

ACT 284

H.B. NO. 741

A Bill for an Act Making an Appropriation for a Study of the Penal Code.

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

SECTION 1. The Hawaii penal code is the fundamental document by which the State addresses crime. It is imperative that so important a body of law receive full and deliberate attention from time to time, to assure its continued force and effectiveness.

The decade which followed the passage of the Hawaii penal code in 1972 was marked by a dramatic growth of concern on the part of government and the public alike about the problem of crime. In response to the need for a comprehensive review of the code, the legislature appropriated funds in Act 291, Session Laws of Hawaii 1983, section 10, for a study of the penal code. The committee on penal code revision and reform of the judicial council of the Hawaii supreme court, which was appointed by Chief Justice Herman T. F. Lum in 1983, submitted "A Comprehensive Review & Reformation of the Hawaii Penal Code" to the thirteenth legislature in December, 1984. Many of the committee's recommendations were subsequently enacted into law in Act 314, Session Laws of Hawaii 1986.

During the ten years since the appointment of the committee, numerous amendments have been made to the code on a piecemeal basis. However, there has not been comprehensive review as to the effect these amendments have on the principles and philosophy on which the code is based. Moreover, there are concerns as to the structural and systemic impact these amendments have on the entire criminal justice system, including the court and the correctional system. Accordingly, the legislature has determined that the time has arrived for a second review to take place and that this review should not only be concerned with periodic changes that have been made to the original 1972 code, but also with the concept that the code is not an isolated body of law but rather a part of the entire criminal justice system of the State.

SECTION 2. The judicial council of Hawaii, established pursuant to section 601-4, Hawaii Revised Statutes, through a committee on penal code review, shall conduct a comprehensive review of the Hawaii penal code for the purpose of recommending to the legislature such amendments to the code as it may conclude are necessary so that:

- (1) The amendments to the penal code are consistent with and conform to the principles and philosophy of the code;
- (2) The code is in harmony with the entire criminal justice system; and
- (3) The continued force and effectiveness of the code is assured.

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The study shall be concluded and a final report submitted to the legislature, together with proposed implementing legislation, no later than twenty days prior to the convening of the 1995 regular session of the legislature. The council shall make a written progress report on the study to the legislature during the 1994 regular session.

SECTION 3. The judicial council of Hawaii shall appoint a committee to assist it with the study in an advisory capacity. The advisory committee may include as members, representatives from the judiciary, the department of the attorney general, the prosecuting attorneys, the office of the public defender, the county police departments, private citizens interested in criminal law and civil liberties, Hawaii attorneys in private practice who handle criminal cases, the corrections and intake service centers divisions of the department of public safety, and the Hawaii paroling authority. The committee shall include at least one member from each county. The members of the advisory committee shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

SECTION 4. The judicial council may appoint a reporter for the study and such other research and clerical staff as may be necessary without regard to chapters 76 and 77. In selecting the reporter and research assistant or assistants, the council is urged to utilize to the greatest extent possible the faculty and students of the William S. Richardson School of Law.

SECTION 5. There is appropriated out of the general revenues of the State the sum of \$50,000, or so much thereof as may be necessary for fiscal year 1993-1994, and the sum of \$50,000, or so much thereof as may be necessary for fiscal year 1994-1995, to carry out the purposes of this Act.

The sums appropriated shall be expended by the judiciary for the purposes of this Act.

SECTION 6. This Act shall take effect on July 1, 1993.

(Approved June 21, 1993.)