
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) The sentence under subsection (1) may be mitigated as
11 provided in subsection (7).

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

15 (4) Except for work furlough programs in the final year of
16 a sentence that require incarceration during the time the inmate
17 is not working or traveling to or from work, a habitual violent
18 felon shall not be eligible for pre-release, furlough, or other



1 modified terms of imprisonment without the written authorization
2 of the governor, which authorization shall not be delegable.

3 (5) A defendant is a "habitual violent felon" if:

4 (a) The defendant is at least eighteen years old at the
5 time the defendant committed the current offense;

6 (b) The current conviction is for murder in the second
7 degree or any class A or class B felony that is a
8 crime of violence; and

9 (c) The defendant has at least two prior and separate
10 felony convictions for:

11 (i) Murder in any degree;

12 (ii) Any class A felony or class B felony that is a
13 crime of violence; or

14 (iii) Any federal offense that is comparable to a crime
15 of violence as defined in subsection (8), or any
16 federal or out-of-state offense that under the
17 laws of this State would be a crime of violence
18 as defined in subsection (8).

19 (6) This section shall apply only if the prosecuting
20 attorney brings before the court a motion to sentence under this
21 section that allows the court to advise the defendant of the
22 defendant's eligibility for sentencing under this section prior



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

6 (a) Sentencing of repeat offenders under section 706-
7 606.5;

8 (b) Repeat violent and sexual offender; enhanced sentence
9 under section 706-606.6;

10 (c) Enhanced sentence for second degree murder under
11 section 706-657; or

12 (d) Sentence of imprisonment for felony; extended terms
13 under section 706-661.

14 (7) The court may upon motion of the defendant and based
15 upon extraordinary circumstances, impose a mitigated sentence
16 that departs from the sentencing requirements of this section.

17 (8) For the purposes of this section, "crime of violence"
18 means:

19 (a) Murder in any degree;

20 (b) Manslaughter;

21 (c) Assault in the first degree;

22 (d) Kidnapping;



- 1 (e) Sexual assault in the first degree; and
- 2 (h) Robbery in the first degree."

3 SECTION 2. The judiciary shall submit a report to the
4 legislature on the implementation of this Act. The report shall
5 include:

6 (1) Data on the number of defendants sentenced under this
7 Act.

8 (2) Data on the number of defendants sentenced under this
9 Act who were also subject to:

10 (a) Sentencing of repeat offenders under section 706-
11 606.5;

12 (b) Repeat violent and sexual offender; enhanced sentence
13 under section 706-606.6;

14 (c) Enhanced sentence for second degree murder under
15 section 706-657; and

16 (d) Sentence of imprisonment for felony; extended terms
17 under section 706-661.

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

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

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

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

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

15 The department of public safety shall submit its findings
16 to the legislature no later than twenty days prior to the
17 convening of the regular session of 2011.

18 SECTION 4. This Act does not affect rights and duties that
19 matured, penalties that were incurred, and proceedings that were
20 begun, before its effective date.

21 SECTION 5. New statutory material is underscored.



1 SECTION 6. This Act shall take effect on July 1, 2096, and
2 shall be repealed on January 1, 2011.



Report Title:

Sentencing Structure; Revisions

SB 2260
SD1
HD1

Description:

Provides for a mandatory sentence of 30 years to life for habitual violent felons. Effective date July 1, 2006. (SB2260 HD1)

