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## A BILL FOR AN ACT

RELATING TO TERMS OF IMPRISONMENT.

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

1           SECTION 1. Section 706-660.2, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "§706-660.2 Sentence of imprisonment for offenses against  
4 children, elder persons, pregnant women, or handicapped persons.

5 Notwithstanding section 706-669, a person who, in the course of  
6 committing or attempting to commit a felony, causes the death or  
7 inflicts serious or substantial bodily injury upon a person who  
8 is:

9           (1) Sixty years of age or older;

10          (2) Blind, a paraplegic, or a quadriplegic; [~~or~~]

11          (3) Pregnant; or

12          [~~(3)~~] (4) Eight years of age or younger;

13 and such disability or condition is known or reasonably should  
14 be known to the defendant, shall, if not subjected to an  
15 extended term of imprisonment pursuant to section 706-662, be  
16 sentenced to a mandatory minimum term of imprisonment without  
17 possibility of parole as follows:

18          (1) For murder in the second degree--fifteen years;



- 1           (2) For a class A felony--six years, eight months;
- 2           (3) For a class B felony--three years, four months;
- 3           (4) For a class C felony--one year, eight months."

4           SECTION 2. Section 706-662, Hawaii Revised Statutes, is  
5 amended to read as follows:

6           "**§706-662 Criteria for extended terms of imprisonment.** A  
7 convicted defendant may be subject to an extended term of  
8 imprisonment under section 706-661, if the convicted defendant  
9 satisfies one or more of the following criteria:

10           (1) The defendant is a persistent offender whose  
11 imprisonment for an extended term is necessary for  
12 protection of the public. The court shall not make  
13 this finding unless the defendant has previously been  
14 convicted of two felonies committed at different times  
15 when the defendant was eighteen years of age or older.

16           (2) The defendant is a professional criminal whose  
17 imprisonment for an extended term is necessary for  
18 protection of the public. The court shall not make  
19 this finding unless:

20           (a) The circumstances of the crime show that the  
21 defendant has knowingly engaged in criminal  
22 activity as a major source of livelihood; or



1           (b) The defendant has substantial income or resources  
2                   not explained to be derived from a source other  
3                   than criminal activity.

4           (3) The defendant is a dangerous person whose imprisonment  
5                   for an extended term is necessary for protection of  
6                   the public. The court shall not make this finding  
7                   unless the defendant has been subjected to a  
8                   psychiatric or psychological evaluation that documents  
9                   a significant history of dangerousness to others  
10                  resulting in criminally violent conduct, and this  
11                  history makes the defendant a serious danger to  
12                  others. Nothing in this section precludes the  
13                  introduction of victim-related data [~~in order~~] to  
14                  establish dangerousness in accord with the Hawaii  
15                  rules of evidence.

16          (4) The defendant is a multiple offender whose criminal  
17                  actions were so extensive that a sentence of  
18                  imprisonment for an extended term is necessary for  
19                  protection of the public. The court shall not make  
20                  this finding unless:



1 (a) The defendant is being sentenced for two or more  
2 felonies or is already under sentence of  
3 imprisonment for felony; or

4 (b) The maximum terms of imprisonment authorized for  
5 each of the defendant's crimes, if made to run  
6 consecutively, would equal or exceed in length  
7 the maximum of the extended term imposed or would  
8 equal or exceed forty years if the extended term  
9 imposed is for a class A felony.

10 (5) The defendant is an offender against [~~the~~] an  
11 elderly[7] or handicapped[7] person, a pregnant woman,  
12 or a minor under the age of eight, whose imprisonment  
13 for an extended term is necessary for the protection  
14 of the public. The court shall not make this finding  
15 unless:

16 (a) The defendant attempts or commits any of the  
17 following crimes: murder, manslaughter, a sexual  
18 offense that constitutes a felony under chapter  
19 707, robbery, felonious assault, burglary, or  
20 kidnapping; and

21 (b) The defendant, in the course of committing or  
22 attempting to commit the crime, inflicts serious



1                   or substantial bodily injury upon a person who  
2                   is:

- 3                   (i) Sixty years of age or older;
- 4                   (ii) Blind, a paraplegic, or a quadriplegic; [~~e~~]
- 5                   (iii) Pregnant; or

6                   [~~(iii)~~] (iv) Eight years of age or younger; and

7                   (c) Such disability or condition is known or  
8                   reasonably should be known to the defendant.

9                   (6) The defendant is a hate crime offender whose  
10                   imprisonment for an extended term is necessary for the  
11                   protection of the public. The court shall not make  
12                   this finding unless:

13                   (a) The defendant is convicted of a crime under  
14                   chapter 707, 708, or 711; and

15                   (b) The defendant intentionally selected a victim, or  
16                   in the case of a property crime, the property  
17                   that was the object of a crime, because of  
18                   hostility toward the actual or perceived race,  
19                   religion, disability, ethnicity, national origin,  
20                   gender identity or expression, or sexual  
21                   orientation of any person. For purposes of this  
22                   subsection, "gender identity or expression"

1 includes a person's actual or perceived gender,  
 2 as well as a person's gender identity, gender-  
 3 related self-image, gender-related appearance, or  
 4 gender-related expression; regardless of whether  
 5 that gender identity, gender-related self-image,  
 6 gender-related appearance, or gender-related  
 7 expression is different from that traditionally  
 8 associated with the person's sex at birth."

9 SECTION 3. This Act does not affect rights and duties that  
 10 matured, penalties that were incurred, and proceedings that were  
 11 begun, before its effective date.

12 SECTION 4. Statutory material to be repealed is bracketed  
 13 and stricken. New statutory material is underscored.

14 SECTION 5. This Act shall take effect upon its approval.  
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**Report Title:**

Sentences for Injuries to Pregnant Women

**Description:**

Adds the acts of inflicting serious or substantial bodily injury upon a person who is pregnant in the course of committing or attempting to commit a felony to those actions for which an extended term of imprisonment may be given. Mandates imprisonment for such actions if not subject to extended term.

