



ORIGINAL

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

GOV. MSG. NO. **611**

May 8, 2006

The Honorable Robert Bunda, President
and Members of the Senate
Twenty-Third State Legislature
State Capitol, Room 003
Honolulu, Hawaii 96813

Dear Mr. President and Members of the Senate:

This is to inform you that on May 8, 2006, the following bill was signed into law:

SB2260 SD1 HD1 CD1

A BILL FOR AN ACT RELATING TO SENTENCING.
(ACT 81)

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

on _____

THE SENATE
TWENTY-THIRD LEGISLATURE, 2006
STATE OF HAWAII

S.B. NO. 2260
S.D. 1
H.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO SENTENCING.

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

1 SECTION 1. Chapter 706, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§706- Special sentencing of habitual violent felons.

5 (1) Notwithstanding any other provision of law to the contrary,
6 a habitual violent felon shall be sentenced to both:

7 (a) A mandatory minimum term of imprisonment of not less
8 than thirty years; and

9 (b) A mandatory indeterminate term of life imprisonment.

10 (2) A habitual violent felon shall not be eligible for
11 parole before serving the mandatory minimum term under
12 subsection (1) or (2), as applicable.

13 (3) Except for work furlough programs in the final year of
14 a sentence that require incarceration during the time the inmate
15 is not working or traveling to or from work, a habitual violent
16 felon shall not be eligible for pre-release, furlough, or other
17 modified terms of imprisonment without the written authorization
18 of the governor, which authorization shall not be delegable.



- 1 (4) A defendant is a "habitual violent felon" if:
- 2 (a) The defendant is at least eighteen years old at the
3 time the defendant committed the current offense;
- 4 (b) The current conviction is for murder in the second
5 degree or any class A or class B felony that is a
6 crime of violence;
- 7 (c) The defendant has at least two prior and separate
8 felony convictions for:
- 9 (i) Murder in any degree;
- 10 (ii) Any class A felony or class B felony that is a
11 crime of violence; or
- 12 (iii) Any federal offense that is comparable to a crime
13 of violence as defined in subsection (8), or any
14 federal or out-of-state offense that under the
15 laws of this State would be a crime of violence
16 as defined in subsection (6); and
- 17 (d) Either the current conviction or at least one of the
18 prior and separate convictions is for an offense other
19 than burglary in the first degree.
- 20 (5) This section shall apply only if the prosecuting
21 attorney brings before the court a motion to sentence under this
22 section that allows the court to advise the defendant of the



1 defendant's eligibility for sentencing under this section prior
2 to the entry of a verdict of guilty, whether by trial, plea of
3 guilty, or plea of no contest. The motion shall set forth the
4 date and jurisdiction of occurrence of each prior conviction
5 required under subsection (4)(c) and shall specify whether the
6 defendant is subject to the following:

- 7 (a) Sentencing of repeat offenders under section 706-
8 606.5;
9 (b) Repeat violent and sexual offender; enhanced sentence
10 under section 706-606.6;
11 (c) Enhanced sentence for second degree murder under
12 section 706-657; or
13 (d) Sentence of imprisonment for felony; extended terms
14 under section 706-661.
15 (e) For the purposes of this section, "crime of violence"

16 means:

- 17 (a) Murder in any degree;
18 (b) Manslaughter;
19 (c) Assault in the first degree;
20 (d) Kidnapping;
21 (e) Sexual assault in the first degree;
22 (f) Sexual assault in the second degree;



- 1 (g) Continuous sexual assault of a minor under the age of
- 2 fourteen years old;
- 3 (h) Robbery in the first degree;
- 4 (i) Robbery in the second degree; and
- 5 (j) Burglary in the first degree."

6 SECTION 2. The judiciary shall submit a report to the
7 legislature on the implementation of this Act. The report shall
8 include:

- 9 (1) Data on the number of defendants sentenced under this
- 10 Act; and
- 11 (2) Data on the number of defendants sentenced under this
- 12 Act who were also subject to:
 - 13 (a) Sentencing of repeat offenders under section 706-
 - 14 606.5;
 - 15 (b) Repeat violent and sexual offender; enhanced
 - 16 sentence under section 706-606.6;
 - 17 (c) Enhanced sentence for second degree murder under
 - 18 section 706-657; and
 - 19 (d) Sentence of imprisonment for felony; extended
 - 20 terms under section 706-661.

1 The judiciary shall submit its findings to the legislature
2 no later than twenty days prior to the convening of the regular
3 session of 2011.

4 SECTION 3. The department of public safety shall submit a
5 report to the legislature on the implementation and effect of
6 this Act. The report shall include:

7 (1) If available, data from sentencing simulation models,
8 such as the one established by Act 267 of 2000, to
9 assess the impact of this Act on prison inmate
10 population;

11 (2) Data showing the effect of this Act on the inmate
12 population in terms of number of inmates committed to
13 the department of public safety's custody, and the
14 anticipated financial impact on the department of
15 public safety; and

16 (3) Data on the department of public safety's ability to
17 house and care for inmates committed under this Act.

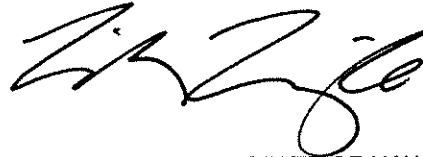
18 The department of public safety shall submit its findings
19 to the legislature no later than twenty days prior to the
20 convening of the regular session of 2011.



1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun, before its effective date.

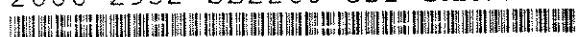
4 SECTION 5. New statutory material is underscored.

5 SECTION 6. This Act shall take effect upon approval, and
6 shall be repealed on July 1, 2011.



GOVERNOR OF THE STATE OF HAWAII

Approved this day: MAY 8 2006




THE SENATE OF THE STATE OF HAWAII

Date: May 2, 2006
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006.



President of the Senate

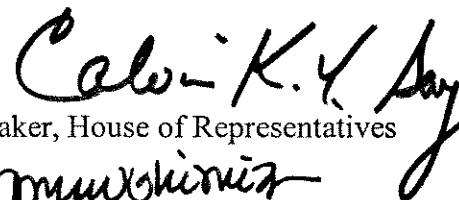


Clerk of the Senate

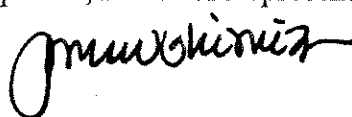
**THE HOUSE OF REPRESENTATIVES
OF THE STATE OF HAWAII**

Date: May 2, 2006
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the House of Representatives of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006.



Speaker, House of Representatives



Clerk, House of Representatives