JAN 1 9 2007

A BILL FOR AN ACT

RELATING TO THE PENAL CODE.

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

- 1 SECTION 1. Section 706-663, Hawaii Revised Statutes, is
- 2 amended to read as follows:
- 3 "§706-663 Sentence of imprisonment for misdemeanor and
- 4 petty misdemeanor. [After] (1) Except as provided in
- 5 subsection (2), after consideration of the factors set forth in
- 6 sections 706-606 and 706-621, the court may sentence a person
- 7 who has been convicted of a misdemeanor or a petty misdemeanor
- 8 to imprisonment for a definite term to be fixed by the court and
- 9 not to exceed one year in the case of a misdemeanor or thirty
- 10 days in the case of a petty misdemeanor.
- 11 (2) A person who commits a misdemeanor offense against the
- 12 person and who has been convicted three or more times of a
- 13 misdemeanor offense against the person within ten years
- 14 preceding the instant offense shall be guilty of a class C
- felony and shall be sentenced as provided in section 706-660;
- 16 provided that whenever a court sentences a defendant under this
- 17 subsection for an offense under section 707-733, the court shall

1	order the defendant to participate in a sex offender assessment
2	and, if recommended based on the assessment, participate in the
3	sex offender treatment program established by chapter 353E;
4	provided further that section 706-606.5 to the contrary
5	notwithstanding, a person sentenced under this subsection shall
6	be sentenced to a mandatory minimum term of imprisonment without
7	the possibility of probation or parole of two years; provided
8	further that a person sentenced under this subsection shall
9	become subject to the parole procedure set forth in section 706-
10	670 only upon expiration of the mandatory minimum term imposed
11	under this subsection.
12	For purposes of this subsection:
13	(a) "Misdemeanor offense against the person" means a
14	misdemeanor offense under chapter 707 or physically
15	abusing a family or household member under section
16	<u>709-906;</u>
17	(b) "Convicted three or more times" means that:
18	(i) A judgment on a verdict or a finding of guilty or
19	on a plea of guilty or nolo contendere for a
20	misdemeanor offense against the person; or
21	(ii) An adjudication of a minor for a law or probation
22	violation that, if committed by an adult, would

1	constitute a misdemeanor offense against the
2	person, has been entered against the person three
3	or more times; provided that judgments or
4	adjudications that, at the time of the instant
5	offense, had been expunged by pardon, reversed,
6	or set aside shall not be considered prior
7	convictions for purposes of sentencing under this
8	subsection."
9	SECTION 2. This Act does not affect rights and duties that
10	matured, penalties that were incurred, and proceedings that were
11	begun, before its effective date.
12	SECTION 3. Statutory material to be repealed is bracketed
13	and stricken. New statutory material is underscored.
14	SECTION 4. This Act shall take effect upon its approval.
15	
	INTRODUCED BY: Will Free

Report Title:

Habitual Petty Offenders; Class C Felony

Description:

Makes 4th misdemeanor crime against a person within 10 years a class C felony with a mandatory minimum 2-year sentence.