

ACT 152

H.B. NO. 103

A Bill for an Act Relating to Sentencing.

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

SECTION 1. The legislature finds that through a court decision, Massachusetts became the first state to ban life without parole sentences for individuals eighteen years old through twenty years old, considering those in this age group to be “emerging adults”. The court extended the bright line age cut-off from eighteen years of age to twenty years of age, in part, due to neuroscience research that supports that brain maturation continues through an individual’s mid-twenties.

The purpose of this Act is to prohibit sentencing defendants who were under the age of twenty-one at the time of the offense to life imprisonment without the possibility of parole.

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

“§706- Life imprisonment without the possibility of parole; persons under the age of twenty-one; prohibited. Notwithstanding any other law to the contrary, no person convicted of a crime who was under the age of twenty-one at the time of the offense shall be sentenced to life imprisonment without the possibility of parole.”

SECTION 3. Section 706-656, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) Persons ~~[eighteen]~~ twenty-one years of age or ~~[over]~~ older at the time of the offense who are convicted of first degree murder or first degree attempted murder shall be sentenced to life imprisonment without the possibility of parole.

As part of ~~[such]~~ the sentence, the court shall order the director of corrections and rehabilitation and the Hawaii paroling authority to prepare an application for the governor to commute the sentence to life imprisonment with parole at the end of twenty years of imprisonment; provided that persons who are repeat offenders under section 706-606.5 shall serve at least the applicable mandatory minimum term of imprisonment.

Persons under the age of ~~[eighteen]~~ twenty-one years at the time of the offense who are convicted of first degree murder or first degree attempted murder shall be sentenced to life imprisonment with the possibility of parole.”

SECTION 4. Section 706-657, Hawaii Revised Statutes, is amended to read as follows:

“**§706-657 Enhanced sentence for second degree murder.** (a) The court may sentence a person who was ~~[eighteen]~~ twenty-one years of age or ~~[over]~~ older at the time of the offense and who has been convicted of murder in the second degree to life imprisonment without the possibility of parole under section 706-656 if the court finds that the murder was especially heinous, atrocious, or cruel, manifesting exceptional depravity or that the person was previously convicted of the offense of murder in the first degree or murder in the second degree in this State or was previously convicted in another jurisdiction of an offense that would constitute murder in the first degree or murder in the second degree in this State. ~~[As used in this section, the phrase “especially heinous, atrocious, or cruel, manifesting exceptional depravity” means a conscienceless or pitiless crime which is unnecessarily torturous to a victim and “previously convicted” means a sentence imposed at the same time or a sentence previously imposed which has not been set aside, reversed, or vacated.]~~

(b) Hearings to determine the grounds for imposing an enhanced sentence for second degree murder may be initiated by the prosecutor or by the court on its own motion. The court shall not impose an enhanced term unless the ground therefor has been established at a hearing after the conviction of the defendant and on written notice to the defendant of the ground proposed. Subject to the provision of section 706-604, the defendant shall have the right to hear and controvert the evidence against the defendant and to offer evidence upon the issue.

(c) The provisions pertaining to commutation in section 706-656(2)~~[-]~~ shall apply to persons sentenced pursuant to this section.

(d) As used in this section:

“Especially heinous, atrocious, or cruel, manifesting exceptional depravity” means a conscienceless or pitiless crime that is unnecessarily torturous to a victim.

“Previously convicted” means a sentence imposed at the same time or a sentence previously imposed that has not been set aside, reversed, or vacated.”

SECTION 5. Section 706-662, Hawaii Revised Statutes, is amended to read as follows:

“**§706-662 Criteria for extended terms of imprisonment.** A defendant who has been convicted of a felony may be subject to an extended term of imprisonment under section 706-661 if it is proven beyond a reasonable doubt that an extended term of imprisonment is necessary for the protection of the public and that the convicted defendant satisfies one or more of the following criteria:

- (1) The defendant is a persistent offender in that the defendant has previously been convicted of two or more felonies committed at different times when the defendant was ~~[eighteen]~~ twenty-one years of age or older;
- (2) The defendant is a professional criminal in that:
 - (a) The circumstances of the crime show that the defendant has knowingly engaged in 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) The defendant is a dangerous person in that the defendant has been subjected to a psychiatric or psychological evaluation that documents a significant history of dangerousness to others resulting in criminally violent conduct, and this history makes the defendant a serious danger to others. Nothing in this section precludes the introduction of victim-related data to establish dangerousness in accord with the Hawaii rules of evidence;
- (4) The defendant is a multiple offender in that:
 - (a) The defendant is being sentenced for two or more felonies or is already under sentence of imprisonment for any 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) The defendant is an offender against the elderly, the handicapped, or a minor eight years of age or younger in that:
 - (a) The defendant attempts or commits any of the following crimes: murder, manslaughter, a sexual offense that constitutes a felony under chapter 707, robbery, felonious assault, burglary, or kidnapping; and
 - (b) The defendant, in the course of committing or attempting to commit the crime, inflicts serious or substantial bodily injury upon a person who has the status of being:
 - (i) Sixty years of age or older;
 - (ii) Blind, a paraplegic, or a quadriplegic; or
 - (iii) Eight years of age or younger; and
 the person's status is known or reasonably should be known to the defendant;
- (6) The defendant is a hate crime offender in that:
 - (a) The defendant is convicted of a crime under chapter 707, 708, or 711; and
 - (b) The defendant intentionally selected a victim or, in the case of a property crime, the property that was the object of a crime, because of hostility toward the actual or perceived race, religion, disability, ethnicity, national origin, gender identity or expression, or sexual orientation of any person. For purposes of this subsection, "gender identity or expression" includes a person's actual or perceived gender, as well as a person's gender identity, gender-related self-image, gender-related appearance, or gender-related expression, regardless of whether that gender

- identity, gender-related self-image, gender-related appearance, or gender-related expression is different from that traditionally associated with the person's sex at birth; or
- (7) The defendant is convicted under section 707-702.5 and the defendant did not remain at the scene of the crime and render reasonable assistance to an injured person, including acts and omissions in violation of section 291C-12."

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 7. This Act shall take effect upon its approval.

(Approved June 3, 2025.)

Note

1. Edited pursuant to HRS §23G-16.5.