

ACT 125

H.B. NO. 1763

A Bill for an Act Relating to 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 such an important body of law receive full and deliberate attention from time to time, to ensure its continued force and effectiveness.

The decade following the passage of the Hawaii penal code in 1972 was marked by growing concern on the part of government and the public alike regarding the problem of crime. In response to the need for a comprehensive review of the penal 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 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 following the appointment of the committee, numerous amendments were made to the code on a piecemeal basis. However, there had not been a comprehensive review as to the effect these amendments had on the principles and philosophy on which the code was based. Moreover, there were concerns as to the structural and systemic impact these amendments had on the entire criminal justice system, including the court and the correctional system. Accordingly, the 1993 legislature determined that the time had arrived for a second review to take place and that this review should be concerned not only with periodic changes that had been made to the original 1972 code but also with the concept that the code was not an isolated body of law but rather a part of the entire criminal justice system of the State. A review was conducted pursuant to Act 284, Session Laws of Hawaii 1993. However, the legislature did not act upon the recommendations of the review.

Another decade has passed, and the time has come to revisit the recommendations of the prior review and to conduct a new study of the Hawaii penal code.

SECTION 2. The judicial council, 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 and recommend to the legislature amendments to the code it concludes 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 ensured.

The study shall be concluded and a final report submitted to the legislature, together with any proposed implementing legislation, no later than twenty days prior to the convening of the 2006 regular session of the legislature.

SECTION 3. The judicial council 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, the Hawaii paroling authority, and victim advocacy groups. 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 chapter 76. In selecting the reporter and research assistant or assistants, the council is urged to use, 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 of Hawaii the sum of \$75,000 or so much thereof as may be necessary for fiscal year 2005-2006 to carry out the purposes of this Act.

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

SECTION 6. This Act shall take effect upon its approval; provided section 5 shall take effect on July 1, 2005.

(Approved June 15, 2005.)