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# 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 (8).

12           (3) A habitual violent felon shall not be eligible for  
13 parole sooner than 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 which require incarceration during the time the  
17 inmate is not working or traveling to or from work, a habitual  
18 violent felon shall not be eligible for pre-release, furlough,



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

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

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

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

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

12 (i) Murder in any degree;

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

15 (iii) Any federal or out-of-state offense that is  
16 comparable to a crime of violence as defined in  
17 subsection (6), or any federal or out-of-state  
18 offense that under the laws of this State would  
19 be a crime of violence as defined in subsection  
20 (6).

21 (6) For purposes of this section, "crime of violence"  
22 means:



- 1        (a) Murder in any degree;
- 2        (b) Manslaughter;
- 3        (c) Assault in the first degree;
- 4        (d) Kidnapping;
- 5        (e) Sexual assault in the first degree or second degree;
- 6        (f) Continuous sexual assault of a minor under the age of  
7        fourteen years that includes an act of sexual  
8        penetration;
- 9        (g) Promoting child abuse in the first degree;
- 10       (h) Robbery in the first degree or second degree;
- 11       (i) Burglary in the first degree; or
- 12       (j) Carrying or use of a firearm in the commission of a  
13       separate felony.
- 14       (7) The court shall advise a defendant of the defendant's  
15       eligibility for sentencing under this section prior to the entry  
16       of a verdict of guilty, whether by trial, plea of guilty, or  
17       plea of no contest, and shall set forth the date and  
18       jurisdiction where each prior conviction occurred.
- 19       (8) The court may impose a mitigated sentence if a motion  
20       is made by the State that the court depart from the sentencing  
21       provisions of this section, based upon the defendant's



1 cooperation in the investigation in another case or of another  
2 person or entity."

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

6 SECTION 3. New statutory material is underscored.

7 SECTION 4. This Act shall take effect upon its approval.



**Report Title:**

Sentencing Structure; Revisions

**Description:**

Provides for a mandatory sentence of 30 years to life for habitual violent felons. (SD1)

