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# A BILL FOR AN ACT

RELATING TO SENTENCING REVIEW.

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

1 SECTION 1. The legislature finds that harsh sentencing  
2 policies, such as lengthy mandatory minimum sentences, have  
3 contributed to an aging prison population in the United States.  
4 Nearly one-third of individuals serving life sentences are  
5 fifty-five years or older, amounting to over sixty thousand  
6 people. Research indicates that lengthy sentences do not  
7 significantly deter crime and may even increase, rather than  
8 reduce, recidivism. They also divert resources from effective  
9 public safety programs. Most criminal careers last less than  
10 years, and individuals usually desist from crime as they age.  
11 The potential for a later reduction in sentence encourages  
12 incarcerated individuals to engage in good behavior and to take  
13 advantage of rehabilitative programming.

14 The National Institute of Corrections defines older inmates  
15 as those fifty years or older, and many correctional  
16 institutions estimate that an inmate's physiological age is ten  
17 to fifteen years older than their chronological age due to prior



1 lack of medical care, drug use, and the stresses of  
2 incarceration. Concern over an aging and seriously ill prison  
3 population has led nearly all states and the federal government  
4 to adopt policies providing for the early release of certain  
5 older and seriously ill inmates.

6 A detailed analysis shows that Hawaii experienced one of  
7 the fastest-growing prison populations in the country from 1980  
8 to the late 1990s, with a six hundred sixteen per cent increase  
9 since 1978. Although the prison population began declining in  
10 the late 2010s, it remained more than triple its 1980 size as of  
11 2020. This growth was driven largely by "tough on crime"  
12 sentencing laws, particularly for drug offenses.

13 As of September 22, 2025, Hawaii has one hundred thirty-  
14 five individuals serving life with the possibility of parole and  
15 thirty-four individuals serving life without the possibility of  
16 parole; one man and one woman serving more than forty-year  
17 sentences; seven men and six women serving more than thirty-year  
18 sentences; fourteen men and four women serving more than twenty-  
19 year sentences; one hundred forty-nine men and one woman serving  
20 more than ten-year sentences; and 1,873 men and one hundred  
21 ninety-three women serving sentences of less than ten years.



1       Excessive sentences have created a "silver tsunami" in  
2       Hawaii, where the State has a large aging prison population with  
3       multiple medical needs that, in many cases, the State is unable  
4       to adequately address. Between 2015 and 2019, the number of  
5       inmates fifty-five and older swelled from thirteen per cent  
6       (seven hundred forty-five individuals) to seventeen per cent  
7       (eight hundred seventy individuals). As of mid-August 2025, the  
8       department of corrections and rehabilitation housed nine hundred  
9       fifty-eight inmates fifty years of age or older, including over  
10       one hundred inmates aged seventy or older.

11       The legislature further finds that the social, cultural,  
12       and economic costs of long-term incarceration are substantial.  
13       In Hawaii, it costs an average of \$112,055 annually to  
14       incarcerate a single individual. Long prison sentences  
15       disproportionately impact poor communities and communities of  
16       color. The impacts of incarceration extend beyond the  
17       individual and are borne in significant measure by their  
18       families. Research indicates that the children of incarcerated  
19       parents are six to seven times more likely to experience  
20       incarceration themselves, underscoring the intergenerational  
21       consequences of current practices.



1       As the criminal legal system gains insight into the  
2       devastating impact of mass incarceration, states have modified  
3       their charging, plea bargaining, and sentencing practices to  
4       reflect developments in scientific research on youth brain  
5       development, the effects of trauma and abuse, effective  
6       treatment for addiction and mental illness, and the penalty  
7       necessary to achieve the purposes of sentencing. Yet the  
8       existing parole systems in most states are ineffective at  
9       curtailing excessive sentences due to their highly discretionary  
10      nature, lack of due process and oversight, and lack of objective  
11      consideration standards.

12      This combination of lengthy sentences, over-incarceration,  
13      and the possibility of a recession causing a budget shortfall  
14      highlights the necessity of establishing a mechanism for  
15      reviewing excessive sentences. Consequently, legislators and  
16      courts are increasingly turning to judicial review as a more  
17      effective means of reconsidering an incarcerated person's  
18      sentence and assessing their readiness to reenter society.  
19      Judicial review - sometimes referred to as "second look review"  
20      or "sentence review" - allows courts to assess whether sentences



1 imposed decades earlier remain just and proportional under  
2 current sentencing policies and contemporary public sentiment.

3 Reforms are already underway across the country. Six  
4 states – Connecticut, Delaware, Florida, Maryland, North Dakota,  
5 and Oregon – and the District of Columbia permit courts to  
6 reconsider sentences under certain conditions, such as age at  
7 the time of the offense or time served. Four  
8 states – California, Colorado, New York, and Oklahoma – allow  
9 judicial review for specific populations, such as military  
10 veterans, domestic violence survivors, and those sentenced under  
11 habitual offender laws. In the federal system, individuals may  
12 seek compassionate release for extraordinary and compelling  
13 reasons, while individuals sentenced in the District of Columbia  
14 may seek compassionate release based solely on elderly age.

