

JAN 17 2020

A BILL FOR AN ACT

RELATING TO SENTENCING.

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

1 SECTION 1. The purpose of this Act is to repeal mandatory
2 minimum periods of imprisonment for certain offenses or under
3 certain circumstances.

4 SECTION 2. Section 706-606.3, Hawaii Revised Statutes, is
5 amended by amending subsection (7) to read as follows:

6 "(7) Notwithstanding sections [~~706-606.5,~~] 706-620, 706-
7 659, and 706-660 [~~, and 706-660.2~~], a defendant considered for
8 the expedited sentencing program under this section when
9 sentence is imposed may be sentenced to a term of probation
10 pursuant to section 706-624; provided that if the defendant is
11 sentenced to a term of imprisonment as a condition of probation,
12 the term of imprisonment may allow for the defendant's retention
13 of employment."

14 SECTION 3. Section 706-620, Hawaii Revised Statutes, is
15 amended to read as follows:



1 "§706-620 Authority to withhold sentence of imprisonment.

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

4 (1) The crime is first or second degree murder or
5 attempted first or second degree murder;

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

9 ~~[(3) The defendant is a repeat offender under section
10 706-606.5;~~

11 ~~+(4) The defendant is a felony firearm offender as defined
12 in section 706-660.1(2);~~

13 ~~+(5) The crime involved the death of or the infliction of
14 serious or substantial bodily injury upon a child, an
15 elder person, or a handicapped person under section
16 706-660.2; or~~

17 ~~+(6)]~~ (3) The crime is cruelty to animals where ten or more
18 pet animals were involved under section 711-1108.5 or
19 711-1109."

20 SECTION 4. Section 706-622.5, Hawaii Revised Statutes, is
21 amended by amending subsection (2) to read as follows:



1 "(2) A person eligible under subsection (1) may be
2 sentenced to probation to undergo and complete a substance abuse
3 treatment program if the court determines that the person can
4 benefit from substance abuse treatment and[, notwithstanding
5 that the person would be subject to sentencing as a repeat
6 offender under section 706-606.5, the person] should not be
7 incarcerated to protect the public. If the person fails to
8 complete the substance abuse treatment program and the court
9 determines that the person cannot benefit from any other
10 suitable substance abuse treatment program, the person shall be
11 subject to sentencing under the applicable section under this
12 part. As a condition of probation under this subsection, the
13 court may direct the person to undergo and complete substance
14 abuse treatment under the supervision of the drug court if the
15 person has a history of relapse in treatment programs. The
16 court may require other terms and conditions of probation,
17 including requiring that the person contribute to the cost of
18 the substance abuse treatment program, comply with deadlines for
19 entering into the substance abuse treatment program, and reside
20 in a secure drug treatment facility."



1 SECTION 5. Section 706-622.9, Hawaii Revised Statutes, is
2 amended by amending subsections (1) and (2) to read as follows:

3 "(1) Notwithstanding section 706-620(3), a person
4 convicted for the first time of any class C felony property
5 offense under chapter 708 who has not previously been sentenced
6 under [~~section 706-606.5,~~] section 706-622.5[~~7~~] or this section
7 is eligible to be sentenced to probation under subsection (2) if
8 the person meets the following criteria:

9 (a) The court has determined that the person is nonviolent
10 after reviewing the person's criminal history, the
11 factual circumstances of the offense for which the
12 person is being sentenced, and any other relevant
13 information;

14 (b) The person has been assessed by a certified substance
15 abuse counselor to be in need of substance abuse
16 treatment due to dependency or abuse under the
17 applicable Diagnostic and Statistical Manual and
18 Addiction Severity Index;

19 (c) The court has determined that the offense for which
20 the person is being sentenced is related to the
21 person's substance abuse dependency or addiction;



1 (d) The court has determined that the person is genuinely
2 motivated to obtain and maintain substance abuse
3 treatment, based upon consideration of the person's
4 history, including whether substance abuse treatment
5 has previously been afforded to the person, and an
6 appraisal of the person's current circumstances and
7 attitude; and

8 (e) Except for those persons directed to substance abuse
9 treatment under the supervision of the drug court, the
10 person presents a proposal to receive substance abuse
11 treatment in accordance with the treatment plan
12 prepared by a certified substance abuse counselor
13 through a substance abuse treatment program that
14 includes an identified source of payment for the
15 treatment program.

