

JAN 19 2024

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 Hawai'i 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 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 role of mental illness on offenders and the
9 criminal system response is appropriate to the
10 situation; and

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

13 SECTION 3. No later than September 1, 2024, the judicial
14 council shall appoint an advisory committee on penal code
15 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;



- 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;
- 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 (12) Representatives from citizen participation bodies,
- 17 such as neighborhood boards;
- 18 (13) Private citizens interested in criminal law and civil
- 19 liberties;
- 20 (14) Hawai'i-licensed attorneys in private practice who
- 21 handle criminal cases;



1 (15) Representatives from advocacy groups for incarcerated
2 individuals;

3 (16) Representatives from advocacy groups for crime
4 victims; and

5 (17) Psychologists or social workers.

6 The members of the advisory committee shall serve without
7 compensation but shall be reimbursed for expenses, including
8 travel expenses, necessary for the performance of their duties.

9 The advisory committee shall submit a report of its
10 findings and recommendations, including any proposed
11 legislation, to the legislature no later than forty days prior
12 to the convening of the regular session of 2026.

13 SECTION 4. The judicial council may appoint a reporter for
14 the review and other research and clerical staff, as may be
15 necessary, without regard to chapter 76. In selecting the
16 reporter and research and clerical staff, the council is urged
17 to use, to the greatest extent possible, the faculty and
18 students of the university of Hawai'i at Manoa William S.
19 Richardson school of law.

20 SECTION 5. In accordance with section 9 of article VII of
21 the Hawaii State Constitution and sections 37-91 and 37-93,



1 Hawaii Revised Statutes, the legislature has determined that the
2 appropriations contained in Act 164, Regular Session of 2023,
3 and this Act will cause the state general fund expenditure
4 ceiling for fiscal year 2024-2025 to be exceeded by
5 \$ or per cent. This current declaration takes
6 into account general fund appropriations authorized for fiscal
7 year 2024-2025 in Act 164, Regular Session of 2023, and this Act
8 only. The reasons for exceeding the general fund expenditure
9 ceiling are that:

- 10 (1) The appropriation made in this Act is necessary to
11 serve the public interest; and
- 12 (2) The appropriation made in this Act meets the needs
13 addressed by this Act.

14 SECTION 6. There is appropriated out of the general
15 revenues of the State of Hawaii the sum of \$25,000 or so much
16 thereof as may be necessary for fiscal year 2024-2025 for the
17 purposes of this Act.

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



1 SECTION 7. This Act shall take effect upon its approval;
2 provided that section 6 shall take effect on July 1, 2024.

3

INTRODUCED BY: _____

Karl Rhoads



S.B. NO. 2332

Report Title:

Penal Code Review; Judicial Council; Advisory Committee;
Expenditure Ceiling; 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. Declares that the general fund expenditure ceiling is exceeded. Makes an appropriation.

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