15 California has also enacted a recall and resentencing  
16 statute permitting its department of corrections or county  
17 district attorneys to recommend resentencing for any reason, and  
18 as of 2024, authorizing judges to initiate resentencing  
19 proceedings when sentencing laws have changed. In addition,  
20 four states – Illinois, Minnesota, Oregon, and Washington – have



1 enacted prosecutor-initiated resentencing laws that allow  
2 prosecutors to request sentence reconsideration.

3 The legislature believes that it is time for Hawaii to take  
4 a bold step to address the moral and practical consequences of  
5 people serving sentences far longer than what would be imposed  
6 today, whether because sentencing laws have evolved or because  
7 incarcerated individuals have demonstrated significant  
8 rehabilitation warranting a second look.

9 The purpose of this Act is to establish a procedure for  
10 incarcerated individuals who have served at least ten years of  
11 their sentence to petition the court for a sentence reduction.

12 SECTION 2. Chapter 706, Hawaii Revised Statutes, is  
13 amended by adding a new part to be appropriately designated and  
14 to read as follows:

15 "PART . JUDICIAL REVIEW OF SENTENCING

16 **§706-A Judicial review for long-term incarcerated**  
17 **individuals.** (1) Notwithstanding any other provision of law,  
18 including any applicable mandatory minimum sentence, an  
19 incarcerated individual who has served at least ten years of  
20 their sentence may petition their sentencing judge for a  
21 reduction of their sentence.



12 (4) An incarcerated individual who is otherwise ineligible  
13 to petition under this section may file a petition for a  
14 sentence reduction with the consent of the prosecuting attorney.

15       **§706-B Procedure.** (1) For any incarcerated individual  
16        sentenced to a term of imprisonment exceeding ten years for an  
17        offense, the department of corrections and rehabilitation shall,  
18        no later than thirty days after the commencement of the  
19        individual's tenth year of imprisonment, provide written notice  
20        of this part to:

21 (a) The incarcerated individual; and



5 (2) For an incarcerated individual sentenced to a term of  
6 imprisonment exceeding ten years for an offense, a petition for  
7 a sentence reduction under this part may be filed no earlier  
8 than six months after the commencement of the individual's tenth  
9 year of imprisonment.

10 (3) The petition shall be filed in writing in the judicial  
11 district in which the sentence was imposed and may include  
12 affidavits, declarations, letters, prison records, or other  
13 written or electronic material.

14 (4) Upon the court's receipt of a petition under this  
15 section, the court shall promptly notify the appropriate  
16 prosecuting attorney and provide the prosecuting attorney with a  
17 copy of the petition, including any attached written or  
18 electronic material.

19 (5) A petition received under this section shall be  
20 referred for determination to the judge who imposed the original  
21 sentence. If the original sentencing judge is unavailable at



1 the time of the petition, the administrative judge of the  
2 applicable court shall assign the petition to another judge of  
3 the court.

4 (6) Upon the filing of a petition for a sentence reduction  
5 under this section, the court may direct the parties to expand  
6 the record by submitting additional materials related to the  
7 petition. A petition filed under this section may be amended  
8 with leave of court, which shall be granted when justice so  
9 requires.

10 (7) No waiver of the right to make a petition for a  
11 sentence reduction under this part shall be permitted or honored  
12 by the sentencing court.

13 **§706-C Hearing.** (1) The court shall, upon request of the  
14 petitioner or the State, conduct a hearing on the petition for a  
15 sentence reduction, at which the petitioner and the petitioner's  
16 counsel shall have the opportunity to be heard. The hearing  
17 shall be recorded or transcribed.

18 (2) In a hearing under this section, the court may, but is  
19 not required to, allow the parties to present any evidence the  
20 court deems relevant to the propriety of a sentence reduction.  
21 Evidence may include documents, live testimony, tangible



1 objects, or any other category of evidence or information  
2 pertinent to sentencing. The court shall have exclusive  
3 discretion to determine the relevance of any proposed evidence.  
4 At the hearing, the petitioner shall have the right to testify  
5 or to remain silent at the petitioner's sole discretion.

6 (3) At a hearing under this section, the petitioner shall  
7 be present unless the petitioner waives the right to be present.  
8 The requirement to be present may be satisfied by the petitioner  
9 appearing via video teleconference.

10 (4) The court shall set forth, either in open court or in  
11 writing, the reasons for granting or denying a petition under  
12 this part.