16 (2) A person eligible under subsection (1) may be
17 sentenced to probation to undergo and complete a substance abuse
18 treatment program if the court determines that the person can
19 benefit from substance abuse treatment and [~~notwithstanding~~
20 ~~that the person would be subject to sentencing as a repeat~~
21 ~~offender under section 706-606.5, the person]~~ should not be



1 incarcerated to protect the public. If the person fails to
2 complete the substance abuse treatment program and the court
3 determines that the person cannot benefit from any other
4 suitable substance abuse treatment program, the person shall be
5 sentenced as provided in this part. As a condition of probation
6 under this subsection, the court may direct the person to
7 undergo and complete substance abuse treatment under the
8 supervision of the drug court if the person has a history or
9 relapse in treatment programs. The court may require other
10 terms and conditions of probation, including requiring that the
11 person contribute to the cost of the substance abuse treatment
12 program, comply with deadlines for entering into the substance
13 abuse treatment program, and reside in a secure drug treatment
14 facility."

15 SECTION 6. Section 706-656, Hawaii Revised Statutes, is
16 amended to read as follows:

17 **"§706-656 Terms of imprisonment for first and second**
18 **degree murder and attempted first and second degree murder. (1)**
19 Persons eighteen years of age or over at the time of the offense
20 who are convicted of first degree murder or first degree



1 attempted murder shall be sentenced to life imprisonment without
2 the possibility of parole.

3 As part of such sentence, the court shall order the
4 director of public safety and the Hawaii paroling authority to
5 prepare an application for the governor to commute the sentence
6 to life imprisonment with parole at the end of twenty years of
7 imprisonment [~~; provided that persons who are repeat offenders~~
8 ~~under section 706-606.5 shall serve at least the applicable~~
9 ~~mandatory minimum term of imprisonment~~].

10 Persons under the age of eighteen years at the time of the
11 offense who are convicted of first degree murder or first degree
12 attempted murder shall be sentenced to life imprisonment with
13 the possibility of parole.

14 (2) Except as provided in section 706-657, pertaining to
15 enhanced sentence for second degree murder, persons convicted of
16 second degree murder and attempted second degree murder shall be
17 sentenced to life imprisonment with possibility of parole. The
18 minimum length of imprisonment shall be determined by the Hawaii
19 paroling authority [~~; provided that persons who are repeat~~
20 ~~offenders under section 706-606.5 shall serve at least the~~
21 ~~applicable mandatory minimum term of imprisonment~~].



1 If the court imposes a sentence of life imprisonment
2 without possibility of parole pursuant to section 706-657, as
3 part of that sentence, the court shall order the director of
4 public safety and the Hawaii paroling authority to prepare an
5 application for the governor to commute the sentence to life
6 imprisonment with parole at the end of twenty years of
7 imprisonment [~~; provided that persons who are repeat offenders~~
8 ~~under section 706-606.5 shall serve at least the applicable~~
9 ~~mandatory minimum term of imprisonment]."~~

10 SECTION 7. Section 706-659, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§706-659 Sentence of imprisonment for class A felony.**

13 Notwithstanding part II; sections 706-605, 706-606, [~~706-606.5,~~
14 ~~706-660.1, 706-661,~~] and 706-662; and any other law to the
15 contrary, a person who has been convicted of a class A felony,
16 except class A felonies defined in chapter 712, part IV, or
17 section 707-702, shall be sentenced to an indeterminate term of
18 imprisonment of twenty years without the possibility of
19 suspension of sentence or probation. The minimum length of
20 imprisonment shall be determined by the Hawaii paroling
21 authority in accordance with section 706-669. A person who has



1 been convicted of a class A felony defined in chapter 712, part
2 IV, or section 707-702, may be sentenced to an indeterminate
3 term of imprisonment[, ~~except as provided for in section 706-~~
4 ~~660.1 relating to the use of firearms in certain felony offenses~~
5 ~~and section 706-606.5 relating to repeat offenders~~]. When
6 ordering such a sentence, the court shall impose the maximum
7 length of imprisonment which shall be twenty years. The minimum
8 length of imprisonment shall be determined by the Hawaii
9 paroling authority in accordance with section 706-669."

