
A BILL FOR AN ACT

RELATING TO EXTENDED TERMS OF IMPRISONMENT.

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

1 SECTION 1. The legislature recognizes that, on the evening
2 of April 24, 2016, nineteen-year-old Kaulana Matthew Auwae
3 Werner was struck and killed by a motor vehicle. The driver of
4 the motor vehicle allegedly fled the scene of the accident and
5 was found a half-mile away, reportedly attempting to tow her
6 vehicle with the help of an acquaintance. The driver was
7 subsequently charged with the offenses of accidents involving
8 death or serious bodily injury and negligent homicide in the
9 first degree. Both of these offenses are class B felonies.

10 The legislature finds that if the driver is convicted of
11 either offense, the maximum sentence that may be imposed is ten
12 years imprisonment. If the driver is convicted of both offenses,
13 it is possible that the maximum sentence of ten years
14 imprisonment for each offense could be doubled to twenty years
15 under the extended sentencing provision for multiple offenders
16 and that the sentence in each offense could be ordered to run
17 consecutively for a total of forty years imprisonment.



1 The legislature asserts that when an offender is convicted
2 of negligent homicide in the first degree and the offender did
3 not remain at the scene of the crime and render reasonable
4 assistance to an injured person, courts should have the
5 discretion to impose an extended term of imprisonment. The
6 legislature believes that enhanced sentencing in these cases is
7 warranted based on the offender's gross negligence and the need
8 to protect the safety and welfare of the general public.

9 Accordingly, the purpose of this Act, which shall be known
10 as "Kaulana's Law", is to authorize the courts to impose an
11 extended term of imprisonment for an offender who is convicted
12 of negligent homicide in the first degree and did not remain at
13 the scene of the crime and render reasonable assistance to an
14 injured person.

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

17 "**§706-662 Criteria for extended terms of imprisonment.** A
18 defendant who has been convicted of a felony may be subject to
19 an extended term of imprisonment under section 706-661 if it is
20 proven beyond a reasonable doubt that an extended term of
21 imprisonment is necessary for the protection of the public and



1 that the convicted defendant satisfies one or more of the
2 following criteria:

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

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

8 (a) The circumstances of the crime show that the
9 defendant has knowingly engaged in criminal
10 activity as a major source of livelihood; or

11 (b) The defendant has substantial income or resources
12 not explained to be derived from a source other
13 than criminal activity;

14 (3) The defendant is a dangerous person in that the
15 defendant has been subjected to a psychiatric or
16 psychological evaluation that documents a significant
17 history of dangerousness to others resulting in
18 criminally violent conduct, and this history makes the
19 defendant a serious danger to others. Nothing in this
20 section precludes the introduction of victim-related



1 data to establish dangerousness in accord with the
2 Hawaii rules of evidence;

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

4 (a) The defendant is being sentenced for two or more
5 felonies or is already under sentence of
6 imprisonment for any felony; or

7 (b) The maximum terms of imprisonment authorized for
8 each of the defendant's crimes, if made to run
9 consecutively, would equal or exceed in length
10 the maximum of the extended term imposed or would
11 equal or exceed forty years if the extended term
12 imposed is for a class A felony;

13 (5) The defendant is an offender against the elderly,
14 handicapped, or a minor eight years of age or younger
15 in that:

16 (a) The defendant attempts or commits any of the
17 following crimes: murder, manslaughter, a sexual
18 offense that constitutes a felony under chapter
19 707, robbery, felonious assault, burglary, or
20 kidnapping; and



- 1 (b) The defendant, in the course of committing or
2 attempting to commit the crime, inflicts serious
3 or substantial bodily injury upon a person who
4 has the status of being:
- 5 (i) Sixty years of age or older;
 - 6 (ii) Blind, a paraplegic, or a quadriplegic; or
 - 7 (iii) Eight years of age or younger; and
- 8 the person's status is known or reasonably should
9 be known to the defendant; [~~or~~]
- 10 (6) The defendant is a hate crime offender in that:
- 11 (a) The defendant is convicted of a crime under
12 chapter 707, 708, or 711; and
 - 13 (b) The defendant intentionally selected a victim or,
14 in the case of a property crime, the property
15 that was the object of a crime, because of
16 hostility toward the actual or perceived race,
17 religion, disability, ethnicity, national origin,
18 gender identity or expression, or sexual
19 orientation of any person. For purposes of this
20 subsection, "gender identity or expression"
21 includes a person's actual or perceived gender,



1 as well as a person's gender identity, gender-
 2 related self-image, gender-related appearance, or
 3 gender-related expression, regardless of whether
 4 that gender identity, gender-related self-image,
 5 gender-related appearance, or gender-related
 6 expression is different from that traditionally
 7 associated with the person's sex at birth[-]; or

8 (7) The defendant is convicted under section 707-702.5 and
 9 the defendant did not remain at the scene of the crime
 10 and render reasonable assistance to an injured person,
 11 including acts and omissions in violation of section
 12 291C-12."

13 SECTION 3. This Act does not affect rights and duties that
 14 matured, penalties that were incurred, and proceedings that were
 15 begun before its effective date.

16 SECTION 4. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

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

Report Title:

Negligent Homicide; Extended Term of Imprisonment

Description:

Authorizes the courts to impose an extended term of imprisonment for an offender who is convicted of negligent homicide in the first degree and did not remain at the scene of the crime and render reasonable assistance to an injured person. (HB2588 HD1)

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

