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# A BILL FOR AN ACT

RELATING TO CRITERIA FOR EXTENDED TERMS OF IMPRISONMENT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

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

3           "**§706-662 Criteria for extended terms of imprisonment.** A  
4 defendant who has been convicted of a felony may be subject to  
5 an extended term of imprisonment under section 706-661 if it is  
6 proven beyond a reasonable doubt that an extended term of  
7 imprisonment is necessary for the protection of the public and  
8 that the convicted defendant satisfies one or more of the  
9 following criteria:

10           (1) The defendant is a persistent offender in that the  
11 defendant has previously been convicted of two or more  
12 felonies committed at different times when the  
13 defendant was eighteen years of age or older;

14           (2) The defendant is a professional criminal in that:

15           (a) The circumstances of the crime show that the  
16 defendant has knowingly engaged in criminal  
17 activity as a major source of livelihood; or



1 (b) The defendant has substantial income or resources  
2 not explained to be derived from a source other  
3 than criminal activity;

4 (3) The defendant is a dangerous person in that the  
5 defendant has been subjected to a psychiatric or  
6 psychological evaluation that documents a significant  
7 history of dangerousness to others resulting in  
8 criminally violent conduct, and this history makes the  
9 defendant a serious danger to others. Nothing in this  
10 section precludes the introduction of victim-related  
11 data to establish dangerousness in accord with the  
12 Hawaii rules of evidence;

13 (4) The defendant is a multiple offender in that:

14 (a) The defendant is being sentenced for two or more  
15 felonies or is already under sentence of  
16 imprisonment for any felony; or

17 (b) The maximum terms of imprisonment authorized for  
18 each of the defendant's crimes, if made to run  
19 consecutively, would equal or exceed in length  
20 the maximum of the extended term imposed or would  
21 equal or exceed forty years if the extended term  
22 imposed is for a class A felony;



1 (5) The defendant is an offender against the elderly,  
2 handicapped, [~~or~~] a minor eight years of age or  
3 younger, or a pregnant woman in that:

4 (a) The defendant attempts or commits any of the  
5 following crimes: murder, manslaughter, a sexual  
6 offense that constitutes a felony under chapter  
7 707, robbery, felonious assault, burglary, or  
8 kidnapping; and

9 (b) The defendant, in the course of committing or  
10 attempting to commit the crime, inflicts serious  
11 or substantial bodily injury upon a person who  
12 has the status of being:

13 (i) Sixty years of age or older;

14 (ii) Blind, a paraplegic, or a quadriplegic; [~~or~~]

15 (iii) Eight years of age or younger; [~~and~~] or

16 (iv) Pregnant;

17 provided that the person's status is known or  
18 reasonably should be known to the defendant; or

19 (6) The defendant is a hate crime offender in that:

20 (a) The defendant is convicted of a crime under  
21 chapter 707, 708, or 711; and



1           (b) The defendant intentionally selected a victim or,  
2           in the case of a property crime, the property  
3           that was the object of a crime, because of  
4           hostility toward the actual or perceived race,  
5           religion, disability, ethnicity, national origin,  
6           gender identity or expression, or sexual  
7           orientation of any person. For purposes of this  
8           subsection, "gender identity or expression"  
9           includes a person's actual or perceived gender,  
10          as well as a person's gender identity, gender-  
11          related self-image, gender-related appearance, or  
12          gender-related expression, regardless of whether  
13          that gender identity, gender-related self-image,  
14          gender-related appearance, or gender-related  
15          expression is different from that traditionally  
16          associated with the person's sex at birth."

17          SECTION 2. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19          SECTION 3. This Act shall take effect upon its approval.



**Report Title:**

Extended Terms of Imprisonment; Pregnant Women

**Description:**

Authorizes extended term of imprisonment for felony offenses committed against pregnant women. (SB2301 SD1)