10 SECTION 8. Section 706-660, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "**§706-660 Sentence of imprisonment for class B and C**
13 **felonies; ordinary terms; discretionary terms.** (1) Except as
14 provided in subsection (2), a person who has been convicted of a
15 class B or class C felony may be sentenced to an indeterminate
16 term of imprisonment [~~except as provided for in section~~
17 ~~706-660.1 relating to the use of firearms in certain felony~~
18 ~~offenses and section 706-606.5 relating to repeat offenders~~].
19 When ordering such a sentence, the court shall impose the
20 maximum length of imprisonment which shall be as follows:

21 (a) For a class B felony--ten years; and



1 (b) For a class C felony--five years.

2 The minimum length of imprisonment shall be determined by the
3 Hawaii paroling authority in accordance with section 706-669.

4 (2) A person who has been convicted of a class B or class
5 C felony for any offense under part IV of chapter 712 may be
6 sentenced to an indeterminate term of imprisonment; provided
7 that this subsection shall not apply to sentences imposed under
8 sections [~~706-606.5, 706-660.1,~~] 712-1240.5, 712-1240.8 as that
9 section was in effect prior to July 1, 2016, 712-1242, 712-1245,
10 712-1249.5, 712-1249.6, 712-1249.7, and 712-1257.

11 When ordering a sentence under this subsection, the court
12 shall impose a term of imprisonment, which shall be as follows:

13 (a) For a class B felony--ten years or less, but not less
14 than five years; and

15 (b) For a class C felony--five years or less, but not less
16 than one year.

17 The minimum length of imprisonment shall be determined by the
18 Hawaii paroling authority in accordance with section 706-669."

19 SECTION 9. Section 706-665, Hawaii Revised Statutes, is
20 amended to read as follows:



1 "§706-665 Former conviction in another jurisdiction. For
2 purposes of sections [~~706-606.57~~] 706-620[7] and 706-662(1), a
3 conviction of the commission of a crime in another jurisdiction
4 shall constitute a previous conviction. Such conviction shall
5 be deemed to have been of a felony if sentence of death or of
6 imprisonment in excess of one year was authorized under the law
7 of such other jurisdiction. Such a conviction shall be graded,
8 for purposes of section 706-620 by comparing the maximum
9 imprisonment authorized under the law of such other jurisdiction
10 with the maximum imprisonment authorized for the relevant grade
11 of felony."

12 SECTION 10. Section 706-666, Hawaii Revised Statutes, is
13 amended by amending subsection (1) to read as follows:

14 "(1) An adjudication by a court of competent jurisdiction
15 that the defendant committed a crime constitutes a conviction
16 for purposes of sections [~~706-606.57~~] 706-662[7] and 706-665,
17 although sentence or the execution thereof was suspended,
18 provided that the defendant was not pardoned on the ground of
19 innocence."

20 SECTION 11. Section 712-1240.7, Hawaii Revised Statutes,
21 is amended by amending subsection (3) to read as follows:



1 "(3) Notwithstanding sections 706-620(2), 706-640,
2 706-641, 706-659, 706-669, and any other law to the contrary, a
3 person convicted of methamphetamine trafficking shall be
4 sentenced to an indeterminate term of imprisonment of twenty
5 years [~~with a mandatory minimum term of imprisonment of not less~~
6 ~~than two years and not greater than eight years~~] and a fine not
7 to exceed \$20,000,000 [~~;~~ ~~provided that:~~

