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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, Regular  
4 Session of 2015, which led to the enactment of Act  
5 231, Session Laws of 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 be completed no later than forty days prior to the  
10 convening of the regular session of 2026.

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

16 (1) That the Hawaii Penal Code is consistent and  
17 proportional across the various types and classes of  
18 offenses;

19 (2) That the Hawaii Penal Code is aligned with national  
20 best practices and based upon evidence-based  
21 strategies;



1           (3) That grades and punishment are appropriate and  
 2           proportionate to other sentences imposed for criminal  
 3           or civil offenses and are cost-effective in deterring  
 4           crime, reducing recidivism, and providing restitution  
 5           to victims in a manner that provides equal justice and  
 6           punishment regardless of socioeconomic class or  
 7           ethnicity;

8           (4) That the response of the criminal justice system to  
 9           mentally ill offenders is appropriate to the  
 10          situation; and

11          (5) The continued force, effectiveness, and enforcement of  
 12          the Hawaii Penal Code.

13          SECTION 3. (a) No later than September 1, 2024, the  
 14          judicial council shall appoint an advisory committee on penal  
 15          code review. The advisory committee shall include the following  
 16          members:

- 17           (1) Representatives of the judiciary;
- 18           (2) A member of the senate standing committee on  
 19           judiciary;
- 20           (3) A member of the house of representatives standing  
 21           committee on judiciary and Hawaiian affairs;



- 1           (4) The attorney general, or the attorney general's  
2           designee;
- 3           (5) A representative of the office of the public defender;
- 4           (6) The administrator of the office of Hawaiian affairs,  
5           or the administrator's designee;
- 6           (7) A representative of the department of corrections and  
7           rehabilitation;
- 8           (8) A representative of the department of law enforcement;
- 9           (9) The governor's senior advisor for mental health and  
10          the justice system;
- 11          (10) The prosecuting attorney of each county, or each  
12          prosecuting attorney's designee; and
- 13          (11) A representative of the police department of each  
14          county, at least one of which shall be in a role that  
15          focuses on mental health.
- 16          (b) The following members shall be invited by           to  
17 participate on the advisory committee:
- 18          (1) Representatives from citizen participation bodies,  
19          such as neighborhood boards;
- 20          (2) Private citizens interested in criminal law and civil  
21          liberties;



- 1 (3) Hawaii-licensed attorneys in private practice who
- 2 handle criminal cases;
- 3 (4) Representatives from advocacy groups for incarcerated
- 4 individuals;
- 5 (5) Representatives from advocacy groups for crime
- 6 victims;
- 7 (6) Psychologists or social workers; and
- 8 (7) Any other members the judicial council deems
- 9 necessary.

10 (c) The members of the advisory committee shall serve  
 11 without compensation but shall be reimbursed for expenses,  
 12 including travel expenses, necessary for the performance of  
 13 their duties.

14 (d) The advisory committee shall submit a report of its  
 15 findings and recommendations, including any proposed  
 16 legislation, to the legislature no later than forty days prior  
 17 to the convening of the regular session of 2026.

18 SECTION 4. The judicial council may appoint a reporter for  
 19 the review and other research and clerical staff, as may be  
 20 necessary, without regard to chapter 76, Hawaii Revised  
 21 Statutes. In selecting the reporter and research and clerical



1 staff, the council is urged to use, to the greatest extent  
2 possible, the faculty and students of the university of Hawaii  
3 at Manoa William S. Richardson school of law.

4 SECTION 5. In accordance with section 9 of article VII of  
5 the Hawaii State Constitution and sections 37-91 and 37-93,  
6 Hawaii Revised Statutes, the legislature has determined that the  
7 appropriations contained in Act 164, Regular Session of 2023,  
8 and this Act will cause the state general fund expenditure  
9 ceiling for fiscal year 2024-2025 to be exceeded by

10 \$ or per cent. This current declaration takes  
11 into account general fund appropriations authorized for fiscal  
12 year 2024-2025 in Act 164, Regular Session of 2023, and this Act  
13 only. The reasons for exceeding the general fund expenditure  
14 ceiling are that:

- 15 (1) The appropriation made in this Act is necessary to  
16 serve the public interest; and
- 17 (2) The appropriation made in this Act meets the needs  
18 addressed by this Act.

19 SECTION 6. There is appropriated out of the general  
20 revenues of the State of Hawaii the sum of \$ or so much



1 thereof as may be necessary for fiscal year 2024-2025 for the  
2 purposes of this Act.

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

5 SECTION 7. This Act shall take effect on July 1, 2050;  
6 provided that section 6 shall take effect on July 1, 2024.

