

JAN 22 2021

A BILL FOR AN ACT

RELATING TO FINANCIAL HARDSHIP.

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

1 SECTION 1. Section 286-136, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§286-136 Penalty.** (a) Except as provided in subsection
4 (b), any person who violates section 286-102, 286-122, 286-130,
5 286-131, 286-132, 286-133, or 286-134 shall be fined not more
6 than \$1,000 or imprisoned not more than thirty days, or both.
7 Any person who violates any other section in this part shall be
8 fined not more than \$1,000.

9 (b) Any person who is convicted of violating section
10 286-102, 286-122, 286-130, 286-131, 286-132, 286-133, or 286-134
11 shall be subject to a minimum fine of \$500 and a maximum fine of
12 \$1,000, or imprisoned not more than one year, or both, if the
13 person has two or more prior convictions for the same offense in
14 the preceding five-year period.

15 (c) Any person cited under this section shall be given an
16 opportunity to petition the court to demonstrate that the
17 person's nonpayment or inability to pay is not wilful. If a



1 person petitions the court, the judge shall make an
2 individualized assessment of the person's ability to pay based
3 on the totality of the circumstances, including but not limited
4 to the person's disposable income, financial obligations, and
5 liquid assets. If the judge determines that the person's
6 nonpayment or inability to pay is not wilful, the judge may
7 enter an order that allows the person additional time for
8 payment, reduces the amount of each installment, revokes the fee
9 or fine, or unpaid portion thereof, in whole or in part, or
10 converts any outstanding fine to community service.

11 [~~e~~] (d) Notwithstanding subsections (a) and (b), a minor
12 under the age of eighteen under the jurisdiction of the family
13 court who is subject to this section shall either lose the right
14 to drive a motor vehicle until the age of eighteen or be subject
15 to a fine of \$500."

16 SECTION 2. Section 291D-9, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§291D-9 Monetary assessments.** (a) A person found to
19 have committed a traffic infraction shall be assessed a monetary
20 assessment not to exceed the maximum fine specified in the
21 statute defining the traffic infraction. The court shall



1 consider a person's financial circumstances, if disclosed, in
2 determining the monetary assessment.

3 (b) Notwithstanding section 291C-161 or any other law to
4 the contrary, the district court of each circuit shall prescribe
5 a schedule of monetary assessments for all traffic infractions,
6 and any additional assessments to be imposed pursuant to
7 subsection (c). The particular assessment to be entered on the
8 notice of traffic infraction pursuant to section 291D-5 shall
9 correspond to the schedule prescribed by the district court.
10 Except after proceedings conducted pursuant to section 291D-8 or
11 a trial conducted pursuant to section 291D-13, monetary
12 assessments assessed pursuant to this chapter shall not vary
13 from the schedule prescribed by the district court having
14 jurisdiction over the traffic infraction.

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

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



1 (d) [The] Upon request of a person claiming inability to
 2 pay a monetary assessment, the court may grant [to a person
 3 claiming inability to pay,] an extension of the period in which
 4 the monetary assessment shall be paid or may impose community
 5 service in lieu thereof.

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

10 SECTION 3. Section 431:10C-117, Hawaii Revised Statutes,
 11 is amended by amending subsection (a) to read as follows:

12 "(a) (1) Any person subject to this article in the capacity of
 13 the operator, owner, or registrant of a motor vehicle
 14 operated in this State, or registered in this State,
 15 who violates any applicable provision of this article,
 16 shall be subject to citation for the violation by any
 17 county police department in a form and manner approved
 18 by the traffic violations bureau of the district court
 19 of the first circuit;

20 (2) Notwithstanding any provision of the Hawaii Penal
 21 Code:



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1 (A) Each violation shall be deemed a separate offense
 2 and shall be subject to a fine of not less than
 3 \$100 nor more than \$5,000 which shall not be
 4 suspended except as provided in subparagraph (B);
 5 and

6 (B) If the person is convicted of not having had a
 7 motor vehicle insurance policy in effect at the
 8 time the citation was issued, the fine shall be
 9 \$500 for the first offense and a minimum of
 10 \$1,500 for each subsequent offense that occurs
 11 within a five-year period from any prior offense;
 12 provided that the judge:

13 (i) Shall have the discretion to suspend all or
 14 any portion of the fine if the defendant
 15 provides proof of having a current motor
 16 vehicle insurance policy; provided further
 17 that upon the defendant's request, the judge
 18 may grant community service in lieu of the
 19 fine, of not less than seventy-five hours
 20 and not more than one hundred hours for the
 21 first offense, and not less than two hundred



1 hours nor more than two hundred seventy-five
2 hours for the second offense; and

3 (ii) May grant community service in lieu of the
4 fine for subsequent offenses at the judge's
5 discretion;

6 (3) In addition to the fine in paragraph (2), the court
7 shall either:

8 (A) Suspend the driver's license of the driver or of
9 the registered owner for:

10 (i) Three months for the first conviction; and

11 (ii) One year for any subsequent offense within a
12 five-year period from a previous offense;

13 provided that the driver or the registered owner
14 shall not be required to obtain proof of
15 financial responsibility pursuant to section 287-
16 20; or

17 (B) Require the driver or the registered owner to
18 keep a nonrefundable motor vehicle insurance
19 policy in force for six months;

20 (4) Any person cited under this section shall be given an
21 opportunity to petition the court to demonstrate that



1 the person's nonpayment or inability to pay is not
2 wilful. If a person petitions the court, the judge
3 shall make an individualized assessment of the
4 person's ability to pay based on the totality of the
5 circumstances, including but not limited to the
6 person's disposable income, financial obligations, and
7 liquid assets. If the judge determines that the
8 person's nonpayment or inability to pay is not wilful,
9 the judge may enter an order that allows the person
10 additional time for payment, reduces the amount of
11 each installment, revokes the fee or fine, or unpaid
12 portion thereof, in whole or in part or converts any
13 outstanding fine to community service;

14 ~~(4)~~ (5) Any person cited under this section shall have an
15 opportunity to present a good faith defense, including
16 but not limited to lack of knowledge or proof of
17 insurance. The general penalty provision of this
18 section shall not apply to:

19 (A) Any operator of a motor vehicle owned by another
20 person if the operator's own insurance covers
21 such driving;



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1 (B) Any operator of a motor vehicle owned by that
2 person's employer during the normal scope of that
3 person's employment; or

4 (C) Any operator of a borrowed motor vehicle if the
5 operator holds a reasonable belief that the
6 subject vehicle is insured;

7 ~~[-5-]~~ (6) In the case of multiple convictions for driving
8 without a valid motor vehicle insurance policy within
9 a five-year period from any prior offense, the court,
10 in addition to any other penalty, shall impose the
11 following penalties:

12 (A) Imprisonment of not more than thirty days;

13 (B) Suspension or revocation of the motor vehicle
14 registration plates of the vehicle involved;

15 (C) Impoundment, or impoundment and sale, of the
16 motor vehicle for the costs of storage and other
17 charges incident to seizure of the vehicle, or
18 any other cost involved pursuant to section
19 431:10C-301; or

20 (D) Any combination of those penalties; and



1 [~~(6)~~] (7) Any violation as provided in subsection (a)(2)(B)
 2 shall not be deemed to be a traffic infraction as
 3 defined by chapter 291D."

4 SECTION 4. Section 706-644, Hawaii Revised Statutes, is
 5 amended by amending subsection (3) to read as follows:

6 "(3) The term of imprisonment for nonpayment of fee, fine,
 7 or restitution shall be specified in the order of commitment,
 8 and shall not exceed one day for each [~~\$25~~] \$50 of the fee or
 9 fine, thirty days if the fee or fine was imposed upon conviction
 10 of a violation or a petty misdemeanor, or one year in any other
 11 case, whichever is the shorter period. A person committed for
 12 nonpayment of a fee or fine shall be given credit toward payment
 13 of the fee or fine for each day of imprisonment, at the rate of
 14 [~~\$25~~] \$50 per day."

15 SECTION 5. This Act does not affect rights and duties that
 16 matured, penalties that were incurred, and proceedings that were
 17 begun before its effective date.

18 SECTION 6. Statutory material to be repealed is bracketed
 19 and stricken. New statutory material is underscored.



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1 SECTION 7. This Act shall take effect upon its approval.

2

INTRODUCED BY:  _____



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Report Title:

Financial Hardship; Traffic Offenses; Contumacious Nonpayment

Description:

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.

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

