



*The Judiciary, State of Hawaii*

**Testimony to the House Committee on Transportation**

Representative Henry J.C. Aquino, Chair  
Representative Matthew S. LoPresti, Vice Chair

Wednesday, March 16, 2016, 10:30 a.m.  
State Capitol, Conference Room 309

by  
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**Bill No. and Title:** Senate Bill No. 612, SD 1, Relating to Probation.

**Purpose:** Provides for a period of probation for any person convicted of the offense of operating a vehicle under the influence of an intoxicant. Mandates a period of probation for any person convicted of operating a vehicle after license and privilege have been suspended or revoked for operating a vehicle under the influence of an intoxicant.

**Judiciary's Position:**

The Judiciary takes no position on Senate Bill No. 612, as amended in SD 1, but respectfully notes concerns regarding staffing and other costs that would be incurred to implement this proposal. As noted in our original testimony submitted to the Senate Committee on Transportation on February 3, 2015, additional resources would be needed to address the significant increase in the probation office's workload statewide. Since probation sentences would be discretionary in many cases, the Judiciary can only project a rough estimate of increased staffing and resource needs based on certain assumptions described below.

To arrive at an estimate, we have used 2013 statistics from JIMS showing that the number of DUI/DWI petty misdemeanor judgments entered was 7,177 statewide offenders, which created a caseload of 250 per probation officer. This is considered best practice for Hawaii, which is high compared to the national average of 93 cases per probation officer. Of the statewide total of 7,177 offenders, 3,649 involved first-time offenders, 323 were second-time offenders, and 47 were third-time offenders for the First Circuit (Oahu).



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Based on an assumption of 25% of the cases involving first- and second-time offenders being sentenced to probation as an “option”, an additional 993 cases would have been added to the probation workload. This would have required five additional probation officers at \$50,772 annual salary only; one supervisor at \$57,168 annual salary only; three judicial clerk II support positions at \$31,236 salary only; office equipment (including desk, computer, printer, lateral file cabinets, chairs, modular unit with walls) at \$15,000 per staff position; and an annual cost of office space on Oahu of approximately \$500,000 annually with one security officer at \$34,425.60 annually. The projected total annual cost for Oahu only amounts to approximately \$1,076,361.60 in additional resources over and above current Judiciary budget allocations.

Additional resources would also be required to service increased DUI/DWI probation workloads for a portion of the number of persons sentenced to probation in 2013 on Maui (1,476 offenders), Hawai‘i (1,449 offenders), and Kaua‘i (223 offenders). In addition, costs would be incurred for office space for Maui and Hawaii.

Statistics for statewide convictions of defendants charged with violating HRS section 291E-62 (Operating a vehicle after license and privilege have been suspended or revoked for operating a vehicle under the influence of an intoxicant) would be an additional 431 probation cases on Oahu, 101 cases on Maui, 173 cases on Hawaii, and 15 cases on Kauai. The number of additional defendants for whom probation would be mandatory would also require additional resources.

Finally, under current standards, residential substance abuse treatment is 4-8 weeks and intensive outpatient (IOP) treatment is for 12-16 weeks. The cost for residential treatment is \$180 per day and for IOP it is \$120 per day per offender, 3 times a week. These treatment costs equate to approximately \$5,040 - \$10,080 per probationer in residential substance abuse treatment service costs and \$4,320 - \$5,760 in IOP costs. Further, it is unknown if existing treatment programs could immediately absorb the increase in probation referrals. The intent of making the offense probationable may be beneficial, but the desired results will be limited without resources and treatment being made available.

Thank you for the opportunity to provide comment on this bill.