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# A BILL FOR AN ACT

RELATING TO SENTENCING.

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

1       SECTION 1. The legislature finds that there are  
2       circumstances in which a sentencing court may find that a term  
3       of probation would be more appropriate than an indeterminate  
4       term of incarceration or a mandatory term of jail. However,  
5       existing law requires sentencing courts to impose mandatory  
6       minimum sentences for repeat offenders, limiting judicial  
7       discretion.

8       The legislature further finds that, in the interest of  
9       rehabilitation, courts have delayed sentencing to allow  
10      defendants to complete substance abuse and other rehabilitative  
11      programs, and have attempted to reduce mandatory minimum  
12      sentences to facilitate rehabilitation outside of incarceration.  
13      Despite these efforts, defendants are still subject to  
14      indeterminate incarceration and must seek release through the  
15      Hawaii paroling authority. Serving an indeterminate term as a  
16      sentenced felon can have detrimental effects on individuals who  
17      have demonstrated rehabilitation.



1       The legislature also finds that providing a narrow,  
2   discretionary exception for certain class C felony cases would  
3   promote just and fair adjudication and align with best practices  
4   for addressing substance addiction. This exception would  
5   require specific judicial findings, including that the defendant  
6   is not a danger to public safety, would benefit from probation  
7   with appropriate terms and conditions, and would serve a period  
8   of jail time as a condition of probation.

9       The legislature additionally finds that allowing probation  
10   in select cases will reduce incarceration costs and support  
11   rehabilitation, enabling defendants to reintegrate as  
12   contributing members of society. Furthermore, courts will still  
13   have the option to re-sentence defendants if they fail to  
14   successfully complete probation or violate the terms and  
15   conditions of probation.

16       The purpose of this Act is to amend repeat offender  
17   sentencing provisions to allow judges, under certain  
18   circumstances, to sentence defendants in class C felony cases to  
19   probation with appropriate terms and conditions.

20       SECTION 2. Section 706-606.5, Hawaii Revised Statutes, is  
21   amended to read as follows:



1           **"§706-606.5 Sentencing of repeat offenders. (1)**

2   ~~[Notwithstanding]~~ Except as provided in subsection (8), and  
3   notwithstanding section 706-669 and any other law to the  
4   contrary, any person convicted of murder in the second degree,  
5   any class A felony, any class B felony, or any of the following  
6   class C felonies:

7           (a) Section 134-7 relating to persons prohibited from  
8               owning, possessing, or controlling firearms or  
9               ammunition;

10          (b) Section 134-8 relating to ownership, etc., of certain  
11             prohibited weapons;

12          (c) Section 134-17 only as it relates to providing false  
13             information or evidence to obtain a permit under  
14             section 134-9;

15          (d) Section 188-23 relating to possession or use of  
16             explosives, electrofishing devices, and poisonous  
17             substances in state waters;

18          (e) Section 386-98(d)(1) relating to fraud violations and  
19             penalties;

20          (f) Section 431:2-403(b)(2) relating to insurance fraud;



- 1 (g) Section 707-703 relating to negligent homicide in the  
2 second degree;
- 3 (h) Section 707-711 relating to assault in the second  
4 degree;
- 5 (i) Section 707-713 relating to reckless endangering in  
6 the first degree;
- 7 (j) Section 707-716 relating to terroristic threatening in  
8 the first degree;
- 9 (k) Section 707-721 relating to unlawful imprisonment in  
10 the first degree;
- 11 (l) Section 707-732 relating to sexual assault in the  
12 third degree;
- 13 (m) Section 707-752 relating to promoting child abuse in  
14 the third degree;
- 15 (n) Section 707-757 relating to electronic enticement of a  
16 child in the second degree;
- 17 (o) Section 707-766 relating to extortion in the second  
18 degree;
- 19 (p) Section 708-811 relating to burglary in the second  
20 degree;



- 1 (q) Section 708-821 relating to criminal property damage  
2 in the second degree;
- 3 (r) Section 708-831 relating to theft in the second  
4 degree;
- 5 (s) Section 708-835.5 relating to theft of livestock;
- 6 (t) Section 708-836 relating to unauthorized control of a  
7 propelled vehicle in the first degree;
- 8 (u) Section 708-839.55 relating to unauthorized possession  
9 of confidential personal information;
- 10 (v) Section 708-839.8 relating to identity theft in the  
11 third degree;
- 12 (w) Section 708-852 relating to forgery in the second  
13 degree;
- 14 (x) Section 708-854 relating to criminal possession of a  
15 forgery device;
- 16 (y) Section 708-875 relating to trademark counterfeiting;
- 17 (z) Section 709-906(8), (9), or (10) relating to abuse of  
18 family or household members;
- 19 (aa) Section 710-1071 relating to intimidating a witness;
- 20 (bb) Section 711-1103 relating to riot;



