

JAN 18 2008

A BILL FOR AN ACT

RELATING TO CRITERIA FOR EXTENDED TERMS OF IMPRISONMENT.

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

1 SECTION 1. Section 706-662, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§706-662 Criteria for extended terms of imprisonment.** A
4 convicted defendant may be subject to an extended term of
5 imprisonment under section 706-661, if the convicted defendant
6 satisfies one or more of the following criteria:

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

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



- 1 (a) The circumstances of the crime show that the
2 defendant has knowingly engaged in criminal
3 activity as a major source of livelihood; or
4 (b) The defendant has substantial income or resources
5 not explained to be derived from a source other
6 than criminal activity.
- 7 (3) The defendant is a dangerous person whose imprisonment
8 for an extended term is necessary for protection of
9 the public. The court shall not make this finding
10 unless the defendant has been subjected to a
11 psychiatric or psychological evaluation that documents
12 a significant history of dangerousness to others
13 resulting in criminally violent conduct, and this
14 history makes the defendant a serious danger to
15 others. Nothing in this section precludes the
16 introduction of victim-related data in order to
17 establish dangerousness in accord with the Hawaii
18 rules of evidence.
- 19 (4) The defendant is a multiple offender whose criminal
20 actions were so extensive that a sentence of
21 imprisonment for an extended term is necessary for



1 protection of the public. The court shall not make
2 this finding unless:

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

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

12 (5) The defendant is an offender against the elderly,
13 handicapped, [~~or~~] a minor under the age of eight, or a
14 pregnant woman, whose imprisonment for an extended
15 term is necessary for the protection of the public.

16 The court shall not make this finding unless:

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



1 (b) The defendant, in the course of committing or
2 attempting to commit the crime, inflicts serious
3 or substantial bodily injury upon a person who
4 is:

- 5 (i) Sixty years of age or older;
6 (ii) Blind, a paraplegic, or a quadriplegic; [~~or~~]
7 (iii) Eight years of age or younger; [~~and~~] or
8 (iv) Pregnant; and

9 (c) Such [~~disability~~] status is known or reasonably
10 should be known to the defendant.

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

- 15 (a) The defendant is convicted of a crime under
16 chapter 707, 708, or 711; and
17 (b) The defendant intentionally selected a victim, or
18 in the case of a property crime, the property
19 that was the object of a crime, because of
20 hostility toward the actual or perceived race,
21 religion, disability, ethnicity, national origin,
22 gender identity or expression, or sexual



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

11 SECTION 2. Statutory material to be repealed is bracketed
 12 and stricken. New statutory material is underscored.

13 SECTION 3. This Act shall take effect upon its approval.

14

INTRODUCED BY: Norman Soriano
Will Taylor
Charles K. Reichman
 Suzanne Chiu Oakland
 Anne Prosser



Report Title:

Extended Terms of Imprisonment; Pregnant Women

Description:

Extends term of imprisonment for offenses committed against pregnant women.

