

JAN 22 2016

A BILL FOR AN ACT

RELATING TO PROBATION.

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

1 SECTION 1. The purpose of this Act is to provide the
2 courts with more discretion with respect to conditions of
3 probation.

4 More specifically, this Act:

5 (1) Adds as a possible condition of probation that a
6 convicted defendant who is without a dwelling be
7 required to stay nightly in a homeless facility while
8 on probation; and

9 (2) Specifies expressly that probation may be ordered by a
10 court for conviction of a county crime. The
11 legislature intends that "county crime" include a
12 crime under an ordinance or rule of a county of the
13 State.

14 SECTION 2. Section 706-606, Hawaii Revised Statutes, is
15 amended to read as follows:



1 "§706-606 Factors to be considered in imposing a sentence.

2 The court, in determining the particular sentence to be imposed,
3 shall consider:

4 (1) The nature and circumstances of the offense and the
5 history and characteristics of the defendant;

6 (2) The need for the sentence imposed:

7 (a) To reflect the seriousness of the offense, to
8 promote respect for law, and to provide just
9 punishment for the offense;

10 (b) To afford adequate deterrence to criminal
11 conduct;

12 (c) To protect the public from further crimes of the
13 defendant; and

14 (d) To provide the defendant with needed shelter,
15 educational or vocational training, medical or
16 mental health care, or other correctional
17 treatment in the most effective manner;

18 (3) The kinds of sentences available; and

19 (4) The need to avoid unwarranted sentence disparities
20 among defendants with similar records who have been
21 found guilty of similar conduct."



1 SECTION 3. Section 706-624, Hawaii Revised Statutes, is
2 amended by amending subsections (1) and (2) to read as follows:

3 "(1) Mandatory conditions. The court shall provide, as an
4 explicit condition of a sentence of probation:

5 (a) That the defendant not commit another federal [~~or~~],
6 state, or county crime or engage in criminal conduct
7 in any foreign jurisdiction or under military
8 jurisdiction that would constitute a crime under
9 Hawaii state or county law during the term of
10 probation;

11 (b) That the defendant report to a probation officer as
12 directed by the court or the probation officer;

13 (c) That the defendant remain within the jurisdiction of
14 the court, unless granted permission to leave by the
15 court or a probation officer;

16 (d) That the defendant notify a probation officer prior to
17 any change in address or employment;

18 (e) That the defendant notify a probation officer promptly
19 if arrested or questioned by a law enforcement
20 officer;



1 (f) That the defendant permit a probation officer to visit
2 the defendant at the defendant's home or elsewhere as
3 specified by the court; and

4 (g) That the defendant make restitution for losses
5 suffered by the victim or victims if the court has
6 ordered restitution pursuant to section 706-646.

7 (2) Discretionary conditions. The court may provide, as
8 further conditions of a sentence of probation, to the extent
9 that the conditions are reasonably related to the factors set
10 forth in section 706-606 and to the extent that the conditions
11 involve only deprivations of liberty or property as are
12 reasonably necessary for the purposes indicated in section 706-
13 606(2), that the defendant:

14 (a) Serve a term of imprisonment to be determined by the
15 court at sentencing in class A felony cases under
16 section 707-702, not exceeding two years in class A
17 felony cases under part IV of chapter 712, not
18 exceeding eighteen months in class B felony cases, not
19 exceeding one year in class C felony cases, not
20 exceeding six months in misdemeanor cases, and not
21 exceeding five days in petty misdemeanor cases;



1 provided that notwithstanding any other provision of
2 law, any order of imprisonment under this subsection
3 that provides for prison work release shall require
4 the defendant to pay thirty per cent of the
5 defendant's gross pay earned during the prison work
6 release period to satisfy any restitution order. The
7 payment shall be handled by the adult probation
8 division and shall be paid to the victim on a monthly
9 basis;

10 (b) Perform a specified number of hours of services to the
11 community as described in section 706-605(1)(d);