8 ~~(a) If the person has one prior conviction for~~
9 ~~methamphetamine trafficking pursuant to this section,~~
10 ~~promoting a dangerous drug in the first degree~~
11 ~~pursuant to section 712-1241 and methamphetamine was~~
12 ~~the drug upon which the conviction was predicated, or~~
13 ~~section 712-1240.8 as that section was in effect prior~~
14 ~~to July 1, 2016, the mandatory minimum term of~~
15 ~~imprisonment shall be not less than six years, eight~~
16 ~~months and not greater than thirteen years, four~~
17 ~~months;~~

18 ~~(b) If the person has two prior convictions for~~
19 ~~methamphetamine trafficking pursuant to this section,~~
20 ~~promoting a dangerous drug in the first degree~~
21 ~~pursuant to section 712-1241 and methamphetamine was~~



1 ~~the drug upon which the conviction was predicated, or~~
2 ~~section 712-1240.8, as that section was in effect~~
3 ~~prior to July 1, 2016, the mandatory minimum term of~~
4 ~~imprisonment shall be not less than thirteen years,~~
5 ~~four months and not greater than twenty years; or~~
6 ~~(c) If the person has three or more prior convictions for~~
7 ~~methamphetamine trafficking pursuant to this section,~~
8 ~~promoting a dangerous drug in the first degree~~
9 ~~pursuant to section 712-1241 and methamphetamine was~~
10 ~~the drug upon which the conviction was predicated, or~~
11 ~~section 712-1240.8 as that section was in effect prior~~
12 ~~to July 1, 2016, the mandatory minimum term of~~
13 ~~imprisonment shall be twenty years]."~~

14 SECTION 12. Section 706-606.5, Hawaii Revised Statutes, is
15 repealed.

16 ~~["§706-606.5 Sentencing of repeat offenders. (1)~~
17 ~~Notwithstanding section 706-669 and any other law to the~~
18 ~~contrary, any person convicted of murder in the second degree,~~
19 ~~any class A felony, any class B felony, or any of the following~~
20 ~~class C felonies:~~



- 1 ~~(a) Section 134-7 relating to persons prohibited from~~
- 2 ~~owning, possessing, or controlling firearms or~~
- 3 ~~ammunition;~~
- 4 ~~(b) Section 134-8 relating to ownership, etc., of certain~~
- 5 ~~prohibited weapons;~~
- 6 ~~(c) Section 134-17 only as it relates to providing false~~
- 7 ~~information or evidence to obtain a permit under~~
- 8 ~~section 134-9;~~
- 9 ~~(d) Section 188-23 relating to possession or use of~~
- 10 ~~explosives, electrofishing devices, and poisonous~~
- 11 ~~substances in state waters;~~
- 12 ~~(e) Section 386-98(d)(1) relating to fraud violations and~~
- 13 ~~penalties;~~
- 14 ~~(f) Section 431:2-403(b)(2) relating to insurance fraud;~~
- 15 ~~(g) Section 707-703 relating to negligent homicide in the~~
- 16 ~~second degree;~~
- 17 ~~(h) Section 707-711 relating to assault in the second~~
- 18 ~~degree;~~
- 19 ~~(i) Section 707-713 relating to reckless endangering in~~
- 20 ~~the first degree;~~



- 1 ~~(j) Section 707-716 relating to terroristic threatening in~~
- 2 ~~the first degree;~~
- 3 ~~(k) Section 707-721 relating to unlawful imprisonment in~~
- 4 ~~the first degree;~~
- 5 ~~(l) Section 707-732 relating to sexual assault in the~~
- 6 ~~third degree;~~
- 7 ~~(m) Section 707-752 relating to promoting child abuse in~~
- 8 ~~the third degree;~~
- 9 ~~(n) Section 707-757 relating to electronic enticement of a~~
- 10 ~~child in the second degree;~~
- 11 ~~(o) Section 707-766 relating to extortion in the second~~
- 12 ~~degree;~~
- 13 ~~(p) Section 708-811 relating to burglary in the second~~
- 14 ~~degree;~~
- 15 ~~(q) Section 708-821 relating to criminal property damage~~
- 16 ~~in the second degree;~~
- 17 ~~(r) Section 708-831 relating to theft in the second~~
- 18 ~~degree;~~
- 19 ~~(s) Section 708-835.5 relating to theft of livestock;~~
- 20 ~~(t) Section 708-836 relating to unauthorized control of~~
- 21 ~~propelled vehicle;~~



