
A BILL FOR AN ACT

RELATING TO PROTECTIONS FOR CHILDREN.

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

1 SECTION 1. Chapter 806, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "~~§806-~~ Expedited proceedings; continuances; trial. (a)

5 In all criminal proceedings of criminal offenses perpetrated
6 against a minor, or any other criminal proceedings involving a
7 minor victim or minor witness of any physical abuse, the court
8 and the prosecution may take appropriate action, including
9 setting the case for priority in the court docket, to ensure a
10 prompt trial in order to minimize the length of time a minor
11 must endure the stress of the minor's involvement in the
12 proceedings.

13 (b) In deciding whether to grant a continuance, the court
14 may take into consideration the age of the minor and the
15 potential adverse impact the delay may have on the minor's well-
16 being.



1 (c) The court may impose sanctions against an attorney for
2 the defense who is unprepared to commence trial, unless good
3 cause is shown."

4 SECTION 2. Section 706-624, Hawaii Revised Statutes, is
5 amended by amending subsection (2) to read as follows:

6 "(2) Discretionary conditions. The court may provide, as
7 further conditions of a sentence of probation, to the extent
8 that the conditions are reasonably related to the factors set
9 forth in section 706-606 and to the extent that the conditions
10 involve only deprivations of liberty or property as are
11 reasonably necessary for the purposes indicated in section 706-
12 606(2), that the defendant:

13 (a) Serve a term of imprisonment to be determined by the
14 court at sentencing in class A felony cases under
15 section 707-702, not exceeding two years in class A
16 felony cases under part IV of chapter 712, not
17 exceeding eighteen months in class B felony cases, not
18 exceeding one year in class C felony cases, not
19 exceeding six months in misdemeanor cases, and not
20 exceeding five days in petty misdemeanor cases;
21 provided that notwithstanding any other provision of



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1 law, any order of imprisonment under this subsection
2 that provides for prison work release shall require
3 the defendant to pay thirty per cent of the
4 defendant's gross pay earned during the prison work
5 release period to satisfy any restitution order. The
6 payment shall be handled by the adult probation
7 division and shall be paid to the victim on a monthly
8 basis;

9 (b) Perform a specified number of hours of services to the
10 community as described in section 706-605(1)(d);

11 (c) Support the defendant's dependents and meet other
12 family responsibilities;

13 (d) Pay a fine imposed pursuant to section 706-605(1)(b);

14 (e) Work conscientiously at suitable employment or pursue
15 conscientiously a course of study or vocational
16 training that will equip the defendant for suitable
17 employment;

18 (f) Refrain from engaging in a specified occupation,
19 business, or profession bearing a reasonably direct
20 relationship to the conduct constituting the crime or
21 engage in the specified occupation, business, or



- 1 profession only to a stated degree or under stated
2 circumstances;
- 3 (g) Refrain from frequenting specified kinds of places or
4 from associating unnecessarily with specified persons,
5 including the victim of the crime, any witnesses,
6 regardless of whether they actually testified in the
7 prosecution, law enforcement officers, co-defendants,
8 or other individuals with whom contact may adversely
9 affect the rehabilitation or reformation of the person
10 convicted;
- 11 (h) Refrain from use of alcohol or any use of narcotic
12 drugs or controlled substances without a prescription;
- 13 (i) Refrain from possessing a firearm, ammunition,
14 destructive device, or other dangerous weapon;
- 15 (j) Undergo available medical or mental health assessment
16 and treatment, including assessment and treatment for
17 substance abuse dependency, and remain in a specified
18 facility if required for that purpose;
- 19 (k) Reside in a specified place or area or refrain from
20 residing in a specified place or area[+], including
21 limiting a covered offender under chapter 846E, from



1 residing no less than five hundred feet of any school,
2 child care facility, playground, or park;

3 (l) Submit to periodic urinalysis or other similar testing
4 procedure;

5 (m) Refrain from entering specified geographical areas
6 without the court's permission;

7 (n) Refrain from leaving the person's dwelling place
8 except to go to and from the person's place of
9 employment, the office of the person's physician or
10 dentist, the probation office, or any other location
11 as may be approved by the person's probation officer
12 pursuant to court order. As used in this paragraph,
13 "dwelling place" includes the person's yard or, in the
14 case of condominiums, the common elements;

15 (o) Comply with a specified curfew;

16 (p) Submit to monitoring by an electronic monitoring
17 device;

18 (q) Submit to a search by any probation officer, with or
19 without a warrant, of the defendant's person,
20 residence, vehicle, or other sites or property under
21 the defendant's control, based upon the probation



1 officer's reasonable suspicion that illicit substances
2 or contraband may be found on the person or in the
3 place to be searched;

4 (r) Sign a waiver of extradition and pay extradition costs
5 as determined and ordered by the court;

6 (s) Comply with a service plan developed using current
7 assessment tools; and

8 (t) Satisfy other reasonable conditions as the court may
9 impose."

10 SECTION 3. Section 626-1, Hawaii Revised Statutes, is
11 amended by amending rule 616 to read as follows:

12 "Rule 616 ~~[Televised]~~ Video testimony of child. In any
13 prosecution ~~[of an abuse offense or sexual offense alleged to~~
14 ~~have been committed against]~~ in which a child less than eighteen
15 years of age at the time of the testimony~~[7]~~ is called to
16 testify before the court, the court may order that the testimony
17 of the child be taken in a room other than the courtroom and be
18 televised by two-way closed circuit video equipment or by video-
19 conferencing technology, to be viewed by the court, the accused,
20 and the trier of fact, if the court finds that requiring the
21 child to testify in the physical presence of the accused would



1 likely result in serious emotional distress to the child and
2 substantial impairment of the child's ability to communicate.
3 During the entire course of such a procedure, the attorneys for
4 the defendant and for the State shall have the right to be
5 present with the child, and full direct and cross-examination
6 shall be available as a matter of right."

7 SECTION 4. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

10 SECTION 5. If any provision of this Act, or the
11 application thereof to any person or circumstance, is held
12 invalid, the invalidity does not affect other provisions or
13 applications of the Act that can be given effect without the
14 invalid provision or application, and to this end the provisions
15 of this Act are severable.

16 SECTION 6. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

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

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INTRODUCED BY: 
JAN 25 2021



H.B. NO. 799

Report Title:

Child Abuse; Expedited Criminal Proceedings; Sex Offenders; Offenders Against Minors; Residency Restriction; Hawaii Rules of Evidence; Video Testimony of Children

Description:

Allows the court and the prosecution to ensure a prompt trial for certain proceedings involving minors. Allows a court to prohibit residency from certain areas for persons convicted of a crime against minors or sexual offense. Amends Hawaii Rules of Evidence to allow a child to testify before the court using teleconferencing or videoconferencing if an in-person testimony will cause harm to the child.

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