12 (c) Support the defendant's dependents and meet other
13 family responsibilities;

14 (d) Pay a fine imposed pursuant to section 706-605(1)(b);

15 (e) Work conscientiously at suitable employment or pursue
16 conscientiously a course of study or vocational
17 training that will equip the defendant for suitable
18 employment;

19 (f) Refrain from engaging in a specified occupation,
20 business, or profession bearing a reasonably direct
21 relationship to the conduct constituting the crime or



1 engage in the specified occupation, business, or
2 profession only to a stated degree or under stated
3 circumstances;

4 (g) Refrain from frequenting specified kinds of places or
5 from associating unnecessarily with specified persons,
6 including the victim of the crime, any witnesses,
7 regardless of whether they actually testified in the
8 prosecution, law enforcement officers, co-defendants,
9 or other individuals with whom contact may adversely
10 affect the rehabilitation or reformation of the person
11 convicted;

12 (h) Refrain from use of alcohol or any use of narcotic
13 drugs or controlled substances without a prescription;

14 (i) Refrain from possessing a firearm, ammunition,
15 destructive device, or other dangerous weapon;

16 (j) Undergo available medical or mental health treatment,
17 including treatment for substance abuse dependency,
18 and remain in a specified facility if required for
19 that purpose;

20 (k) Either:



1 (i) Reside in a specified place or area or refrain
2 from residing in a specified place or area; or
3 (ii) If the defendant is without a dwelling, stay
4 nightly in a specified homeless facility that has
5 space available until residency is established in
6 a dwelling place, health care facility, or other
7 place; provided that the homeless facility
8 consents to release information to the court,
9 police department, and prosecuting attorney
10 regarding the presence or absence of the
11 defendant at the facility for any nights that the
12 defendant is directed to stay at the specified
13 homeless facility;

14 (l) Submit to periodic urinalysis or other similar testing
15 procedure;

16 (m) Refrain from entering specified geographical areas
17 without the court's permission;

18 (n) Refrain from leaving the person's dwelling place
19 except to go to and from the person's place of
20 employment, the office of the person's physician or
21 dentist, the probation office, or any other location



as may be approved by the person's probation officer pursuant to court order. As used in this paragraph, "dwelling place" includes the person's yard or, in the case of condominiums, the common elements;

- (o) Comply with a specified curfew;
- (p) Submit to monitoring by an electronic monitoring device; or
- (q) Satisfy other reasonable conditions as the court may impose."

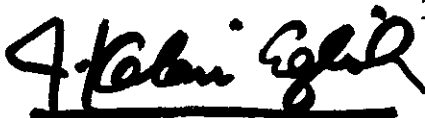
SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of \$ or so much thereof as may be necessary for fiscal year 2016-2017 for the implementation of this Act commencing January 1, 2017.

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

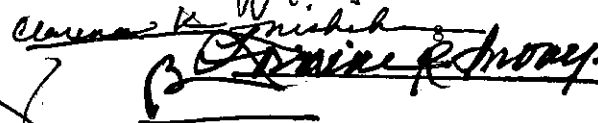
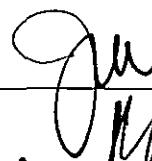
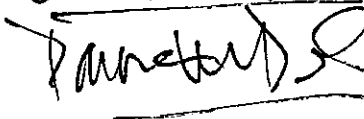
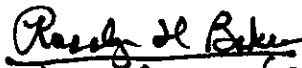
SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on January 1, 2017; provided that section 4 shall take effect on July 1, 2016.

INTRODUCED BY:



SB LRB 16-0168-1.doc



Report Title:

Probation; Overnight Stay in Homeless Facility

Description:

Authorizes court to condition probation on requirement that a convicted defendant stay nightly in a homeless facility. Clarifies that probation may be imposed for conviction of a county crime. Appropriates moneys from the general fund for implementation. Effective 01/01/17.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