- 1 ~~(u) Section 708-839.55 relating to unauthorized possession~~
- 2 ~~of confidential personal information;~~
- 3 ~~(v) Section 708-839.8 relating to identity theft in the~~
- 4 ~~third degree;~~
- 5 ~~(w) Section 708-852 relating to forgery in the second~~
- 6 ~~degree;~~
- 7 ~~(x) Section 708-854 relating to criminal possession of a~~
- 8 ~~forgery device;~~
- 9 ~~(y) Section 708-875 relating to trademark counterfeiting;~~
- 10 ~~(z) Section 710-1071 relating to intimidating a witness;~~
- 11 ~~(aa) Section 711-1103 relating to riot;~~
- 12 ~~(bb) Section 712-1221 relating to promoting gambling in the~~
- 13 ~~first degree;~~
- 14 ~~(cc) Section 712-1224 relating to possession of gambling~~
- 15 ~~records in the first degree;~~
- 16 ~~(dd) Section 712-1247 relating to promoting a detrimental~~
- 17 ~~drug in the first degree; or~~
- 18 ~~(ee) Section 846E-9 relating to failure to comply with~~
- 19 ~~covered offender registration requirements,~~
- 20 ~~or who is convicted of attempting to commit murder in the second~~
- 21 ~~degree, any class A felony, any class B felony, or any of the~~



1 ~~class C felony offenses enumerated above and who has a prior~~
2 ~~conviction or prior convictions for the following felonies,~~
3 ~~including an attempt to commit the same: murder, murder in the~~
4 ~~first or second degree, a class A felony, a class B felony, any~~
5 ~~of the class C felony offenses enumerated above, or any felony~~
6 ~~conviction of another jurisdiction, shall be sentenced to a~~
7 ~~mandatory minimum period of imprisonment without possibility of~~
8 ~~parole as provided in subsection (2).~~

9 ~~(2) A mandatory minimum period of imprisonment without~~
10 ~~possibility of parole during that period shall be imposed~~
11 ~~pursuant to subsection (1), as follows:~~

12 ~~(a) One prior felony conviction:~~

13 ~~(i) Where the instant conviction is for murder in the~~
14 ~~second degree or attempted murder in the second~~
15 ~~degree ten years;~~

16 ~~(ii) Where the instant conviction is for a class A~~
17 ~~felony six years, eight months;~~

18 ~~(iii) Where the instant conviction is for a class B~~
19 ~~felony three years, four months; and~~



- 1 ~~(iv) Where the instant conviction is for a class C~~
- 2 ~~felony offense enumerated above one year, eight~~
- 3 ~~months;~~
- 4 ~~(b) Two prior felony convictions:~~
- 5 ~~(i) Where the instant conviction is for murder in the~~
- 6 ~~second degree or attempted murder in the second~~
- 7 ~~degree twenty years;~~
- 8 ~~(ii) Where the instant conviction is for a class A~~
- 9 ~~felony thirteen years, four months;~~
- 10 ~~(iii) Where the instant conviction is for a class B~~
- 11 ~~felony six years, eight months; and~~
- 12 ~~(iv) Where the instant conviction is for a class C~~
- 13 ~~felony offense enumerated above three years,~~
- 14 ~~four months; and~~
- 15 ~~(c) Three or more prior felony convictions:~~
- 16 ~~(i) Where the instant conviction is for murder in the~~
- 17 ~~second degree or attempted murder in the second~~
- 18 ~~degree thirty years;~~
- 19 ~~(ii) Where the instant conviction is for a class A~~
- 20 ~~felony twenty years;~~



