

FEB 28 2013

SENATE CONCURRENT RESOLUTION

REQUESTING THE JUDICIARY TO CONVENE A WORKING GROUP TO EXAMINE
HAWAII'S ENHANCED SENTENCING AND EXTENDED SENTENCING LAWS.

1 WHEREAS, under Hawaii's enhanced sentencing law, section
2 706-657, Hawaii Revised Statutes, a person who has been
3 convicted of second degree murder may be sentenced to life
4 without the possibility of parole if the court finds that the
5 murder was especially heinous, atrocious, or cruel, manifesting
6 exceptional depravity or where the person was previously
7 convicted of murder in the first or second degree; and

8
9 WHEREAS, while a conviction for second degree murder that
10 involved a heinous, atrocious, or cruel act may warrant enhanced
11 sentencing, it leaves the decision to pursue enhanced sentencing
12 to the discretion of the prosecutor or the court and requires an
13 entirely separate hearing after the trial; and

14
15 WHEREAS, under Hawaii's extended sentencing laws in
16 sections 706-661 and 706-662, Hawaii Revised Statutes, the court
17 may sentence a person to an extended term of imprisonment if
18 certain criteria are met; and

19
20 WHEREAS, Hawaii's extended sentencing law seeks to address
21 those situations involving convicted defendants whose records
22 and situations suggest a need for extended incarceration to
23 protect the public; now, therefore,

24
25 BE IT RESOLVED by the Senate of the Twenty-seventh
26 Legislature of the State of Hawaii, Regular Session of 2013, the
27 House of Representatives concurring, that the Judiciary is
28 requested to convene a working group to examine Hawaii's
29 enhanced sentencing and extended sentencing laws; and

30
31 BE IT FURTHER RESOLVED that the Judiciary is encouraged to
32 include in the working group representatives from the:
33



- 1 (1) Department of the Attorney General;
- 2
- 3 (2) Department of Public Safety;
- 4
- 5 (3) Department of the Prosecuting Attorney of the City and
- 6 County of Hawaii;
- 7
- 8 (4) Office of the Prosecuting Attorney of the County of
- 9 Hawaii;
- 10
- 11 (5) Office of the Prosecuting Attorney of the County of
- 12 Maui;
- 13
- 14 (6) Office of the Prosecuting Attorney of the County of
- 15 Kauai;
- 16
- 17 (7) State Public Defender; and
- 18
- 19 (8) Hawaii State Bar Association Criminal Justice and
- 20 Corrections Section; and
- 21

22 BE IT FURTHER RESOLVED that the working group is requested
23 to:

- 24
- 25 (1) Determine the number of cases over the last ten years
- 26 in which the prosecutor or court sought enhanced
- 27 sentencing pursuant to section 706-657, Hawaii Revised
- 28 Statutes, in cases involving a second degree murder
- 29 conviction and the number of cases in which enhanced
- 30 sentencing was granted;
- 31
- 32 (2) Determine the number of cases over the last ten years
- 33 in which the prosecutor or court sought extended
- 34 sentencing pursuant to section 706-661, Hawaii Revised
- 35 Statutes, and the number of cases in which extended
- 36 sentencing was granted;
- 37
- 38 (3) For cases in which extended sentencing was granted
- 39 over the last ten years, examine the amount of time
- 40 sentenced against the amount of time actually served;
- 41 and
- 42
- 43 (4) Review the criteria for extended terms of imprisonment
- 44 provided in section 706-662, Hawaii Revised Statutes,



1 and determine whether further statutory clarity is
2 necessary; and
3

4 BE IT FURTHER RESOLVED that the working group is requested
5 to submit a report of its findings and recommendations,
6 including any proposed legislation, to the Legislature no later
7 than twenty days prior to the convening of the Regular Session
8 of 2014 and be dissolved on June 30, 2014; and
9

10 BE IT FURTHER RESOLVED that certified copies of this
11 Concurrent Resolution be transmitted to the Administrator of the
12 Courts, Attorney General, Director of Public Safety, Prosecuting
13 Attorney of the City and County of Honolulu, Prosecuting
14 Attorney of the County of Hawaii, Prosecuting Attorney of the
15 County of Maui, Prosecuting Attorney of the County of Kauai,
16 State Public Defender, and Chairperson of the Hawaii State Bar
17 Association Criminal Justice and Corrections Section.
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19
20

OFFERED BY: _____

Jim
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