
A BILL FOR AN ACT

RELATING TO OFFENSES AGAINST VULNERABLE PERSONS.

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

1 SECTION 1. Section 706-620, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§706-620 Authority to withhold sentence of imprisonment.**

4 A defendant who has been convicted of a crime may be sentenced
5 to a term of probation unless:

6 (1) The crime is first or second degree murder or
7 attempted first or second degree murder;

8 (2) The crime is a class A felony, except class A felonies
9 defined in chapter 712, part IV, and by section 707-
10 702;

11 (3) The defendant is a repeat offender under section 706-
12 606.5;

13 (4) The defendant is a felony firearm offender as defined
14 in section 706-660.1(2); or

15 (5) The crime involved the death of or the infliction of
16 serious or substantial bodily injury upon a child, an
17 elder person, a pregnant woman, or a handicapped
18 person under section 706-660.2."



1 SECTION 2. 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 (1) Notwithstanding section 706-669, a person who, in the
6 course of committing or attempting to commit a felony, causes
7 the death of, or inflicts serious or substantial bodily injury
8 upon, a person who is:

9 [~~1~~] (a) Sixty years of age or older;

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

11 (c) Pregnant; provided that this section shall not apply
12 to:

13 (i) Legal abortions performed by healthcare workers
14 and social and healthcare workers who administer
15 emergency contraceptive pills; and

16 (ii) Abortions performed by pregnant women on
17 themselves; or

18 [~~3~~] (d) Eight years of age or younger;

19 and such [~~disability~~] status is known or reasonably should be
20 known to the defendant, shall [~~, if not subjected to an extended~~
21 ~~term of imprisonment pursuant to section 706-662,~~] be sentenced
22 in accordance with subsection (2).



1 (2) A person who commits any offense described in
 2 subsection (1) and who is not subject to an extended term of
 3 imprisonment pursuant to sections 706-661 and 706-662 shall be
 4 sentenced to a mandatory minimum term of imprisonment without
 5 possibility of parole as follows:

6 [~~1~~] (a) For murder in the second degree--fifteen years;

7 [~~2~~] (b) For a class A felony--six years, eight months;

8 [~~3~~] (c) For a class B felony--three years, four months;

9 and

10 [~~4~~] (d) For a class C felony--one year, eight months."

11 SECTION 3. Section 706-662, Hawaii Revised Statutes, is
 12 amended to read as follows:

13 "**§706-662 Criteria for extended terms of imprisonment.** A
 14 defendant who has been convicted of a felony may be subject to
 15 an extended term of imprisonment under section 706-661 if it is
 16 proven beyond a reasonable doubt that an extended term of
 17 imprisonment is necessary for the protection of the public and
 18 that the convicted defendant satisfies one or more of the
 19 following criteria:

20 (1) The defendant is a persistent offender in that the
 21 defendant has previously been convicted of two or more



- 1 felonies committed at different times when the
2 defendant was eighteen years of age or older;
- 3 (2) The defendant is a professional criminal in that:
- 4 (a) The circumstances of the crime show that the
5 defendant has knowingly engaged in criminal
6 activity as a major source of livelihood; or
- 7 (b) The defendant has substantial income or resources
8 not explained to be derived from a source other
9 than criminal activity;
- 10 (3) The defendant is a dangerous person in that the
11 defendant has been subjected to a psychiatric or
12 psychological evaluation that documents a significant
13 history of dangerousness to others resulting in
14 criminally violent conduct, and this history makes the
15 defendant a serious danger to others. Nothing in this
16 section precludes the introduction of victim-related
17 data to establish dangerousness in accord with the
18 Hawaii rules of evidence;
- 19 (4) The defendant is a multiple offender in that:
- 20 (a) The defendant is being sentenced for two or more
21 felonies or is already under sentence of
22 imprisonment for any felony; or



- 1 (b) The maximum terms of imprisonment authorized for
2 each of the defendant's crimes, if made to run
3 consecutively, would equal or exceed in length
4 the maximum of the extended term imposed or would
5 equal or exceed forty years if the extended term
6 imposed is for a class A felony;
- 7 (5) The defendant is an offender against [~~the~~] an
8 elderly[7] or handicapped[7] person, a pregnant woman,
9 or a minor eight years of age or younger in that:
- 10 (a) The defendant attempts or commits any of the
11 following crimes: murder, manslaughter, a sexual
12 offense that constitutes a felony under chapter
13 707, robbery, felonious assault, burglary, or
14 kidnapping; and
- 15 (b) The defendant, in the course of committing or
16 attempting to commit the crime, causes the death
17 of, or inflicts serious or substantial bodily
18 injury upon, a person who has the status of
19 being:
- 20 (i) Sixty years of age or older;
- 21 (ii) Blind, a paraplegic, or a quadriplegic; [~~or~~]



1 (iii) Pregnant; provided that this section shall
2 not apply to legal abortions performed by
3 healthcare workers and social and healthcare
4 workers who administer emergency
5 contraceptive pills; and abortions performed
6 by pregnant women on themselves; or

7 [~~(iii)~~] (iv) Eight years of age or younger; and
8 the person's status is known or reasonably should
9 be known to the defendant; or

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

11 (a) The defendant [~~is~~] has been convicted of a crime
12 under chapter 707, 708, or 711; and

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



H.B. NO. 248

1 related self-image, gender-related appearance, or
 2 gender-related expression, regardless of whether
 3 that gender identity, gender-related self-image,
 4 gender-related appearance, or gender-related
 5 expression is different from that traditionally
 6 associated with the person's sex at birth."

7 SECTION 4. This Act does not affect rights and duties that
 8 matured, penalties that were incurred, and proceedings that were
 9 begun, before its effective date.

10 SECTION 5. Statutory material to be repealed is bracketed
 11 and stricken. New statutory material is underscored.

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

13

INTRODUCED BY: 

JAN 17 2013



H.B. NO. 248

Report Title:

Sentences for Injuries to Pregnant Women; Extended and Mandatory Minimum Terms of Imprisonment

Description:

Adds the acts of killing or inflicting serious or substantial bodily injury upon a pregnant woman in the course of committing or attempting to commit a felony, to the offenses for which a person is subject to an extended or mandatory minimum term of imprisonment.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

