

A Bill for an Act Relating to Sentencing.

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

SECTION 1. Section 706-662, Hawaii Revised Statutes, is amended to read as follows:

“§706-662 Criteria for sentence of extended term of imprisonment for felony. The court may sentence a person who has been convicted of a felony to an extended term of imprisonment if it finds one or more of the grounds specified in this section. The finding of the court shall be incorporated in the record.

- (1) Persistent offender. The defendant is a persistent offender whose commitment for an extended term is necessary for protection of the public. The court shall not make such a finding unless the defendant has previously been convicted of two felonies committed at different times when he was eighteen years of age or older.
- (2) Professional criminal. The defendant is a professional criminal whose commitment for an extended term is necessary for protection of the public. The court shall not make such a finding unless:
 - (a) The circumstances of the crime show that the defendant has knowingly devoted himself to criminal activity as a major source of livelihood; or
 - (b) The defendant has substantial income or resources not explained to be derived from a source other than criminal activity.
- (3) Dangerous person. The defendant is a dangerous person whose commitment for an extended term is necessary for protection of the public. The court shall not make such a finding unless the defendant has been subjected to a psychiatric examination resulting in the conclusion that his criminal conduct has been characterized by compulsive, aggressive behavior with heedless indifference to consequences, and that such condition makes him a serious danger to others.
- (4) Multiple offender. The defendant is a multiple offender whose criminality was so extensive that a sentence of imprisonment for an extended term is warranted. The court shall not make such a finding unless:
 - (a) The defendant is being sentenced for two or more felonies or is already under sentence of imprisonment for felony; or
 - (b) The maximum terms of imprisonment authorized for each of the defendant's crimes, if made to run consecutively would equal or exceed in length the maximum of the extended term imposed, or would equal or exceed forty years if the extended term imposed is for a class A felony.
- (5) Offender against elderly [or], handicapped[.], or minor under the age of eight. The defendant is an offender against the elderly [or], handicapped, or minor under the age of eight whose commitment for an extended term is necessary for the protection of the public. The court shall not make such a finding unless:
 - (a) The defendant attempts or commits any of the following crimes: murder, a sexual offense which constitutes a felony under part V of chapter 707, robbery, felonious assault, burglary, and kidnapping; and
 - [(a)] (b)¹ The defendant, in the course of committing or attempting to commit the crime, inflicts serious bodily injury upon a person who is [sixty]:

- (i) Sixty years of age or older; [or against a person who is blind,]
 - (ii) Blind, a paraplegic, or a quadraplegic; [and] or
 - (iii) Eight years of age or younger; and
- [(b)] (c) Such disability is known or reasonably should be known to the defendant. [; and
- (c) The defendant attempts or commits any of the following crimes: murder, rape, robbery, felonious assault, burglary and kidnapping.]”

SECTION 2. This Act shall not affect rights and duties which matured, penalties which were incurred, or proceedings which were begun prior to its effective date.

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 7, 1985.)

Note

1. Underscoring missing.