

ACT 192

H.B. NO. 333

A Bill for an Act Relating to Disposition of Defendants.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 706-625, Hawaii Revised Statutes, is amended to read as follows:

“§706-625 [Modification of conditions.] Revocation of suspension of sentence or probation, modification of conditions or imposition of further requirements. (a) During a period of probation or suspension of sentence, the court, on application of a probation officer, the prosecuting attorney, [or of] the defendant, or on its own motion, after a hearing, may revoke the suspension of sentence or probation, modify the requirements imposed on the defendant, or [add] impose further requirements authorized by section 706-624.

(b) The prosecuting attorney, the defendant’s probation officer, and the defendant shall be notified by the movant in writing of the time, place, and date of any such hearing, and of the grounds upon which action under this section is proposed. The prosecuting attorney, the defendant’s probation officer, and the defendant may appear in the hearing to oppose or support the application, and may submit evidence for the court’s consideration. The defendant shall have the right to be represented by counsel. For purposes of this section the court shall not be bound by the Hawaii Rules of Evidence, except for the rules pertaining to privileges.

(c) The court shall revoke the suspension of sentence or probation if the defendant has inexcusably failed to comply with a substantial requirement imposed as a condition of the order or has been convicted of a felony. The court may revoke the suspension of sentence or probation if the defendant has been convicted of another crime other than a felony.

(d) The court may modify the requirements imposed on the defendant or impose further requirements, if it finds that such action will assist the defendant in leading a law-abiding life.

(e) When the court revokes a suspension of sentence or probation, it may impose on the defendant any sentence that might have been imposed originally for the crime of which he was convicted.

SECTION 2. Section 706-627, Hawaii Revised Statutes, is amended to read as follows:

“§706-627 [Notice and hearing on revocation of suspension of sentence or probation, or increasing the conditions thereof; tolling] Tolling of suspension of sentence or probation. [(1) The court shall not revoke a probation or suspension of sentence or increase the requirements imposed thereby on the defendant except after a hearing upon written notice to the defendant of the grounds on which such action is proposed. The defendant shall have the right to hear and controvert the evidence against him, to offer evidence in his defense, and to be represented by counsel.

(2)] (1) Upon the filing of a motion to revoke a probation or suspension of sentence or a motion to increase the requirements imposed thereby, the period of probation or suspension of sentence shall be tolled pending the hearing upon the motion and the decision of the court. The period of tolling shall be computed from the filing date of the motion through and including the filing date of the written decision of the court concerning the motion for purposes of computation of the remaining period of probation or suspension of sentence, if any. In the event the court fails to file a written decision upon the motion, the period shall be computed by reference to the date the court makes a decision upon the motion in open court. During the period of tolling of the probation or suspension of sentence, the defendant shall remain subject to all terms and conditions of the probation or suspension of sentence except as otherwise provided by this chapter.

[(3)] (2) In the event the court, following hearing, refuses to revoke the probation or suspension of sentence or grant the requested increases in requirements thereof because the defendant's failure to comply therewith was excusable, the defendant may be granted the period of tolling of the probation or suspension of sentence for purposes of computation of the remaining probation or suspension of sentence, if any.”

SECTION 3. Section 706-628, Hawaii Revised Statutes, is repealed.

SECTION 4. Statutory material to be repealed is bracketed. New statutory material is underscored.¹

SECTION 5. This Act shall take effect upon its approval; provided that this Act shall not affect any rights or duties that matured, penalties that were incurred, or proceedings that were begun before its effective date.

(Approved June 3, 1985.)

Note

1. Edited pursuant to HRS §23G-16.5.