

JAN 17 2025

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# A BILL FOR AN ACT

RELATING TO SENTENCING.

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

1           SECTION 1. The legislature finds that through a court  
2 decision, Massachusetts became the first state to ban life  
3 without parole sentences for individuals eighteen years of old  
4 through twenty years old, considering those in this age group as  
5 "emerging adults". The court extended the bright line age cut-  
6 off from eighteen years of age to twenty years of age in part  
7 due to neuroscience research that supports that brain maturation  
8 continues through an individual's mid-twenties.

9           The purpose of this Act is to change the age for which  
10 individuals are eligible for life without parole sentences from  
11 eighteen years of age or older to twenty-one years of age or  
12 older.

13           SECTION 2. Section 706-656, Hawaii Revised Statutes, is  
14 amended by amending subsection (1) to read as follows:

15           "(1) Persons [~~eighteen~~] twenty-one years of age or [~~over~~]  
16 older at the time of the offense who are convicted of first  
17 degree murder or first degree attempted murder shall be



1 sentenced to life imprisonment without the possibility of  
2 parole.

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

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

14 SECTION 3. Section 706-657, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 "**S706-657 Enhanced sentence for second degree murder.** The  
17 court may sentence a person who was [~~eighteen~~] twenty-one years  
18 of age or [~~over~~] older at the time of the offense and who has  
19 been convicted of murder in the second degree to life  
20 imprisonment without the possibility of parole under section  
21 706-656 if the court finds that the murder was especially



1 heinous, atrocious, or cruel, manifesting exceptional depravity  
2 or that the person was previously convicted of the offense of  
3 murder in the first degree or murder in the second degree in  
4 this State or was previously convicted in another jurisdiction  
5 of an offense that would constitute murder in the first degree  
6 or murder in the second degree in this State. As used in this  
7 section, the phrase "especially heinous, atrocious, or cruel,  
8 manifesting exceptional depravity" means a conscienceless or  
9 pitiless crime which is unnecessarily torturous to a victim and  
10 "previously convicted" means a sentence imposed at the same time  
11 or a sentence previously imposed which has not been set aside,  
12 reversed, or vacated.

13 Hearings to determine the grounds for imposing an enhanced  
14 sentence for second degree murder may be initiated by the  
15 prosecutor or by the court on its own motion. The court shall  
16 not impose an enhanced term unless the ground therefor has been  
17 established at a hearing after the conviction of the defendant  
18 and on written notice to the defendant of the ground proposed.  
19 Subject to the provision of section 706-604, the defendant shall  
20 have the right to hear and controvert the evidence against the  
21 defendant and to offer evidence upon the issue.



1           The provisions pertaining to commutation in section 706-  
2 656(2), shall apply to persons sentenced pursuant to this  
3 section."

4           SECTION 4. Section 706-662, Hawaii Revised Statutes, is  
5 amended to read as follows:

6           "**§706-662 Criteria for extended terms of imprisonment.** A  
7 defendant who has been convicted of a felony may be subject to  
8 an extended term of imprisonment under section 706-661 if it is  
9 proven beyond a reasonable doubt that an extended term of  
10 imprisonment is necessary for the protection of the public and  
11 that the convicted defendant satisfies one or more of the  
12 following criteria:

13           (1) The defendant is a persistent offender in that the  
14 defendant has previously been convicted of two or more  
15 felonies committed at different times when the  
16 defendant was [~~eighteen~~] twenty-one years of age or  
17 older;

18           (2) The defendant is a professional criminal in that:

19           (a) The circumstances of the crime show that the  
20 defendant has knowingly engaged in criminal  
21 activity as a major source of livelihood; or



- 1           (b) The defendant has substantial income or resources
- 2                   not explained to be derived from a source other
- 3                   than criminal activity;
  
- 4           (3) The defendant is a dangerous person in that the
- 5                   defendant has been subjected to a psychiatric or
- 6                   psychological evaluation that documents a significant
- 7                   history of dangerousness to others resulting in
- 8                   criminally violent conduct, and this history makes the
- 9                   defendant a serious danger to others. Nothing in this
- 10                  section precludes the introduction of victim-related
- 11                  data to establish dangerousness in accord with the
- 12                  Hawaii rules of evidence;
  
- 13          (4) The defendant is a multiple offender in that:
- 14                  (a) The defendant is being sentenced for two or more
- 15                        felonies or is already under sentence of
- 16                        imprisonment for any felony; or
  
- 17                  (b) The maximum terms of imprisonment authorized for
- 18                        each of the defendant's crimes, if made to run
- 19                        consecutively, would equal or exceed in length
- 20                        the maximum of the extended term imposed or would



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1 equal or exceed forty years if the extended term  
2 imposed is for a class A felony;

3 (5) The defendant is an offender against the elderly,  
4 handicapped, or a minor eight years of age or younger  
5 in that:

6 (a) The defendant attempts or commits any of the  
7 following crimes: murder, manslaughter, a sexual  
8 offense that constitutes a felony under chapter  
9 707, robbery, felonious assault, burglary, or  
10 kidnapping; and

11 (b) The defendant, in the course of committing or  
12 attempting to commit the crime, inflicts serious  
13 or substantial bodily injury upon a person who  
14 has the status of being:

15 (i) Sixty years of age or older;

16 (ii) Blind, a paraplegic, or a quadriplegic; or

17 (iii) Eight years of age or younger; and

18 the person's status is known or reasonably should  
19 be known to the defendant;

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



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- 1           (a) The defendant is convicted of a crime under
- 2                   chapter 707, 708, or 711; and
- 3           (b) The defendant intentionally selected a victim or,
- 4                   in the case of a property crime, the property
- 5                   that was the object of a crime, because of
- 6                   hostility toward the actual or perceived race,
- 7                   religion, disability, ethnicity, national origin,
- 8                   gender identity or expression, or sexual
- 9                   orientation of any person. For purposes of this
- 10                  subsection, "gender identity or expression"
- 11                  includes a person's actual or perceived gender,
- 12                  as well as a person's gender identity, gender-
- 13                  related self-image, gender-related appearance, or
- 14                  gender-related expression, regardless of whether
- 15                  that gender identity, gender-related self-image,
- 16                  gender-related appearance, or gender-related
- 17                  expression is different from that traditionally
- 18                  associated with the person's sex at birth; or
- 19           (7) The defendant is convicted under section 707-702.5 and
- 20                  the defendant did not remain at the scene of the crime
- 21                  and render reasonable assistance to an injured person,



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1 including acts and omissions in violation of section  
2 291C-12."

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

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

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INTRODUCED BY:

Karl Rhoad



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**Report Title:**

Sentencing; Life Without Parole; Minors; Penal Code

**Description:**

Changes the age for which individuals are eligible for life without parole sentences from eighteen years of age or older to twenty-one years of age or older.

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

