



The Judiciary, State of Hawaii

Testimony to the Twenty-Fifth Legislature, Regular Session of 2010

House Committee on Judiciary

The Honorable Jon Riki Karamatsu, Chair

The Honorable Ken Ito, Vice Chair

Tuesday, March 30, 2010, 2:30 p.m.
State Capitol, Conference Room 325

by

Ronald Sakata

Chief Adjudicator

Administrative Driver's License Revocation Office (ADLRO)

Bill No. and Title: Senate Bill No. 107, H.D. 1, Relating to Administrative Revocation.

Purpose: To permit an administrative driver's license revocation hearing to be held in a county other than the county in which the notice of administrative revocation was issued and to permit hearings by telephonic, videoconference, or other electronic means.

Judiciary's Position:

The Judiciary strongly urges passage of this measure, and respectfully requests additional amendments to the bill.

Currently, the Administrative Driver's License Revocation Office's (ADLRO's) operations require almost daily inter-island travel to conduct statewide administrative hearings in the county of arrest, costing up to \$1,000 for travel per week. This expense constitutes the bulk of ADLRO's operational expenditures.

This measure would provide the ADLRO with the flexibility to conduct hearings in a more cost-efficient manner by permitting a change of venue with the respondent's consent. The bill would also allow hearings to be conducted from the ADLRO in Honolulu via telephone, videoconference, or other electronic means. Reduction in travel time and expenses will result in considerable cost savings and allow the ADLRO to redirect its already limited resources to other program needs.



Senate Bill No. 107, H.D. 1, Relating to Administrative Revocation
House Committee on Judiciary
Tuesday, March 30, 2010
Page 2

The advent of the Ignition Interlock procedure notwithstanding, there will still be numerous issues, which would be cause for the continued necessity of administrative hearings. Accordingly, although it is difficult to determine at this point in time the impact of the same and the breakdown of total cases processed, we believe there will still be a significant number of cases to be adjudicated for various reasons other than the issuance of ignition interlock permits, installation, and monitoring. Thus, justification for our proposal remains as is and the budgetary savings and other personnel and resource issues addressed are still compelling reasons for the requested authorization.

The Judiciary requests further amendments to the bill, as set forth in the attached Proposed H.D. 2. Under the proposed draft:

- (1) The respondent's consent is not required to hold a hearing in a county other than the county in which the notice of administrative revocation was issued; and
- (2) Hearings by telephone or other electronic means, except videoconference, are not authorized.

Thank you for the opportunity to testify in support of Senate Bill No. 107, H.D. 1.

Report Title:

ADLRO Hearing; Venue; Remote Conferencing

Description:

Authorizes administrative driver's license revocation hearing to be held in county other than county of arrest and permits hearing by video or other electronic means. (Proposed HD2)

A BILL FOR AN ACT

RELATING TO ADMINISTRATIVE LICENSE REVOCATION.

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

1 SECTION 1. Section 291E-38, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) The hearing shall be held at a place designated by
4 the director, as close as practicable to the location where the
5 notice of administrative revocation was issued [~~as practical.~~];
6 provided that, at the discretion of the director, a hearing may
7 be held:

8 (1) In a county other than the county in which the notice
9 of administrative revocation was issued; or

10 (2) By videoconference."

11 SECTION 2. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 3. This Act shall take effect upon its approval.



**Office of the Public Defender
State of Hawaii
Timothy Ho, Chief Deputy Public Defender**



**Testimony of the Office of the Public Defender,
State of Hawaii to the House Committee on Judiciary
March 30, 2010 2:30 p.m.**

S.B. No. 107, SD1: RELATING TO ADMINISTRATIVE REVOCATION

Chair Karamatsu and Members of the Committee:

The Office of the Public Defender opposes S.B. 107, SD1.

This measure would effectively eliminate any administrative revocation hearings from being held on the neighbor islands. Currently, the hearings officer flies from Oahu to the neighbor islands to conduct revocation hearings for cases originating on each respective island. Citing cost, the ADLRO is asking to be able to hold its hearing for a case originating on a neighbor island, and with the consent of the respondent (arrestee), have that person appear on Oahu for the hearing. It also gives the director the authority to hold its hearings by telephonic, video or other electronic means. As this measure is currently written, the director would not need the respondent's consent to hold hearing via telephonic, video or other electronic means regardless of whether or not the case originated in another county. In other words, the director could choose to hold all of its revocation hearings via telephonic, video or other electronic means.

Administrative revocation hearings are evidentiary hearings. Witnesses may be subpoenaed and required to provide sworn testimony. Relevant evidence may be received, and respondents are allowed to be represented by counsel. Such hearings cannot effectively be held via teleconference or by video. How can a witness be administered an oath to testify truthfully over the telephone? The hearings officer would not be able to discern the identity of the witness or his or her veracity. These hearings must be held in person. We understand the financial difficulties all state agencies have faced during this great recession. However, at what cost to individual rights do we choose to balance our budgets? The right to a fair hearing is fundamental to a free society, and cost should not be a consideration.

Thank you for the opportunity to testify on this measure.