



**TESTIMONY OF THE STATE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2009**

ON THE FOLLOWING MEASURE:

H.B. NO. 1780, RELATING TO SENTENCING OF REPEAT OFFENDERS.

BEFORE THE:

HOUSE COMMITTEE ON JUDICIARY

DATE: Tuesday, February 17, 2009 TIME: 2:00 PM

LOCATION: State Capitol, Room 325

TESTIFIER(S): Mark J. Bennett, Attorney General,
or Lance M. Goto, Deputy Attorney General

Dear Chair Karamatsu and Members of the Committee:

The Department of the Attorney General strongly opposes this bill.

The purpose of the bill is to change the mandatory minimum sentencing provisions of the repeat offender law from mandatory to discretionary.

The repeat offender law set out in section 706-606.5, Hawaii Revised Statutes, was enacted in 1976 and has been in place for almost thirty-three years to address the serious problem of repeat and habitual offenders and career criminals who have no regard for the law or the legal system. It helps protect Hawaii's people and communities from the relatively small group of criminals who commit so many of the crimes that occur in Hawaii.

The Commentary on section 706-606.5, citing the 1976 House Conference Committee Report No. 32, Senate Conference Committee Report No. 33, states:

Finding a clear danger to the people of Hawaii in the high incidence of offenses being committed by repeat offenders, the legislature felt it necessary to provide for mandatory terms of imprisonment without the possibility of parole in cases of repeated offenses by prior offenders.

Since 1976, the Legislature has refined and enhanced the repeat offender law and, recognizing its value and importance, added more offenses to the list of offenses subject to repeat offender sentencing.

This bill would destroy the repeat offender law, disregarding the years of legislation, experience, and practice that have led to the development of this important law.

This bill cites a 2008 poll released by a group calling itself Families Against Mandatory Minimums. The poll indicates that it was a telephonic survey of only 1,000 people across the nation. The poll and the assertions made about its results are extremely misleading. The questions are ambiguous or framed to elicit a particular response. In fact, the poll is not about repeat offender sentencing. The following is the poll question about mandatory sentencing:

Over the last twenty years, some states and the federal government have required that certain crimes, including non-violent crimes, carry a mandatory or automatic prison sentence, regardless of the circumstances of the crime. Do you support or oppose the idea of mandatory prison sentences for some non-violent crimes?

This is a vague and ambiguous question about mandatory sentencing for some non-violent crimes. The question has nothing to do with repeat, habitual or career criminal offenders, yet this bill cites the poll as a reason to gut repeat offender law. Moreover, this bill impacts more than just "non-violent" crimes.

We respectfully urge that this bill be held.