

JAN 17 2014

A BILL FOR AN ACT

RELATING TO THE HOMELESS.

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

1 SECTION 1. Section 706-660.2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§706-660.2 Sentence of imprisonment for offenses against**
4 **children, elder persons, [~~or~~] handicapped persons[-], or the**
5 **homeless.** Notwithstanding section 706-669, a person who, in the
6 course of committing or attempting to commit a felony, causes
7 the death or inflicts serious or substantial bodily injury upon
8 a person who is[+]

9 ~~(1) Sixty]~~ sixty years of age or older;

10 [~~(2) Blind,~~] blind, a paraplegic, or a quadriplegic; [~~or~~]
11 homeless, as defined in section 346-361; or

12 [~~(3) Eight]~~ eight years of age or younger;

13 and such [~~disability]~~ status is known or reasonably should be
14 known to the defendant, shall, if not subjected to an extended
15 term of imprisonment pursuant to section 706-662, be sentenced
16 to a mandatory minimum term of imprisonment without possibility
17 of parole as follows:



- 1 [~~+1~~] (a) For murder in the second degree--fifteen years;
- 2 [~~+2~~] (b) For a class A felony--six years, eight months;
- 3 [~~+3~~] (c) For a class B felony--three years, four months;
- 4 [~~+4~~] (d) For a class C felony--one year, eight months."

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

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

- 14 (1) The defendant is a persistent offender in that the
15 defendant has previously been convicted of two or more
16 felonies committed at different times when the
17 defendant was eighteen years of age or older;
- 18 (2) The defendant is a professional criminal in that:
 - 19 (a) The circumstances of the crime show that the
20 defendant has knowingly engaged in criminal
21 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 younger
3 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) Homeless, as defined in section 346-361; or

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

17 the person's status is known or reasonably should
18 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 3. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun before its effective date.

20 SECTION 4. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

22



1 SECTION 5. This Act shall take effect upon its approval.

2

INTRODUCED BY: *Shannon Chun Oakland*
By Request



S.B. NO. 2395

Report Title:

Homeless; Penal Code; Sentence of Imprisonment

Description:

Requires mandatory minimum terms of imprisonment without the possibility of parole for crimes that cause death or inflict serious or substantial bodily injury upon a homeless individual or family. Subjects crimes that inflict serious or substantial bodily injury upon a homeless person to extended terms of imprisonment if the defendant knew or reasonably should have known the person was homeless.

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