13 **§706-D Factors to be considered.** (1) In exercising its  
14 discretion under this part, the sentencing court shall consider  
15 the following factors:

16 (a) The age of the petitioner at the time of the offense  
17 and relevant research regarding brain development,  
18 including youth brain development;  
19 (b) The age of the petitioner at the time of filing the  
20 petition for sentence reduction and relevant research



1                   regarding the decline in criminal behavior as  
2                   individuals mature;

3                   (c) The nature of the offense, including changing societal  
4                   attitudes regarding the propriety of criminalizing the  
5                   offense and the appropriate sentence for the offense;

6                   (d) The history and characteristics of the petitioner at  
7                   the time of filing the petition for sentence  
8                   reduction, including the petitioner's demonstrated  
9                   rehabilitation, disciplinary record while  
10                  incarcerated, and efforts to participate in  
11                  educational, therapeutic, and vocational opportunities  
12                  while imprisoned;

13                  (e) The circumstances of the offense, including the  
14                  petitioner's role in its commission, whether the  
15                  petitioner was under the influence of another, or  
16                  whether the petitioner was the victim of domestic or  
17                  sexual abuse at the time of the offense and whether  
18                  the abuse was related to the petitioner's commission  
19                  of the offense;



- 1 (f) Any report from a physical, mental, or psychiatric  
2 examination of the petitioner conducted by a licensed  
3 health care professional;

4 (g) Any statement pursuant to section 706-F(3) by a victim  
5 of the offense for which the petitioner is  
6 incarcerated, or by a family member of the victim if  
7 the victim is deceased;

8 (h) Any evidence concerning whether the petitioner's  
9 sentence was enhanced because the petitioner exercised  
10 their constitutional right to a trial;

11 (i) Any evidence that the petitioner was denied effective  
12 assistance of counsel at any stage in the proceedings  
13 leading to the original sentence, including  
14 ineffective assistance of counsel at the plea-  
15 bargaining stage;

16 (j) Any evidence that the petitioner is innocent of the  
17 offense; and

18 (k) Any other information the court deems relevant to its  
19 decision.

20 (2) In the case of an incarcerated individual who is fifty  
21 years of age or older on the date a petition for sentence



1 reduction is filed, there shall be a rebuttable presumption that  
2 the petitioner's sentence will be reduced to permit release.

3 (3) In calculating the petitioner's new term, the  
4 petitioner shall receive credit for any jail time credited  
5 toward the subject conviction, as well as for any period of  
6 incarceration credited toward the sentence originally imposed.

7       **§706-E Right to counsel.** (1) A petitioner who is unable  
8       to afford counsel shall be entitled to have counsel appointed,  
9       at no cost to the petitioner, to represent the petitioner in  
10      connection with the petition and proceedings under this part,  
11      including any appeal, unless the petitioner expressly waives the  
12      right to counsel after being fully advised of this right by the  
13      court.

14 (2) A petitioner who files a pro se petition and  
15 subsequently retains or is appointed counsel shall be entitled  
16 to amend the petition at least once with the assistance of  
17 counsel. Subsequent amendments may be permitted by leave of  
18 court, as authorized by section 706-B.

19       **§706-F   Victim's rights.** (1) Upon receipt of a petition  
20 for sentence reduction, the prosecuting attorney shall provide  
21 any notification to the victim otherwise required by law.



12        **§706-G Right to appeal.** (1) An appeal from a  
13        resentencing proceeding under this part may be taken by the  
14        petitioner or prosecuting attorney on the grounds that the  
15        resentencing is unlawful, was imposed in an unlawful manner, is  
16        too lenient, or is otherwise inappropriate in light of the  
17        purposes of sentencing as provided by law.

18 (2) The right to appeal from a sentence modification under  
19 this section shall be as of right and shall be exercised on the  
20 same terms as an appeal from the original sentence imposed at  
21 conviction.



1                   **§706-H Reinvestment.** (1) Twenty-five per cent of the  
2   savings realized as a result of this part shall be designated to  
3   fund prison-based and community-based programs designed to  
4   reduce recidivism through education, therapeutic intervention,  
5   maintenance of familial and social networks, restorative  
6   justice, and successful post-custodial reentry into society.

7                   (2) Ten per cent of the savings realized as a result of  
8   this part shall be designated to fund dedicated personnel in the  
9   offices of the prosecuting attorney and public defender to  
10   represent, respectively, the State and the incarcerated  
11   individual in all proceedings under this part.

12                  **§706-I Construction with habeas corpus and other remedies.**

13                  (1) This part shall not be construed to abridge or modify any  
14   existing remedy available to an incarcerated individual under  
15   habeas corpus, statutory or judicial postconviction relief, or  
16   any other legal framework.

17                  (2) A petition under this part shall not impact, or be  
18   impacted by, any pending habeas corpus or other postconviction  
19   proceeding, nor shall the denial of a petition under this part  
20   preclude these remedies from being granted."



1 SECTION 3. No later than forty days prior to the convening  
2 of the regular session of 2027, the department of corrections  
3 and rehabilitation shall submit to the legislature, Hawaii  
4 paroling authority, and Hawaii correctional system oversight  
5 commission a status report of the department's progress toward  
6 full compliance with this Act. The report shall include draft  
7 copies of written policies and procedures adopted pursuant to  
8 this Act and shall be posted on the department of corrections  
9 and rehabilitation's website.

10 SECTION 4. This Act shall take effect on July 1, 2027.

11

INTRODUCED BY:



JAN 14 2026



# H.B. NO. 1517

**Report Title:**

Judiciary; DCR; Penal Code; Sentencing; Review; Report

**Description:**

Establishes a procedure for incarcerated individuals who have served at least ten years of their sentence to petition the court for a sentence reduction. Requires the Department of Corrections and Rehabilitation to report to the Legislature Hawaii Paroling Authority, and Hawaii Correctional System Oversight Commission.

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