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# A BILL FOR AN ACT

RELATING TO THE PENAL CODE.

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

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

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

- 8           (1) Act 291, Session Laws of Hawaii 1983, which resulted  
9           in the enactment of many of the committee on penal  
10           code revision and reform of the judicial council of  
11           the Hawaii supreme court's recommendations as Act 314,  
12           Session Laws of Hawaii 1986;
- 13           (2) Act 284, Session Laws of Hawaii 1993, which did not  
14           result in legislative action on the recommendations of  
15           the committee on penal code review;
- 16           (3) Act 125, Session Laws of Hawaii 2005, which led to  
17           enactment of many of the committee on penal code



1 review's recommendations as Act 230, Session Laws of  
2 Hawaii 2006; and

3 (4) House Concurrent Resolution No. 155, S.D. 1 (2015),  
4 which led to the enactment of Act 231, Session Laws of  
5 Hawaii 2016.

6 The legislature concludes that it is time for another  
7 review. The purpose of this Act is to require the judicial  
8 council to conduct another comprehensive review of the Hawaii  
9 Penal Code, to commence in 2021, and be completed no later than  
10 forty days prior to the convening of the regular session of  
11 2023.

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

17 (1) That the Hawaii Penal Code is consistent and  
18 proportional with regard to sentencing, across the  
19 various types and classes of offenses;



1 (2) That the Hawaii Penal Code is aligned with national  
2 best practices and based upon evidence-based  
3 strategies to reduce recidivism; and

4 (3) The continued force and effectiveness of the Hawaii  
5 Penal Code.

6 (b) The judicial council shall give special consideration  
7 to:

8 (1) Reviewing The American Law Institute's Model Penal  
9 Code, including recent proposals, the criminal codes  
10 of other states, national data on recidivism and  
11 successful models to reduce recidivism rates, and  
12 other criminal law resources;

13 (2) Analyzing whether grades and punishment are  
14 appropriate and proportionate to other sentences  
15 imposed for criminal or civil offenses and are  
16 cost-effective in deterring crime, reducing  
17 recidivism, and providing restitution to victims in a  
18 manner that provides equal justice and punishment  
19 regardless of socioeconomic class or ethnicity;



1           (3) Considering whether enhanced penalties for repeat  
2           offenders should remain incorporated in the Hawaii  
3           Penal Code; and

4           (4) Evaluating additional sentencing options and  
5           alternatives to aid in the enforcement of the Hawaii  
6           Penal Code.

7           SECTION 3. No later than January 1, 2021, the judicial  
8           council shall appoint an advisory committee on penal code  
9           review. The advisory committee shall include the following  
10          members:

- 11          (1) Representatives of the judiciary;
- 12          (2) A member of the senate standing committee on  
13          judiciary;
- 14          (3) A member of the house of representatives standing  
15          committee on judiciary;
- 16          (4) The attorney general, or the attorney general's  
17          designee;
- 18          (5) A representative of the office of the public defender;
- 19          (6) The administrator of the office of Hawaiian affairs,  
20          or the administrator's designee;
- 21          (7) A representative of the department of public safety;



- 1           (8) The prosecuting attorney of each county, or each
- 2           prosecuting attorney's designee;
- 3           (9) A representative of the police department of each
- 4           county;
- 5           (10) Representatives from citizen participation bodies,
- 6           such as neighborhood boards;
- 7           (11) Private citizens interested in criminal law and civil
- 8           liberties;
- 9           (12) Hawaii-licensed attorneys in private practice who
- 10          handle criminal cases;
- 11          (13) Representatives from advocacy groups for incarcerated
- 12          individuals;
- 13          (14) Representatives from advocacy groups for crime
- 14          victims; and
- 15          (15) Psychologists or social workers.

16           The members of the advisory committee shall serve without  
17 compensation but shall be reimbursed for expenses, including  
18 travel expenses, necessary for the performance of their duties.

19           The advisory committee shall submit a report of its  
20 findings and recommendations, including any proposed



1 legislation, to the legislature no later than forty days prior  
2 to the convening of the regular session of 2023.

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

10 SECTION 5. There is appropriated out of the general  
11 revenues of the State of Hawaii the sum of \$25,000 or so much  
12 thereof as may be necessary for fiscal year 2020-2021 for the  
13 purposes of this Act.

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

16 SECTION 6. This Act shall take effect upon its approval;  
17 provided that section 5 shall take effect on July 1, 2050.



**Report Title:**

Penal Code Review; Judicial Council; Advisory Committee;  
Appropriation

**Description:**

Requires the Judicial Council to conduct a comprehensive review of the Hawaii Penal Code and to recommend proposed changes. Requires the Judicial Council to appoint an advisory committee to assist in the review, and allows the Council to also appoint a reporter and other staff as necessary. Requires the advisory committee to report to the Legislature. Makes an appropriation. Effective 7/1/2050. (HD1)

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