- 1 ~~(iii) Where the instant conviction is for a class B~~
- 2 ~~felony ten years; and~~
- 3 ~~(iv) Where the instant conviction is for a class C~~
- 4 ~~felony offense enumerated above five years.~~

5 ~~(3) Except as provided in subsection (4), a person shall~~
6 ~~not be sentenced to a mandatory minimum period of imprisonment~~
7 ~~under this section unless the instant felony offense was~~
8 ~~committed during the period as follows:~~

9 ~~(a) Within twenty years after a prior felony conviction~~
10 ~~where the prior felony conviction was for murder in~~
11 ~~the first degree or attempted murder in the first~~
12 ~~degree;~~

13 ~~(b) Within twenty years after a prior felony conviction~~
14 ~~where the prior felony conviction was for murder in~~
15 ~~the second degree or attempted murder in the second~~
16 ~~degree;~~

17 ~~(c) Within twenty years after a prior felony conviction~~
18 ~~where the prior felony conviction was for a class A~~
19 ~~felony;~~

20 ~~(d) Within ten years after a prior felony conviction where~~
21 ~~the prior felony conviction was for a class B felony;~~



1 ~~(e) Within five years after a prior felony conviction~~
2 ~~where the prior felony conviction was for a class C~~
3 ~~felony offense enumerated above;~~

4 ~~(f) Within the maximum term of imprisonment possible after~~
5 ~~a prior felony conviction of another jurisdiction.~~

6 ~~(4) If a person was sentenced for a prior felony~~
7 ~~conviction to a special term under section 706-667, then the~~
8 ~~person shall not be sentenced to a mandatory minimum period of~~
9 ~~imprisonment under this section unless the instant felony~~
10 ~~offense was committed during that period as follows:~~

11 ~~(a) Within eight years after a prior felony conviction~~
12 ~~where the prior felony conviction was for a class A~~
13 ~~felony;~~

14 ~~(b) Within five years after the prior felony conviction~~
15 ~~where the prior felony conviction was for a class B~~
16 ~~felony;~~

17 ~~(c) Within four years after the prior felony conviction~~
18 ~~where the prior felony conviction was for a class C~~
19 ~~felony offense enumerated above.~~

20 ~~(5) Notwithstanding any other law to the contrary, any~~
21 ~~person convicted of any of the following misdemeanor offenses:~~



1 ~~(a) Section 707-712 relating to assault in the third~~
2 ~~degree;~~

3 ~~(b) Section 707-717 relating to terroristic threatening in~~
4 ~~the second degree;~~

5 ~~(c) Section 707-733 relating to sexual assault in the~~
6 ~~fourth degree;~~

7 ~~(d) Section 708-822 relating to criminal property damage~~
8 ~~in the third degree;~~

9 ~~(e) Section 708-832 relating to theft in the third degree;~~
10 ~~and~~

11 ~~(f) Section 708-833.5(2) relating to misdemeanor~~
12 ~~shoplifting,~~

13 ~~and who has been convicted of any of the offenses enumerated~~
14 ~~above on at least three prior and separate occasions within~~
15 ~~three years of the date of the commission of the present~~
16 ~~offense, shall be sentenced to no less than nine months of~~
17 ~~imprisonment. Whenever a court sentences a defendant under this~~
18 ~~subsection for an offense under section 707-733, the court shall~~
19 ~~order the defendant to participate in a sex offender assessment~~
20 ~~and, if recommended based on the assessment, participate in the~~
21 ~~sex offender treatment program established by chapter 353E.~~



1 ~~(6) The sentencing court may impose the above sentences~~
2 ~~consecutive to any sentence imposed on the defendant for a prior~~
3 ~~conviction, but the sentence shall be imposed concurrent to the~~
4 ~~sentence imposed for the instant conviction. The court may~~
5 ~~impose a lesser mandatory minimum period of imprisonment without~~
6 ~~possibility of parole than that mandated by this section where~~
7 ~~the court finds that strong mitigating circumstances warrant the~~
8 ~~action. Strong mitigating circumstances shall include, but~~
9 ~~shall not be limited to the provisions of section 706-621. The~~
10 ~~court shall provide a written opinion stating its reasons for~~
11 ~~imposing the lesser sentence.~~