[+](cc)[+] Section 712-1224 relating to possession of  
gambling records in the first degree;

[+](dd)[+] Section 712-1247 relating to promoting a  
detrimental drug in the first degree; or

[+](ee)[+] Section 846E-9 relating to failure to comply with  
covered offender registration requirements,

or who is convicted of attempting to commit murder in the second  
degree, any class A felony, any class B felony, or any of the  
class C felony offenses enumerated above and who has a prior  
conviction or prior convictions for the following felonies,  
including an attempt to commit the same: murder, murder in the  
first or second degree, a class A felony, a class B felony, any  
of the class C felony offenses enumerated above, or any felony  
conviction of another jurisdiction, shall be sentenced to a  
mandatory minimum period of imprisonment without possibility of  
parole as provided in subsection (2).

(2) A mandatory minimum period of imprisonment without  
possibility of parole during that period shall be imposed  
pursuant to subsection (1), as follows:

(a) One prior felony conviction:



- 1           (i)   Where the instant conviction is for murder in the  
2                   second degree or attempted murder in the second  
3                   degree--ten years;
- 4           (ii)   Where the instant conviction is for a class A  
5                   felony--six years, eight months;
- 6           (iii)   Where the instant conviction is for a class B  
7                   felony--three years, four months; and
- 8           (iv)   Where the instant conviction is for a class C  
9                   felony offense enumerated above--one year, eight  
10                  months;
- 11       (b)   Two prior felony convictions:
- 12           (i)   Where the instant conviction is for murder in the  
13                   second degree or attempted murder in the second  
14                   degree--twenty years;
- 15           (ii)   Where the instant conviction is for a class A  
16                   felony--thirteen years, four months;
- 17           (iii)   Where the instant conviction is for a class B  
18                   felony--six years, eight months; and
- 19           (iv)   Where the instant conviction is for a class C  
20                   felony offense enumerated above--three years,  
21                  four months; and



1 (c) Three or more prior felony convictions:

2 (i) Where the instant conviction is for murder in the  
3 second degree or attempted murder in the second  
4 degree--thirty years;

5 (ii) Where the instant conviction is for a class A  
6 felony--twenty years;

7 (iii) Where the instant conviction is for a class B  
8 felony--ten years; and

9 (iv) Where the instant conviction is for a class C  
10 felony offense enumerated above--five years.

11 (3) Except as provided in subsection (4), a person shall  
12 not be sentenced to a mandatory minimum period of imprisonment  
13 under this section unless the instant felony offense was  
14 committed during the period as follows:

15 (a) Within twenty years after a prior felony conviction  
16 where the prior felony conviction was for murder in  
17 the first degree or attempted murder in the first  
18 degree;

19 (b) Within twenty years after a prior felony conviction  
20 where the prior felony conviction was for murder in





1 the second degree or attempted murder in the second  
2 degree;

3 (c) Within twenty years after a prior felony conviction  
4 where the prior felony conviction was for a class A  
5 felony;

6 (d) Within ten years after a prior felony conviction where  
7 the prior felony conviction was for a class B felony;

8 (e) Within five years after a prior felony conviction  
9 where the prior felony conviction was for a class C  
10 felony offense enumerated above; or

11 (f) Within the maximum term of imprisonment possible after  
12 a prior felony conviction of another jurisdiction.

13 (4) If a person was sentenced for a prior felony  
14 conviction to a special term under section 706-667, then the  
15 person shall not be sentenced to a mandatory minimum period of  
16 imprisonment under this section unless the instant felony  
17 offense was committed during that period as follows:

18 (a) Within eight years after a prior felony conviction  
19 where the prior felony conviction was for a class A  
20 felony;



1 (b) Within five years after the prior felony conviction  
2 where the prior felony conviction was for a class B  
3 felony; or

4 (c) Within four years after the prior felony conviction  
5 where the prior felony conviction was for a class C  
6 felony offense enumerated above.

