

JAN 21 2011

S.B. NO. 701

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## A BILL FOR AN ACT

RELATING TO SENTENCING.

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

1 SECTION 1. Section 706-606.5, Hawaii Revised Statutes, is  
2 amended by amending subsection (5) to read as follows:

3 "(5) The sentencing court may impose ~~[the]~~:

4 (a) The above sentences consecutive to any sentence  
5 imposed on the defendant for a prior conviction, but  
6 such sentence shall be imposed concurrent to the  
7 sentence imposed for the instant conviction~~[.—The~~  
8 ~~court may impose a]~~;

9 (b) A lesser mandatory minimum period of imprisonment  
10 without possibility of parole than that mandated by  
11 this section where the court finds that strong  
12 mitigating circumstances warrant such action~~[—~~  
13 ~~Strong]~~; provided that strong mitigating circumstances  
14 shall include~~[,]~~ but shall not be limited to the  
15 provisions of section 706-621~~[.—The]~~; provided  
16 further that the court shall provide a written opinion  
17 stating its reasons for imposing the lesser  
18 sentence~~[,]~~; or



1        (c) A sentence to an alternative program as provided in  
2        section 706-605.1; provided that, notwithstanding  
3        section 706-605.1(2), the defendant shall be sentenced  
4        under this paragraph only if:

5        (i) The prior conviction for which the defendant is  
6        eligible to be sentenced under this section is  
7        not for a crime involving serious bodily injury  
8        or substantial bodily injury as defined by  
9        chapter 707;

10       (ii) The offense for which the defendant is being  
11       sentenced is for possession of a dangerous,  
12       harmful, or detrimental drug or marijuana under  
13       part IV, chapter 712, or for use of, or  
14       possession with intent to use, drug paraphernalia  
15       to inject, ingest, inhale, or otherwise introduce  
16       into the human body a controlled substance in  
17       violation of chapter 329; and

18       (iii) The person has been assessed by a certified  
19       substance abuse counselor to be in need of  
20       substance abuse treatment due to dependency or  
21       abuse under the applicable Diagnostic and  
22       Statistical Manual and Addiction Severity Index



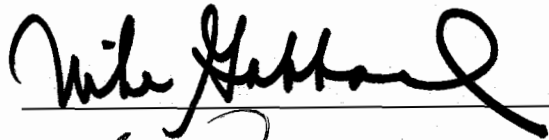
1                   and the court has determined that the offense for  
2                   which the person is being sentenced is related to  
3                   the person's substance abuse dependency or  
4                   addiction."


5           SECTION 2. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

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

8

INTRODUCED BY:





*Gilbert Kabele*



**Report Title:**

Criminal Procedure; Sentencing

**Description:**

Permits certain non-violent repeat offenders convicted of drug possession to be sentenced to alternative programs instead of to prison.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