12 ~~(7) A person who is imprisoned in a correctional~~
13 ~~institution pursuant to subsection (1) shall not be paroled~~
14 ~~prior to the expiration of the mandatory minimum term of~~
15 ~~imprisonment imposed pursuant to subsection (1).~~

16 ~~(8) For purposes of this section:~~

17 ~~(a) Convictions under two or more counts of an indictment~~
18 ~~or complaint shall be considered a single conviction~~
19 ~~without regard to when the convictions occur;~~

20 ~~(b) A prior conviction in this or another jurisdiction~~
21 ~~shall be deemed a felony conviction if it was~~



1 ~~punishable by a sentence of death or of imprisonment~~
2 ~~in excess of one year; and~~

3 ~~(c) A conviction occurs on the date judgment is entered."]~~

4 SECTION 13. Section 706-660.1, Hawaii Revised Statutes, is
5 repealed.

6 ~~["§706-660.1 Sentence of imprisonment for use of a~~
7 ~~firearm, semiautomatic firearm, or automatic firearm in a~~
8 ~~felony. (1) A person convicted of a felony, where the person~~
9 ~~had a firearm in the person's possession or threatened its use~~
10 ~~or used the firearm while engaged in the commission of the~~
11 ~~felony, whether the firearm was loaded or not, and whether~~
12 ~~operable or not, may in addition to the indeterminate term of~~
13 ~~imprisonment provided for the grade of offense be sentenced to a~~
14 ~~mandatory minimum term of imprisonment without possibility of~~
15 ~~parole or probation the length of which shall be as follows:~~

16 ~~(a) For murder in the second degree and attempted murder~~
17 ~~in the second degree up to fifteen years;~~

18 ~~(b) For a class A felony up to ten years;~~

19 ~~(c) For a class B felony up to five years; and~~

20 ~~(d) For a class C felony up to three years.~~



1 ~~The sentence of imprisonment for a felony involving the use of a~~
2 ~~firearm as provided in this subsection shall not be subject to~~
3 ~~the procedure for determining minimum term of imprisonment~~
4 ~~prescribed under section 706-669; provided further that a person~~
5 ~~who is imprisoned in a correctional institution as provided in~~
6 ~~this subsection shall become subject to the parole procedure as~~
7 ~~prescribed in section 706-670 only upon the expiration of the~~
8 ~~term of mandatory imprisonment fixed under paragraph (a), (b),~~
9 ~~(c), or (d).~~

10 ~~(2) A person convicted of a second firearm felony offense~~
11 ~~as provided in subsection (1) where the person had a firearm in~~
12 ~~the person's possession or threatened its use or used the~~
13 ~~firearm while engaged in the commission of the felony, whether~~
14 ~~the firearm was loaded or not, and whether operable or not,~~
15 ~~shall in addition to the indeterminate term of imprisonment~~
16 ~~provided for the grade of offense be sentenced to a mandatory~~
17 ~~minimum term of imprisonment without possibility of parole or~~
18 ~~probation the length of which shall be as follows:~~

19 ~~(a) For murder in the second degree and attempted murder~~
20 ~~in the second degree twenty years;~~

21 ~~(b) For a class A felony thirteen years, four months;~~



1 ~~(c) For a class B felony--six years, eight months; and~~

2 ~~(d) For a class C felony--three years, four months.~~

3 ~~The sentence of imprisonment for a second felony offense~~
4 ~~involving the use of a firearm as provided in this subsection~~
5 ~~shall not be subject to the procedure for determining a minimum~~
6 ~~term of imprisonment prescribed under section 706-669; provided~~
7 ~~further that a person who is imprisoned in a correctional~~
8 ~~institution as provided in this subsection shall become subject~~
9 ~~to the parole procedure as prescribed in section 706-670 only~~
10 ~~upon expiration of the term of mandatory imprisonment fixed~~
11 ~~under paragraph (a), (b), (c), or (d).~~

