



DEPARTMENT OF THE ATTORNEY GENERAL

News Release

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2005 Law Enforcement Coalition Legislative Package

HONOLULU - The Hawaii Law Enforcement Coalition -- Hawaii's four County Prosecutors, four Police Chiefs, the United States Attorney, and the Hawaii Attorney General -- has announced a legislative package of seven bills designed to protect the public; fight illegal drugs; deter and punish public corruption; reform laws regarding sentencing and testimony; form domestic violence fatality review teams; protect the public, especially children, from sex offenders; and ensure that blank votes and overvotes are not counted in determining whether a constitutional amendment has been ratified.

The members of the Law Enforcement Coalition support a broad range of bills that protect the public safety, help law enforcement, and help to restore balance to the criminal justice system. Each of the seven bills included in the Coalition's legislative package has the unanimous support of every member of the Coalition.

The following bills comprise the 2005 Law Enforcement Coalition legislative package:

Electronic Surveillance

Hawaii's electronic surveillance law is outdated and unusable. This bill gives law enforcement the tools it needs to help fight sophisticated drug dealers (without incorporating any part of the USA Patriot Act.) These same tools are used by law enforcement throughout the United States.

A fair and effective electronic surveillance law is essential to law enforcement efforts to shut down the production and distribution of illegal drugs, especially methamphetamine. Hawaii's existing electronic surveillance law is hopelessly behind current technology,

and is so restrictive that wiretaps are virtually never used by Hawaii law enforcement officers.

Many operations to investigate, capture, and prosecute high-level illegal drug dealers are joint operations with federal law enforcement agencies, and many warrants in these cases are issued by federal courts. But because Hawaii has different requirements for electronic surveillance warrants, evidence obtained through federal warrants may not be usable in our state courts. And state electronic surveillance warrants are virtually never used because current state law requires a pre-warrant hearing in court. Witnesses at such hearings may be placed in life-threatening danger if their identities are revealed to drug dealers. No other state or jurisdiction has such a hearing requirement.

Hawaii needs an electronic surveillance statute that gives law enforcement officers a usable tool to protect Hawaii residents against crime, especially drug crime; is up to date with current technology; and allows evidence obtained through federal electronic surveillance orders to be used in state courts. This bill will accomplish all of these goals.

Bribery

Hawaii's bribery law is far too lenient (only a five-year maximum sentence) and far too ineffective. This bill:

- Designates the existing crime of bribery as Bribery in the First Degree, and increases the penalty to ten years; and
- Creates two new offenses related to illegal compensation of public servants: Bribery in the Second Degree, and Unlawful Gift to Public Servants

Hawaii has suffered many instances of corruption involving public officials in recent years. The existing bribery statute is insufficient to deter financial misconduct by public officials. When Hawaii adopted the Model Penal Code, it adopted only one level of bribery, and did not adopt the Model Penal Code's "lesser" crimes related to public corruption. As a result, only the most egregious cases of bribery -- but not "lesser" public corruption -- can be prosecuted in Hawaii courts, and then only with a five-year maximum sentence. Hawaii needs these additional prohibitions.

Sentencing Reform

- Provides for a mandatory sentence of 30 years to life for habitual violent felons (as recommended by the committee created by S.C.R. No. 86, 2003 Regular Session, to determine whether Hawaii should enact a three-strikes law)
- Adds 15 serious class C felonies to the list of offenses subject to repeat offender sentencing
- Makes class A felony drug offenders and recidivist drug offenders ineligible for lenient sentencing under Act 161 (2002)

- Changes the beginning of the period of eligibility for repeat offender sentencing to include the later of the date of conviction or the date of release from prison, parole, or probation
- Adds 19 serious class B and class C felonies to the list of offenses for which a deferred acceptance of plea (DAG or DANC) is not permitted
- Enhances and clarifies certain sentencing provisions

This bill will help to protect the public from repeat violent felons whose repeated violent crimes show they pose an enormous danger to the public. It will help to ensure that drug offenders with prior felonies, and drug offenders who possess the large amounts of illegal drugs involved in class A felonies, are not excluded from mandatory sentencing laws. It will also update laws regarding repeat offenders and laws regarding deferred acceptance of plea to include offenses that have been created through recent legislation. In short, it will make Hawaii safer.

Testimony of Defendants in Criminal Cases

- Amends the state constitution to allow testifying defendants in criminal cases to be impeached with evidence of prior convictions for crimes involving dishonesty.

In federal court and in the courts of almost all other states, when a criminal defendant or any other witness testifies, the witness's prior convictions for crimes involving dishonesty can be used to impeach the witness -- that is, to help the jury decide if the witness is telling the truth. But in Hawaii, a state supreme court case prohibits the use of such prior convictions to impeach defendants in criminal cases, even though victims and other witnesses to crime can be impeached in this way. Hawaii is virtually unique, and as a result, the truth-finding function of trials suffers. This amendment would provide that, in a criminal case, the judge or jury can use evidence of prior convictions of crimes involving dishonesty to evaluate a testifying defendant's credibility, to the same extent as with any other testifying witness. It will help juries find the truth and render fairer verdicts.

"Yes" means "Yes," "No" means "No," "Blank" means "Blank"

- Prohibits the counting of blank votes and overvotes in determining whether a proposed constitutional amendment has been ratified

By removing the inclusion of blank votes and overvotes, this amendment will resolve the present anomaly of treating blank votes and overvotes as "no" votes in determining whether a proposed constitutional amendment has been ratified. The amendment will ensure that the will of the electorate is followed, and that the decision of those voters who choose to take no position on a proposed constitutional question is respected.

Public Information about Convicted Sex Offenders

- Gives the public web and walk-in access to information about convicted sex offenders

A 2004 state constitutional amendment, which passed overwhelmingly, gave the public a right of access to registration information of convicted sex offenders. This bill effectuates that amendment. The public will have immediate web access to information about those convicted of crimes punishable by ten years or more of imprisonment, and immediate walk-in access to information about those convicted of felonies punishable by five years of imprisonment. When offenders no longer pose a danger to the public, and enough time has passed, they may petition a court to terminate access.

Domestic Violence Fatality Review

- Authorizes the Department of Health to form domestic violence fatality review teams

Domestic violence fatality review teams will be composed of individuals with a multidisciplinary and multi-agency background. The teams will conduct reviews of domestic violence fatalities with the goal of reducing the occurrence of preventable domestic violence fatalities.

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