

JAN 28 2009

A BILL FOR AN ACT

RELATING TO DISPOSITION OF CONVICTED DEFENDANTS.

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 defendant who has been convicted of a felony may be subject to
5 an extended term of imprisonment under section 706-661 if it is
6 proven beyond a reasonable doubt that an extended term of
7 imprisonment is necessary for the protection of the public and
8 that the convicted defendant satisfies one or more of the
9 following criteria:

10 (1) The defendant is a persistent offender in that the
11 defendant has previously been convicted of two or more
12 felonies committed at different times when the
13 defendant was eighteen years of age or older;

14 (2) The defendant is a professional criminal in that:

15 (a) The circumstances of the crime show that the
16 defendant has knowingly engaged in criminal
17 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 in that the
5 defendant has been subjected to a psychiatric or
6 psychological evaluation that documents a significant
7 history of dangerousness to others resulting in
8 criminally violent conduct, and this history makes the
9 defendant a serious danger to others. Nothing in this
10 section precludes the introduction of victim-related
11 data to establish dangerousness in accord with the
12 Hawaii rules of evidence;

13 (4) The defendant is a multiple offender in that:

14 (a) The defendant is being sentenced for two or more
15 felonies or is already under sentence of
16 imprisonment for any felony; or

17 (b) The maximum terms of imprisonment authorized for
18 each of the defendant's crimes, if made to run
19 consecutively, would equal or exceed in length
20 the maximum of the extended term imposed or would
21 equal or exceed forty years if the extended term
22 imposed is for a class A felony;

1 (5) The defendant is an offender against the elderly,
2 handicapped, or a minor eight years of age or younger
3 in that:

4 (a) The defendant attempts or commits any of the
5 following crimes: murder, manslaughter, a sexual
6 offense that constitutes a felony under chapter
7 707, robbery, felonious assault, burglary, or
8 kidnapping; and

9 (b) The defendant, in the course of committing or
10 attempting to commit the crime, inflicts serious
11 or substantial bodily injury upon a person who
12 has the status of being:

13 (i) Sixty years of age or older;

14 (ii) Blind, a paraplegic, or a quadriplegic; or

15 (iii) Eight years of age or younger; and

16 the person's status is known or reasonably should
17 be known to the defendant; or

18 (6) The defendant is a hate crime offender in that:

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

21 (b) The defendant intentionally selected a victim or,
22 in the case of a property crime, the property

1 that was the object of a crime, because of
2 hostility toward the actual or perceived race,
3 religion, disability, ethnicity, national origin,
4 gender identity or expression, or sexual
5 orientation of any person. For purposes of this
6 subsection, "gender identity or expression"
7 includes a person's actual or perceived gender,
8 as well as a person's gender identity, gender-
9 related self-image, gender-related appearance, or
10 gender-related expression, regardless of whether
11 that gender identity, gender-related self-image,
12 gender-related appearance, or gender-related
13 expression is different from that traditionally
14 associated with the person's sex at birth.

15 "(7) The defendant is an offender against an intervenor to
16 a crime in that defendant, inflicts serious or
17 substantial bodily injury upon a person who is not
18 acting within the course and scope of the person's
19 employment and who intervenes in the commission or
20 attempted commission of a crime by:

21 (a) Preventing or attempting to prevent the
22 commission or attempted commission of a crime;

1 (b) Protecting or attempting to protect another
2 person from the commission or attempted commission of
3 a crime;

4 (c) Contacting or attempting to contact the proper
5 authorities to:

6 (i) Report the commission or attempted
7 commission of a crime; or

8 (ii) Summon medical assistance or emergency care
9 for the victim of a crime."

10 SECTION 2. New statutory material is underscored.

11 SECTION 3. This Act shall take effect on January 1, 2010.

12

INTRODUCED BY:

[Handwritten signatures]
Suzanne
Kathleen
Arid Y
4. Jan 09
Mike Helton

Report Title:

Extended Term Sentencing; Intervenor

Description:

Qualifies for extended term sentencing criminal offenders who commit enumerated felonies against intervenors.