12 ~~(3) A person convicted of a felony, where the person had a~~
13 ~~semiautomatic firearm or automatic firearm in the person's~~
14 ~~possession or used or threatened its use while engaged in the~~
15 ~~commission of the felony, whether the semiautomatic firearm or~~
16 ~~automatic firearm was loaded or not, and whether operable or~~
17 ~~not, shall in addition to the indeterminate term of imprisonment~~
18 ~~provided for the grade of offense be sentenced to a mandatory~~
19 ~~minimum term of imprisonment without possibility of parole or~~
20 ~~probation the length of which shall be as follows:~~



- 1 ~~(a) For murder in the second degree and attempted murder~~
2 ~~in the second degree twenty years;~~
- 3 ~~(b) For a class A felony fifteen years;~~
- 4 ~~(c) For a class B felony ten years; and~~
- 5 ~~(d) For a class C felony five years.~~

6 ~~The sentence of imprisonment for a felony involving the use of a~~
7 ~~semiautomatic firearm or automatic firearm as provided in this~~
8 ~~subsection shall not be subject to the procedure for determining~~
9 ~~a minimum term of imprisonment prescribed under section 706-669;~~
10 ~~provided further that a person who is imprisoned in a~~
11 ~~correctional institution as provided in this subsection shall~~
12 ~~become subject to the parole procedure as prescribed in section~~
13 ~~706-670 only upon expiration of the term of mandatory~~
14 ~~imprisonment fixed under paragraph (a), (b), (c), or (d).~~

15 ~~(4) In this section:~~

16 ~~"Automatic firearm" has the same meaning defined in section~~
17 ~~134-1.~~

18 ~~"Firearm" has the same meaning defined in section 134-1~~
19 ~~except that it does not include "semiautomatic firearm" or~~
20 ~~"automatic firearm".~~



1 ~~"Semiautomatic firearm" means any firearm that uses the~~
2 ~~energy of the explosive in a fixed cartridge to extract a fired~~
3 ~~cartridge and chamber a fresh cartridge with each single pull of~~
4 ~~the trigger."]~~

5 SECTION 14. Section 706-660.2, Hawaii Revised Statutes, is
6 repealed.

7 ~~["§706-660.2 Sentence of imprisonment for offenses against~~
8 ~~children, elder persons, or handicapped persons. (1)~~

9 ~~Notwithstanding section 706-669, if not subjected to an extended~~
10 ~~term of imprisonment pursuant to section 706-662, a person shall~~
11 ~~be sentenced to a mandatory minimum term of imprisonment without~~
12 ~~possibility of parole as provided in subsection (2) if:~~

13 ~~(a) The person, in the course of committing or attempting~~
14 ~~to commit a felony, causes the death or inflicts~~
15 ~~serious or substantial bodily injury upon another~~
16 ~~person who is:~~

17 ~~(i) Sixty years of age or older;~~

18 ~~(ii) Blind, a paraplegic, or a quadriplegic; or~~

19 ~~(iii) Eight years of age or younger; and~~

20 ~~(b) Such disability is known or reasonably should be known~~
21 ~~to the defendant.~~



1 ~~(2) The term of imprisonment for a person sentenced~~
2 ~~pursuant to subsection (1) shall be as follows:~~

3 ~~(a) For murder in the second degree fifteen years;~~

4 ~~(b) For a class A felony six years, eight months;~~

5 ~~(c) For a class B felony three years, four months;~~

6 ~~(d) For a class C felony one year, eight months."]~~

7 SECTION 15. This Act does not affect rights and duties
8 that matured, penalties that were incurred, and proceedings that
9 were begun before its effective date.

10 SECTION 16. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 17. This Act shall take effect upon its approval.

13

INTRODUCED BY: *B/R Maura Michalek*



S.B. NO. 2524

Report Title:

Penal Code; Sentences of Imprisonment; Mandatory Minimum

Description:

Repeals mandatory minimum periods of imprisonment for certain offenses or under certain circumstances.

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

