment plan authorized
9 pursuant to section 601-A, the court shall not issue
10 an order under this paragraph solely because the
11 person has not paid any fines, fees, surcharges,
12 costs, or monetary assessments ordered by the court;
- 13 (6) To approve the issuance or renewal of a driver's
14 license or instruction permit pursuant to section
15 286-109(c);
- 16 (7) To issue penal summonses and bench warrants and
17 initiate contempt of court proceedings in proceedings
18 conducted pursuant to section 291D-13;
- 19 (8) To issue penal summonses and bench warrants and
20 initiate failure to appear proceedings in proceedings
21 conducted pursuant to section 291D-5(d)(10); and



S.B. NO. 3018

(9) To exercise other powers the court finds necessary and appropriate to carry out the purposes of this chapter."

SECTION 9. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 10. In codifying the new sections added by section 2 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 11. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 12. This Act shall take effect on July 1, 2018.

INTRODUCED BY: _____

Paul Rhoads



S.B. NO. 3018

Report Title:

Payment Plan; Driver's License; Motor Vehicle Registration and Title

Description:

Requires the Judiciary to implement a payment plan program that offers any person who is unable to pay any court-ordered fines, fees, surcharges, costs, or monetary assessments the option of entering into a payment plan. Prohibits the courts from taking certain actions against a person solely because of that person's inability to pay. Reinstates driver's licenses that were suspended for nonpayment under certain circumstances.

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

