
HOUSE CONCURRENT RESOLUTION

REQUESTING THE JUDICIAL COUNCIL TO APPOINT A COMMITTEE TO REVIEW
AND RECOMMEND REVISIONS TO THE HAWAII PENAL CODE.

1 WHEREAS, the Hawaii Penal Code, first enacted in 1972, has
2 not been comprehensively updated since Act 314, Session Laws of
3 Hawaii 1986, to ensure that grades of offenses warrant the level
4 of culpability so that sentences are appropriate and
5 proportionate to the nature of the crime; and
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7 WHEREAS, the Hawaii Penal Code has been amended in a
8 piecemeal manner over the past several decades without paying
9 attention to whether the dollar values that set threshold levels
10 for various offenses and for restitution are appropriate and
11 proportionate to other sentences imposed for criminal offenses;
12 and
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14 WHEREAS, research by the Justice Policy Institute has
15 indicated that the current criminal justice system has a
16 disparate impact on low-income residents, particularly Native
17 Hawaiians, and is not a cost-effective approach to deterring
18 crime, reducing recidivism, or providing restitution; and
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20 WHEREAS, during the Regular Session of 2015, other
21 concurrent resolutions were introduced, such as S.C.R. No. 18,
22 as amended, relating to enhanced and extended sentencing, and
23 H.C.R. No. 146, as amended, and S.C.R. 128, as amended, relating
24 to smarter sentencing, which could be addressed by a review of
25 the Hawaii Penal Code; now, therefore,
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27 BE IT RESOLVED by the House of Representatives of the
28 Twenty-eighth Legislature of the State of Hawaii, Regular
29 Session of 2015, the Senate concurring, that the Judicial
30 Council, established pursuant to section 601-4, Hawaii Revised
31 Statutes, is requested to appoint a committee to review the



1 Hawaii Penal Code and recommend to the Legislature revisions to
2 the Code that the committee concludes will help ensure that
3 sentences are fair and proportionate to the crime committed with
4 particular attention paid to Hawaii Penal Code sections that
5 base culpability on dollar amounts; and
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7 BE IT FURTHER RESOLVED that the members of the committee
8 include:
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- 10 (1) A representative from the Judiciary;
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- 12 (2) A member of the Senate Committee on Judiciary and
13 Labor;
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- 15 (3) A member of the House of Representatives Committee on
16 Judiciary;
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- 18 (4) The Attorney General, or the Attorney General's
19 designee;
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- 21 (5) The prosecuting attorney from each county, or each
22 prosecuting attorney's designee;
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- 24 (6) A representative from the Office of the Public
25 Defender;
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- 27 (7) A representative from the police department of each
28 county;
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- 30 (8) Public or private sector economists;
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- 32 (9) Psychologists or social workers;
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- 34 (10) The Administrator of the Office of Hawaiian Affairs or
35 the Administrator's designee;
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- 37 (11) Private citizens interested in criminal law and civil
38 liberties;
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- 40 (12) Hawaii attorneys in private practice who handle
41 criminal cases;
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1 (13) A representative from the Intake Services Center
2 Division of the Corrections Division of the Department
3 of Public Safety;

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5 (14) A representative from a prisoner advocacy group; and

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7 (15) Representatives from victim advocacy groups;

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9 provided that the committee shall include at least one member
10 from each county; and

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12 BE IT FURTHER RESOLVED that the committee shall recommend
13 updates to the Hawaii Penal Code by:

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15 (1) Reviewing The American Law Institute Model Penal Code,
16 including recent proposals; the criminal codes of
17 other states; and other criminal law resources;

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19 (2) Assessing the application of the principles of the
20 "Justice Reinvestment in Hawaii: Analyses & Policy
21 Options" report (August 2014) by the Council of State
22 Governments Justice Center to code sections in which
23 culpability is linked to a dollar value; and

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25 (3) Analyzing whether grades and punishment are
26 appropriate and proportionate to other sentences
27 imposed for criminal or civil offenses and are cost-
28 effective in deterring crime, reducing recidivism, and
29 providing restitution to victims in a manner that
30 provides equal justice and punishment regardless of
31 socioeconomic class or ethnicity; and

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33 BE IT FURTHER RESOLVED that the committee may accept
34 grants, gifts, and other appropriations of funds to defray the
35 costs of its work; and

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37 BE IT FURTHER RESOLVED that the Judicial Council may
38 request the Legislative Reference Bureau to assist the committee
39 with research and reporting assistance, as needed; and

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41 BE IT FURTHER RESOLVED that the Judicial Council is
42 encouraged to use, to the greatest extent possible, the faculty
43 and students of the University of Hawaii William S. Richardson
44 School of Law in performing its work; and



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BE IT FURTHER RESOLVED that the members of the committee serve without compensation; provided that members of the committee may be reimbursed for the costs of mileage, parking, and transportation from the neighbor islands; and

BE IT FURTHER RESOLVED that no member of the committee shall be made subject to chapter 84, Hawaii Revised Statutes, solely because of that member's participation as a member of the committee; and

BE IT FURTHER RESOLVED that the Judicial Council is requested to submit its findings and recommendations, including any proposed legislation, to the Governor and Legislature no later than twenty days prior to the convening of the Regular Session of 2016; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Chief Justice of the Hawaii Supreme Court, Administrator of the Office of Hawaiian Affairs, Acting Director of the Legislative Reference Bureau, Attorney General, Director of Public Safety, State Public Defender, Prosecuting Attorneys of each of the counties, President of the Senate, Speaker of the House of Representatives, and police chiefs of each of the counties.

