

ACT 3

S.B. NO. 2187

A Bill for an Act Relating to Sentencing.

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

SECTION 1. Section 706-662, Hawaii Revised Statutes, is amended to read as follows:

“§706-662 Criteria for extended terms of imprisonment. A convicted defendant may be subject to an extended term of imprisonment under section 706-661, if the convicted defendant satisfies one or more of the following criteria:

- (1) The defendant is a persistent offender whose imprisonment for an extended term is necessary for protection of the public. The court shall not make [such a] this finding unless the defendant has previously been convicted of two felonies committed at different times when the defendant was eighteen years of age or older.
- (2) The defendant is a professional criminal whose imprisonment for an extended term is necessary for protection of the public. The court shall not make [such a] this finding unless:

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- (a) The circumstances of the crime show that the defendant has knowingly [devoted oneself to] engaged in criminal activity as a major source of livelihood; or
- (b) The defendant has substantial income or resources not explained to be derived from a source other than criminal activity.
- (3) The defendant is a dangerous person whose imprisonment for an extended term is necessary for protection of the public. The court shall not make [such a] this finding unless the defendant has been subjected to a psychiatric or psychological evaluation [which] that documents a significant history of dangerousness to others resulting in criminally violent conduct, and [that such] this history makes the defendant a serious danger to others. Nothing in this section precludes the introduction of victim-related data in order to establish dangerousness in accord with [Hawaii Rules of Evidence.] the Hawaii rules of evidence.
- (4) The defendant is a multiple offender whose criminal actions were so extensive that a sentence of imprisonment for an extended term is necessary for protection of the public. The court shall not make [such a] this finding unless:
 - (a) The defendant is being sentenced for two or more felonies or is already under sentence of imprisonment for felony; or
 - (b) The maximum terms of imprisonment authorized for each of the defendant's crimes, if made to run consecutively would equal or exceed in length the maximum of the extended term imposed, or would equal or exceed forty years if the extended term imposed is for a class A felony.
- (5) The defendant is an offender against the elder, handicapped, or minor under the age of eight whose imprisonment for an extended term is necessary for the protection of the public. The court shall not make [such a] this finding unless:
 - (a) The defendant attempts or commits any of the following crimes: murder, manslaughter, a sexual offense [which] that constitutes a felony under chapter 707, robbery, felonious assault, burglary, [and] or kidnapping; and
 - (b) The defendant, in the course of committing or attempting to commit the crime, inflicts serious or substantial bodily injury upon a person who is:
 - (i) Sixty years of age or older;
 - (ii) Blind, a paraplegic, or a quadriplegic; or
 - (iii) Eight years of age or younger; and
 - (c) Such disability is known or reasonably should be known to the defendant.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

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

(Approved April 10, 1996.)