

ACT 229

S.B. NO. 495

A Bill for an Act Relating to Sentencing.

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

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

**“§706-620 Authority to withhold sentence of imprisonment.** A defendant who has been convicted of a crime may be sentenced to a term of probation unless:

- (1) The crime is first or second degree murder or attempted first or second degree murder;
- (2) The crime is a class A felony[;], except class A felonies defined in chapter 712, part IV;
- (3) The defendant is a repeat offender under section 706-606.5; [or]
- (4) The defendant is a felony firearm offender as defined in section 706-660.1(2); or
- (5) The crime involved the death of or the infliction of serious or substantial bodily injury upon a child, an elder person, or a handicapped person under section 706-660.2.”

SECTION 2. Section 706-623, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) When the court has sentenced a defendant to be placed on probation, the period of probation shall be [five years upon conviction of a felony, one year upon conviction of a misdemeanor, or six months upon conviction of a petty misdemeanor, unless the defendant is discharged sooner by order of the court.] as follows, unless the court enters the reason therefor on the record and sentences the defendant to a shorter period of probation;

- (a) Ten years upon conviction of a class A felony;
- (b) Five years upon conviction of a class B or class C felony;
- (c) One year upon conviction of a misdemeanor; or

(d) Six months upon conviction of a petty misdemeanor.

The court, on application of a probation officer [or of], on application of the defendant, or on its own motion, may discharge the defendant at any time. Prior to granting early discharge, the court shall afford the prosecuting attorney an opportunity to be heard. The terms of probation provided in this part, other than in this section, shall not apply to sentences of probation imposed under section 706-606.3.”

SECTION 3. Section 706-659, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§706-659]]~~ **Sentence of imprisonment for class A felony.** Notwithstanding [sections 706-620 to 706-631, suspension of sentence and probation, and] part II; sections 706-605, 706-606, 706-606.5, 706-660.1, 706-661, and 706-662[,]; and any other law to the contrary, a person who has been convicted of a class A felony, except class A felonies defined in chapter 712, part IV, shall be sentenced to an indeterminate term of imprisonment of twenty years without the possibility of suspension of sentence or probation. The minimum length of imprisonment shall be determined by the Hawaii paroling authority in accordance with section 706-669. A person who has been convicted of a class A felony defined in chapter 712, part IV, may be sentenced to an indeterminate term of imprisonment, except as provided for in section 706-660.1 relating to the use of firearms in certain felony offenses and section 706-606.5 relating to repeat offenders. When ordering such a sentence, the court shall impose the maximum length of imprisonment which shall be twenty years. The minimum length of imprisonment shall be determined by the Hawaii paroling authority in accordance with section 706-669.”

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved June 22, 1994.)