

JAN 25 2006

A BILL FOR AN ACT

RELATING TO THEFT.

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

1 SECTION 1. Section 706-620, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§706-620 Authority to withhold sentence of imprisonment.**

4 A defendant who has been convicted of a crime may be sentenced
5 to a term of probation unless:

6 (1) The crime is first or second degree murder or
7 attempted first or second degree murder;

8 (2) The crime is a class A felony, except class A felonies
9 defined in chapter 712, part IV, and by section 707-
10 702;

11 (3) The defendant is a repeat offender under section 706-
12 606.5;

13 (4) The defendant is a felony firearm offender as defined
14 in section 706-660.1(2); ~~or~~

15 (5) The crime involved the death of or the infliction of
16 serious or substantial bodily injury upon a child, an
17 elder person, or a handicapped person under section
18 706-660.2~~(-)~~; or



1 (6) The defendant commits theft of property, the total
2 value of which exceeds \$100,000."

3 SECTION 2. Section 853-4, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§853-4 Chapter not applicable; when.** This chapter shall
6 not apply when:

7 (1) The offense charged involves the intentional, knowing,
8 reckless, or negligent killing of another person;

9 (2) The offense charged is:

10 (A) A felony that involves the intentional, knowing,
11 or reckless bodily injury, substantial bodily
12 injury, or serious bodily injury of another
13 person; or

14 (B) A misdemeanor or petty misdemeanor that carries a
15 mandatory minimum sentence and that involves the
16 intentional, knowing, or reckless bodily injury,
17 substantial bodily injury, or serious bodily
18 injury of another person;

19 (3) The offense charged involves a conspiracy or
20 solicitation to intentionally, knowingly, or
21 recklessly kill another person or to cause serious
22 bodily injury to another person;



- 1 (4) The offense charged is a class A felony;
- 2 (5) The offense charged is nonprobationable;
- 3 (6) The defendant has been convicted of any offense
- 4 defined as a felony by the Hawaii Penal Code or has
- 5 been convicted for any conduct that if perpetrated in
- 6 this State would be punishable as a felony;
- 7 (7) The defendant is found to be a law violator or
- 8 delinquent child for the commission of any offense
- 9 defined as a felony by the Hawaii Penal Code or for
- 10 any conduct that if perpetrated in this State would
- 11 constitute a felony;
- 12 (8) The defendant has a prior conviction for a felony
- 13 committed in any state, federal, or foreign
- 14 jurisdiction;
- 15 (9) A firearm was used in the commission of the offense
- 16 charged;
- 17 (10) The defendant is charged with the distribution of a
- 18 dangerous, harmful, or detrimental drug to a minor;
- 19 (11) The defendant has been charged with a felony offense
- 20 and has been previously granted deferred acceptance of
- 21 guilty plea status for a prior offense, regardless of
- 22 whether the period of deferral has already expired;



- 1 (12) The defendant has been charged with a misdemeanor
2 offense and has been previously granted deferred
3 acceptance of guilty plea status for a prior felony,
4 misdemeanor, or petty misdemeanor for which the period
5 of deferral has not yet expired;
- 6 (13) The offense charged is:
- 7 (A) Escape in the first degree;
- 8 (B) Escape in the second degree;
- 9 (C) Promoting prison contraband in the first degree;
- 10 (D) Promoting prison contraband in the second degree;
- 11 (E) Bail jumping in the first degree;
- 12 (F) Bail jumping in the second degree;
- 13 (G) Bribery;
- 14 (H) Bribery of a witness;
- 15 (I) Intimidating a witness;
- 16 (J) Bribery of or by a juror;
- 17 (K) Intimidating a juror;
- 18 (L) Jury tampering;
- 19 (M) Promoting prostitution in the first degree;
- 20 (N) Promoting prostitution in the second degree;
- 21 (O) Promoting prostitution in the third degree;
- 22 (P) Abuse of family or household members;



- 1 (Q) Sexual assault in the second degree;
- 2 (R) Sexual assault in the third degree; [~~or~~]
- 3 (S) A violation of an order issued pursuant to
- 4 chapter 586; or
- 5 (T) Theft in the first degree and the total value of
- 6 all property lost by the victim exceeds \$100,000;
- 7 or

8 (14) The defendant has been charged with:

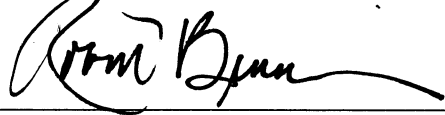
- 9 (A) Knowingly or intentionally falsifying any report
- 10 required under chapter 11, subpart B of part XII,
- 11 with the intent to circumvent the law or deceive
- 12 the campaign spending commission; or
- 13 (B) Violating section 11-201 or 11-202.

14 The court may adopt by rule other criteria in this area."

15 SECTION 3. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun, before its effective date.

18 SECTION 4. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.

20 SECTION 5. This Act shall take effect upon its approval.

21
INTRODUCED BY: 

SB 2432

Report Title:

Theft; Sentencing

Description:

Prohibits sentence of probation or grant of deferred acceptance of guilty or no contest plea in case of theft involving \$100,000 or more of property.

