

A Bill for an Act Relating to the Penal Code.

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

SECTION 1. The legislature finds that the Hawaii Penal Code is the fundamental document by which the State addresses crime. It is imperative that such an important part of state law receives full and deliberate attention from time to time to ensure the Code's continued force and effectiveness.

Since the Hawaii Penal Code was enacted in 1972, there have been four significant reviews of the Code by means of:

- (1) Act 291, Session Laws of Hawaii 1983, which resulted in the enactment of many of the committee on penal code revision and reform of the judicial council of the Hawaii supreme court's recommendations as Act 314, Session Laws of Hawaii 1986;
- (2) Act 284, Session Laws of Hawaii 1993, which did not result in legislative action on the recommendations of the committee on penal code review;
- (3) Act 125, Session Laws of Hawaii 2005, which led to enactment of many of the committee on penal code review's recommendations as Act 230, Session Laws of Hawaii 2006; and
- (4) House Concurrent Resolution No. 155, S.D. 1, Regular Session of 2015, which led to the enactment of Act 231, Session Laws of Hawaii 2016.

The legislature concludes that it is time for another review. The purpose of this Act is to require the judicial council to conduct another comprehensive review of the Hawaii Penal Code to be completed no later than forty days prior to the convening of the regular session of 2026.

SECTION 2. The judicial council, as established pursuant to section 601-4, Hawaii Revised Statutes, through an advisory committee on penal code review, shall conduct a comprehensive review of the Hawaii Penal Code and recommend to the legislature necessary amendments to ensure:

- (1) That the Hawaii Penal Code is consistent and proportional across the various types and classes of offenses;
- (2) That the Hawaii Penal Code is aligned with national best practices and based upon evidence-based strategies;
- (3) That grades and punishment are appropriate and proportionate to other sentences imposed for criminal or civil offenses and are cost-effective in deterring crime, reducing recidivism, and providing restitution to victims in a manner that provides equal justice and punishment regardless of socioeconomic class or ethnicity;
- (4) That the response of the criminal justice system to mentally ill offenders is appropriate to the situation; and
- (5) The continued force, effectiveness, and enforcement of the Hawaii Penal Code.

SECTION 3. (a) No later than September 1, 2024, the judicial council shall appoint an advisory committee on penal code review. The advisory committee shall include the following members:

- (1) Representatives of the judiciary;
 - (2) A member of the senate standing committee on judiciary;
 - (3) A member of the house of representatives standing committee on judiciary and Hawaiian affairs;
 - (4) The attorney general, or the attorney general's designee;
 - (5) A representative of the office of the public defender;
 - (6) The administrator of the office of Hawaiian affairs, or the administrator's designee;
 - (7) A representative of the department of corrections and rehabilitation;
 - (8) A representative of the department of law enforcement;
 - (9) The governor's senior advisor for mental health and the justice system;
 - (10) The prosecuting attorney of each county, or each prosecuting attorney's designee; and
 - (11) A representative of the police department of each county, at least one of which shall be in a role that focuses on mental health.
- (b) The following members shall be invited by the judicial council to participate on the advisory committee:
- (1) Representatives from citizen participation bodies, such as neighborhood boards;
 - (2) Private citizens interested in criminal law and civil liberties;
 - (3) Hawaii-licensed attorneys in private practice who handle criminal cases;
 - (4) Representatives from advocacy groups for incarcerated individuals;
 - (5) Representatives from advocacy groups for crime victims;
 - (6) Psychologists or social workers; and
 - (7) Any other members the judicial council deems necessary.
- (c) The members of the advisory committee shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.
- (d) The advisory committee shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than forty days prior to the convening of the regular session of 2026.

SECTION 4. The judicial council may appoint a reporter for the review and other research and clerical staff, as may be necessary, without regard to chapter 76, Hawaii Revised Statutes. In selecting the reporter and research and clerical staff, the judicial council is urged to use, to the greatest extent possible, the faculty and students of the university of Hawaii at Manoa William S. Richardson school of law.

SECTION 5. There is appropriated out of the general revenues of the State of Hawaii the sum of \$10,000 or so much thereof as may be necessary for fiscal year 2024-2025 for the purposes of this Act.

The sum appropriated shall be expended by the judiciary for the purposes of this Act.

SECTION 6. This Act shall take effect on July 1, 2024.

(Approved July 9, 2024.)