7 (5) Notwithstanding any other law to the contrary, any  
8 person convicted of any of the following misdemeanor offenses:

9 (a) Section 707-712 relating to assault in the third  
10 degree;

11 (b) Section 707-717 relating to terroristic threatening in  
12 the second degree;

13 (c) Section 707-733 relating to sexual assault in the  
14 fourth degree;

15 (d) Section 708-822 relating to criminal property damage  
16 in the third degree;

17 (e) Section 708-832 relating to theft in the third degree;  
18 [~~and~~] or

19 (f) Section 708-833.5(2) relating to misdemeanor  
20 shoplifting,



1 and who has been convicted of any of the offenses enumerated  
2 above on at least three prior and separate occasions within  
3 three years of the date of the commission of the present  
4 offense, shall be sentenced to no less than nine months of  
5 imprisonment. Whenever a court sentences a defendant under this  
6 subsection for an offense under section 707-733, the court shall  
7 order the defendant to participate in a sex offender assessment  
8 and, if recommended based on the assessment, participate in the  
9 sex offender treatment program established by chapter 353E.

10 (6) The sentencing court may impose the above sentences  
11 consecutive to any sentence imposed on the defendant for a prior  
12 conviction, but the sentence shall be imposed concurrent to the  
13 sentence imposed for the instant conviction. The court may  
14 impose a lesser mandatory minimum period of imprisonment without  
15 possibility of parole than that mandated by this section where  
16 the court finds that strong mitigating circumstances warrant the  
17 action. Strong mitigating circumstances shall include, but  
18 shall not be limited to, the provisions of section 706-621. The  
19 court shall provide a written opinion stating its reasons for  
20 imposing the lesser sentence.



1           (7) A person who is imprisoned in a correctional  
2 institution pursuant to subsection (1) shall not be paroled  
3 ~~[prior to]~~ before the expiration of the mandatory minimum term  
4 of imprisonment imposed pursuant to subsection (1).

5           (8) Notwithstanding the provisions of this section, in any  
6 case to which this section applies, the sentencing court may  
7 sentence the defendant to a term of probation after considering  
8 section 706-621 and making the following findings:

9           (a) The offense for which the defendant is to be sentenced  
10           is one of the class C felonies enumerated above;

11           (b) The defendant would benefit from probation supervision  
12           and appropriate terms and conditions;

13           (c) The defendant does not pose a serious danger to public  
14           safety; and

15           (d) Imposing an indeterminate term of imprisonment with a  
16           mandatory minimum jail sentence would pose a hardship  
17           on the defendant or on those that depend on the  
18           defendant for support.

19           Any sentence of probation shall include a term of  
20 imprisonment within the parameters of section 706-624(2)(a), as  
21 a special condition of probation.



1       If the defendant fails to complete the term of probation to  
2 which the defendant is sentenced, or the court finds upon proper  
3 motion and adjudication that the defendant has violated a  
4 substantial term or condition of probation, the court may re-  
5 sentence the defendant to the indeterminate term of imprisonment  
6 with the mandatory minimum term of imprisonment that could have  
7 been imposed at the time of the original sentencing.

8       ~~[-(8)-]~~ (9) For purposes of this section:

9       (a) Convictions under two or more counts of an indictment  
10           or complaint shall be considered a single conviction  
11           without regard to when the convictions occur;

12       (b) A prior conviction in this or another jurisdiction  
13           shall be deemed a felony conviction if it was  
14           punishable by a sentence of death or of imprisonment  
15           in excess of one year; and

16       (c) A conviction occurs on the date judgment is entered."

17       SECTION 3. Section 706-620, Hawaii Revised Statutes, is  
18 amended to read as follows:

19       **"§706-620 Authority to withhold sentence of imprisonment.**

20 A defendant who has been convicted of a crime may be sentenced  
21 to a term of probation unless:



- 1 (1) The crime is first or second degree murder or  
2 attempted first or second degree murder;
- 3 (2) The crime is a class A felony, except class A felonies  
4 defined in chapter 712, part IV, and by section  
5 707-702;
- 6 (3) The defendant is a repeat offender under section  
7 706-606.5; provided that the court may invoke section  
8 706-606.5(8) in sentencing the defendant;
- 9 (4) The defendant is a felony firearm offender as defined  
10 in section 706-660.1(2);
- 11 (5) The crime involved the death of or the infliction of  
12 serious or substantial bodily injury upon a child, an  
13 elder person, or a handicapped person under section  
14 706-660.2; or
- 15 (6) The crime is cruelty to animals where ten or more pet  
16 animals were involved under section 711-1108.5 or  
17 711-1109."

18 SECTION 4. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20 SECTION 5. This Act shall take effect upon its approval.

21



H.B. NO. 1627

INTRODUCED BY:

Dan Carnes

JAN 20 2026



# H.B. NO. 1627

**Report Title:**

Penal Code; Sentencing; Repeat Offenders; Probation

**Description:**

Amends repeat offender sentencing provisions to allow sentencing courts, under certain circumstances, to sentence defendants in class C felony cases to probation with appropriate terms and conditions.

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

