

ACT 282

S.B. NO. 2559

A Bill for an Act Relating to Sentencing and Parole.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 706-669, Hawaii Revised Statutes, is amended to read as follows:

“§706-669 Procedure for determining minimum term of imprisonment.

(1) When a person has been sentenced to an indeterminate or an extended term of imprisonment, the Hawaii paroling authority shall, as soon as practicable but no later than six months after commitment to the custody of the director of the department of social services and housing hold a hearing, and on the basis of the hearing make an order fixing the minimum term of imprisonment to be served before the prisoner shall become eligible for parole.

(2) Before holding the hearing, the authority shall obtain a complete report regarding the prisoner's life before entering the institution and a full report of his progress in the institution. The report shall be a complete personality evaluation for the purpose of determining his degree of propensity toward criminal activity.

(3) The prisoner shall be given reasonable notice of the hearing under subsection (1) and shall be permitted to be heard by the authority on the issue of the minimum term to be served before he becomes eligible for parole. In addition, he shall:

- (a) Be permitted to consult with any persons he reasonably desires, including his own legal counsel¹ in preparing for the hearing;

- (b) Be permitted to be represented and assisted by counsel at the hearing;
- (c) Have counsel appointed to represent and assist him if he so requests and cannot afford to retain counsel; and
- (d) Be informed of his rights under (a), (b), and (c).

(4) The authority in its discretion may, in any particular case and at any time, impose a special condition that the prisoner will not be considered for parole unless and until he has a record of continuous exemplary behavior.

(5) The authority in its discretion may reduce the minimum term fixed by its order pursuant to subsection (1).

(6) A verbatim stenographic or mechanical record of the hearing shall be made and preserved in transcribed or untranscribed form.

(7) The State shall have the right to be represented at the hearing by the prosecuting attorney who may present written testimony and make oral comments and the authority shall consider such testimony and comments in reaching its decision. The authority shall notify the prosecuting attorney of the hearing at the time the prisoner is given notice of the hearing. The hearing shall be opened to victims or their designees or surviving immediate family members.

(8) The authority shall establish guidelines for the uniform determination of minimum sentences which shall take into account both the nature and degree of the offense of the prisoner and the prisoner's criminal history and character. The guidelines shall be public records and shall be made available to the prisoner and to the prosecuting attorney and other interested government agencies."

SECTION 2. Section 706-670, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

"(1) Parole hearing. A person sentenced to an indeterminate term of imprisonment shall receive an initial parole hearing at least one month before the expiration of the minimum term of imprisonment determined by the Hawaii paroling authority pursuant to section 706-669. If parole is not granted at that time, additional hearings shall be held at twelve-month intervals or less until parole is granted or the maximum period of imprisonment expires. The State shall have the right to be represented at the hearing by the prosecuting attorney who may present written testimony and make oral comments and the authority shall consider such testimony and comments in reaching its decision. The authority shall notify the appropriate prosecuting attorney of the hearing at the time the prisoner is given notice of the hearing."

SECTION 3. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 13, 1988.)

Note

- 1. Prior to amendment, "", appeared here.