

Honolulu, Hawaii

Feb 26, 2010

RE: H.B. No. 1752
H.D. 1

Honorable Calvin K.Y. Say
Speaker, House of Representatives
Twenty-Fifth State Legislature
Regular Session of 2010
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 1752 entitled:

"A BILL FOR AN ACT RELATING TO REPEAT OFFENDERS,"

begs leave to report as follows:

The purpose of this bill is to increase judicial discretion by excluding certain non-violent offenders from the repeat offenders statute requiring mandatory minimum prison terms.

The Libertarian Party of Honolulu, American Civil Liberties Union of Hawaii, Drug Policy Forum of Hawaii, and several concerned individuals testified in support of this bill. A member of the Board of Education, the Office of the Public Defender, and Community Alliance of Prisons supported this measure with amendments. The Department of the Attorney General, City and County of Honolulu Department of the Prosecuting Attorney, and Honolulu Police Department opposed this bill.

Your Committee is aware that the intent of this bill is to give back to Hawaii state judges discretion in sentencing certain defendants guilty of certain crimes as enumerated in the bill, without requiring any minimum jail time or alternative sentencing methods if the circumstances do not require incarceration.

Your Committee also notes that the mandatory incarceration of defendants results in huge costs to the State and does not lead to a reduction in recidivism.

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Your Committee has been informed by the Judiciary that the incarceration of an adult defendant costs about \$50,735 per year. The use of alternative courts, such as drug court or Hawaii's Opportunity Probation with Enforcement (HOPE) program, costs about \$8,000 per year for each defendant. In addition, the rates of recidivism for defendants graduating from these alternative courts are markedly lower than those leaving incarceration.

Your Committee has amended this bill by:

- (1) Including in the repeat offenders statute requiring mandatory minimum prison terms, persons convicted of the following felonies:
 - (A) Continuous sexual assault of a minor under the age of fourteen years (section 707-733.6, Hawaii Revised Statutes (HRS));
 - (B) Promoting child abuse in the first degree (section 707-750, HRS);
 - (C) Identity theft in the first degree (section 708-839.6, HRS);
 - (D) Robbery in the first degree (section 708-840, HRS);
 - (E) Promoting child abuse in the second degree (section 707-751, HRS);
 - (F) Electronic enticement of a child in the first degree (section 707-756, HRS);
 - (G) Extortion in the first degree (section 707-765, HRS);
 - (H) Theft in the first degree (section 708-830.5, HRS);
 - (I) Identity theft in the second degree (section 708-839.7, HRS);
 - (J) Forgery in the first degree (section 708-851, HRS);
 - (K) Computer fraud in the first degree (section 708-891, HRS);



- (L) Unauthorized computer access in the first degree (section 708-895.5, HRS);
- (M) Money laundering (section 708A-3, HRS);
- (N) Bribery (section 710-1040, HRS);
- (O) Promoting prostitution in the first degree (section 712-1202, HRS);
- (P) Electronic enticement of a child in the second degree (section 707-757, HRS);
- (Q) Extortion in the second degree (section 707-766, HRS);
- (R) Burglary in the second degree (section 708-811, HRS);
- (S) Identity theft in the third degree (section 708-839.8, HRS);
- (T) Unauthorized possession of confidential personal information (section 708-839.55, HRS);
- (U) Computer fraud in the second degree (section 708-892, HRS); and
- (V) Promoting prostitution in the second degree (section 712-1203, HRS);

and

- (2) Making technical, nonsubstantive amendments for clarity, consistency, and style.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 1752, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1752, H.D. 1, and be placed on the calendar for Third Reading.



Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



JON RIKI KARAMATSU, Chair



