

STATES OF JERSEY



ROAD TRAFFIC: OFFENCES AND PENALTIES (P.23/2025) – COMMENTS

Presented to the States on 8th May 2025
by the Minister for Infrastructure

STATES GREFFE

COMMENTS

Opening

I have been grateful to Deputy Catherine Curtis for her engagement with Ministers throughout her work on this proposition, including with me and my officers in the weeks since it was lodged.

From the outset, I have supported the intention behind the proposition, rooted as it is in tragic events of which Members are aware, and which we all hope will never be repeated. I support further appropriate steps that deter poor behaviour on our roads, and especially following incidents where lives are put at risk.

It is clear that further action is necessary if we are to achieve our objective of a 50% reduction in those killed and seriously injured on our roads over the next ten years, as set out in Jersey's Collision and Casualty Reduction Plan. I believe this proposition can form part of that work.

My dialogue with Deputy Curtis in recent weeks has resulted in the lodging of an amendment. I'm grateful to Deputy Curtis's for her constructive approach, and her efforts to ensure that the proposition can deliver meaningful change to reduce the number of deaths and injuries caused in road collisions.

The original proposition

Prima facie, I was supportive of the original proposition, as was the Assistant Minister for Infrastructure. We confirmed our position in this regard with Deputy Curtis shortly after the proposition was lodged.

Subsequently, we became aware that Article 52 of the Road Traffic (Jersey) Law 1956 contains an existing offence of failing to stop and report an accident, including where there is personal injury to any person. In such circumstances, a driver must stop. Accordingly, it appeared that the offence which Deputy Curtis was seeking to create was already on the statute book.

We also had regard to the penalties for the offence. Should this offence be committed as it exists under Article 52, disqualification from driving may be applied in accordance with Article 14 of the 1956 Law and Schedule 1 of the Law, which includes the offence of failure to stop after an accident.

The existing sentencing guidelines in relation to Article 52 were updated in October 2024. They provide, in the circumstances that are relevant to the original proposition, for a minimum 12-month disqualification, up to and including the drink-drive level. disqualification. Article 26 of the 1956 Law deals with the cause of death by careless driving when under the influence of drink or drugs, and Article 26(5) provides for a disqualification of 2 years for a first offence, and 3 years for a second offence which is committed within 10 years of the first offence.

Accordingly, the offence that is relevant to this proposition, in addition to any custodial sentence, can attract a driving disqualification ban. Applying the guidelines, a disqualification would be unlikely to exceed three years, but courts nonetheless retain a discretion under Article 14 of the 1956 Law to disqualify 'for such period as the court thinks fit'.

The Assistant Minister and I could see a justification for longer periods of disqualification where, for example, there continues to be a danger to the public or an absence of any signs or prospect of rehabilitation, and where, particularly for the most heinous and appalling cases, a lifetime ban could be justified.

Further considerations

As part of our consideration of the original proposition, the Assistant Minister and I also had regard to the implications of a lifetime ban, including for human rights. In the UK, where lifetime bans are unusual but permissible (as a discretion of the courts and not a statutory provision), they will still be subject to periodic review, usually after 10 years, to assess rehabilitation and ongoing risk to public safety. Lifetime bans are usually reserved only for extreme cases and the most serious offences. We recognised that the implementation of this proposition would require a detailed ECHR analysis to be undertaken, addressing proportionality, and that the ongoing opportunity for rehabilitation would need be part of this consideration. Importantly, we also recognised the importance of suitable discretion for the Courts to be able to deal with each individual case on its own merits and apply a sentence appropriately. We accepted that sentencing policy is ultimately a matter for the Courts.

Amendment

In view of the above, it was clear that an amendment would be necessary to facilitate the objective of the proposition, and ensure it was deliverable. I have worked with Deputy Curtis in this respect, and I support the proposition as amended.

The amendment adds in the requirement for consultation prior to making any change, which I envisage would include with the Courts, professional bodies including the Law Society, and with community groups/civic society. This is not an exhaustive list.

Deputy Curtis has also refined the offence she is seeking to create to include a failure to provide assistance to any injured persons. This particular provision is not included in the current 1952 Law and distinguishes the proposition from its original. It gives policy makers something to work towards. The integration of this provision into the existing law will likely not, however, be straightforward. It will require careful thought to ensure the provision is appropriately framed. That emphasises further the need for consultation.

The Collision and Casualty Reduction Plan also includes a commitment to review existing legislation as part of our commitment to reduce deaths and injuries on our roads. This can form part of that work. The amendment also allows flexibility between the creation of a bespoke new offence, and the adaptation of existing offences to incorporate the failure to provide assistance to any injured persons. I wish to be clear that I do not rule out the establishment of a new offence if that is what is deemed appropriate, following consultation and initial policy work.

The amendment also makes clear that the penalty of a lifetime disqualification would be a maximum penalty. This clarifies that the proposition is not seeking mandatory lifetime bans, and that appropriate discretion remains with the Courts. From my perspective, this part of the amendment isn't designed to reduce use of a lifetime ban.

I have committed to Deputy Curtis privately, and now place on public record, that if this Proposition is adopted, I will write to the Bailiff, as Chief Justice, requesting him to consider a review of sentencing guidelines in this respect to take place alongside the work to implement the legislative change.

Closing

I believe we have arrived at a position where this proposition now requests that work takes place towards meaningful and worthwhile change. The proposition respects constitutional boundaries and is consistent with my policy objectives as Minister.

Action is needed to make Jersey's roads safer. That will include legislative change, and increasing deterrents. We have seen too many tragic incidents on our roads and examples of poor, sometimes reprehensible behaviour. Such acts need to be actively combatted.

In view of these collective considerations, I will be supporting the proposition as amended.