

JAN 26 2009

A BILL FOR AN ACT

RELATING TO THE PENAL CODE.

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

1 SECTION 1. Section 707-701.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~+~~§707-701.5~~+~~ **Murder in the second degree.**

4 (1) Except as provided in section 707-701, a person commits the
5 offense of murder in the second degree if the person
6 ~~intentionally~~:

7 (a) Intentionally or knowingly causes the death of another
8 person~~-~~; or

9 (b) With the intent to do serious bodily injury to any
10 person, performs acts that cause the death of another
11 person; or

12 (c) Intentionally or knowingly performs acts that create a
13 strong probability of death to any person, and such
14 acts cause the death of another person; or

15 (d) Intentionally or knowingly performs acts that create a
16 strong probability of serious bodily injury to any
17 person, and such acts cause the death of another
18 person.

S.B. NO. 837

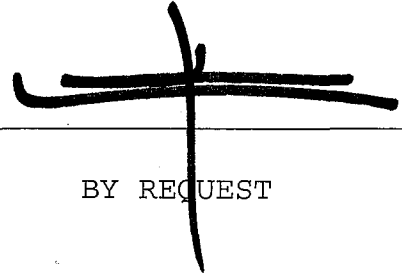
1 (2) Murder in the second degree is a felony for which the
2 defendant shall be sentenced to imprisonment as provided in
3 section 706-656."

4 SECTION 2. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: _____

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BY REQUEST

Report Title:

Criminal Homicide

Description:

Includes in the offense of murder in the second degree acts committed with the intent to cause serious bodily injury to another person or create the strong probability of causing death or serious bodily injury to another person, which result in the death of another person.

SB 837

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO THE PENAL CODE.

PURPOSE: To include in the offense of murder in the second degree acts committed with the intent to cause serious bodily injury to another person or create the strong probability of causing death or serious bodily injury to another person, which result in the death of another person.

MEANS: Amend section 707-701.5, Hawaii Revised Statutes.

JUSTIFICATION: In 2004, a Punchbowl man smashed a car window, doused his neighbor with gasoline and set him afire. At trial, the Defendant claimed that while he did attack and injure his neighbor, he never intended to kill him. The defendant, who was charged with attempted murder in the second degree, was convicted after trial of assault in the first degree. This amendment clarifies that individuals who act with the intent to cause serious bodily injury to another person or create the strong probability of causing death or serious bodily injury to another person, which act results in the death of another person, should be guilty of murder in the second degree because serious bodily injury includes bodily injury that creates a substantial risk of death. This approach is taken by other states. The amendment is modeled after an Illinois statute.

Impact on the public: The amendment to the murder in the second degree statute will result in individuals being appropriately punished for their crimes and will provide greater deterrence, foster public confidence, and promote public safety.

Impact on the department and other agencies:
The amendment will clarify the application of the offense of murder in the second degree for prosecutors, public defenders, and the Judiciary.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: Judiciary, county police, county prosecutors, and the Office of the Public Defender.

EFFECTIVE DATE: Upon approval.