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# HOUSE CONCURRENT RESOLUTION

REQUESTING THE CONVENING OF A WORKING GROUP TO EXAMINE SMARTER  
SENTENCING TO IMPROVE THE QUALITY AND RELIABILITY OF STATE  
CRIMINAL SENTENCING PRACTICES.

1           WHEREAS, the prison population in the United States has  
2 grown tremendously over the past four decades despite the  
3 tapering off of crime over the past twenty years, partly due to  
4 the imposition of lengthy sentences; and

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6           WHEREAS, the increasing number of individuals imprisoned  
7 has led to rising operating costs, community reliance on  
8 incarceration, and growing numbers of inmates prematurely  
9 released from prison each year; and

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11           WHEREAS, offender recidivism rates continue to be an issue  
12 because many inmates who are released from incarceration are not  
13 prepared to lead law-abiding lives and reintegrate into society;  
14 and

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16           WHEREAS, the number of inmates prematurely released has led  
17 to a growing sentiment that there is interdependency among  
18 participants in the judicial process that needs to be recognized  
19 in working with each other and in the decision-making processes  
20 regarding offenders; and

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22           WHEREAS, smarter sentencing uses research and science to  
23 enhance the decision making ability of criminal justice  
24 stakeholders in the selection and application of fair, just,  
25 proportionate, and efficient sanctioning goals; and

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27           WHEREAS, at each decision point during the process of  
28 charging an individual with an offense, negotiating and  
29 recommending a plea deal, and determining the ultimate sentence,  
30 there is an opportunity to use research-based smarter  
31 sentencing; and



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WHEREAS, Hawaii utilizes mandatory indeterminate sentencing, without the benefit of court supervision, to determine the minimum term of imprisonment; and

WHEREAS, it is appropriate for the judiciary to retain statutory authority for minimum sentencing because it is better situated to make case-by-case determinations with its knowledge of the facts and laws of each case, such as whether a crime is especially heinous, atrocious, or cruel; now, therefore,

BE IT RESOLVED by the House of Representatives of the Twenty-eighth Legislature of the State of Hawaii, Regular Session of 2015, the Senate concurring, that the Judiciary is requested to convene a working group to examine the concept of smarter sentencing to improve the quality and reliability of the State's criminal justice sentencing policies and practices; and

BE IT FURTHER RESOLVED that the purpose of the working group is to research:

- (1) The number of cases over the last ten years in which smarter sentencing principles were applied to the negotiation and recommendation of a sentence;
- (2) The number of cases over the past ten years in which principles of smarter sentencing were applicable;
- (3) Possibilities of designing, implementing, and streamlining a process involving smarter sentencing; and
- (4) The effects of indeterminate sentencing and the possibility of restoring statutory authority for minimum sentencing to the Judiciary; and

BE IT FURTHER RESOLVED that the Judiciary is requested to include in the working group:

- (1) The Chairperson of the Senate and House of Representatives committees with primary jurisdiction over the Judiciary;



- 1 (2) The Chairperson of the Senate and House of  
2 Representatives committees with primary jurisdiction  
3 over public safety;  
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- 5 (3) The county prosecutor of each of the counties of  
6 Hawaii, Kauai, and Maui, and the City and County of  
7 Honolulu;  
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- 9 (4) One public defender to represent the Office of the  
10 Public Defender located in each of the counties of  
11 Hawaii, Kauai, and Maui, and the City and County of  
12 Honolulu;  
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- 14 (5) The Attorney General, or the Attorney General's  
15 designee;  
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- 17 (6) Two members appointed by the Chief Justice of the  
18 Hawaii Supreme Court;  
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- 20 (7) One representative of the American Civil Liberties  
21 Union of Hawaii;  
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- 23 (8) One representative of the Hawaii Civil Rights  
24 Commission;  
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- 26 (9) One representative of the Sex Abuse Treatment Center;  
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- 28 (10) One representative of a domestic violence advocacy  
29 group, such as the Hawaii State Coalition Against  
30 Domestic Violence;  
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- 32 (11) One representative of Mothers Against Drunk Driving;  
33 and  
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- 35 (12) Four members from the community, to be appointed by  
36 the Governor; and  
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38 BE IT FURTHER RESOLVED that the working group is requested  
39 to select a chairperson from among its members and meet at least  
40 five times prior to December 31, 2015; and  
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42 BE IT FURTHER RESOLVED that the working group is requested  
43 to submit a report of its findings and recommendations,  
44 including any proposed legislation, to the Legislature no later



1 than twenty days prior to the convening of the Regular Session  
2 of 2016; and

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4 BE IT FURTHER RESOLVED that no member of the working group  
5 shall be made subject to chapter 84, Hawaii Revised Statutes,  
6 solely because of that member's participation as a member of the  
7 working group; and

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9 BE IT FURTHER RESOLVED that the working group be dissolved  
10 on June 30, 2016; and

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12 BE IT FURTHER RESOLVED that certified copies of this  
13 Concurrent Resolution be transmitted to the Governor, President  
14 of the Senate, Speaker of the House of Representatives,  
15 Administrator of the Courts, Director of Public Safety, Director  
16 of the Hawaii Paroling Authority Board, Hawaii Paroling  
17 Authority Administrator, Prosecuting Attorney of the County of  
18 Hawaii, Prosecuting Attorney of the County of Kauai, Prosecuting  
19 Attorney of the County of Maui, Prosecuting Attorney of the City  
20 and County of Honolulu, Office of the Public Defender, Attorney  
21 General, Executive Director of the American Civil Liberties  
22 Union of Hawaii, Executive Director of the Hawaii Civil Rights  
23 Commission, Executive Director of the Sex Abuse Treatment  
24 Center, and Executive Director of Mothers Against Drunk Driving.

