

JAN 21 2026

A BILL FOR AN ACT

RELATING TO JUVENILE OFFENDERS.

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

1 SECTION 1. The legislature acknowledges and recognizes
2 that children are different from adults and that these
3 differences must be taken into account when children are being
4 sentenced for adult crimes. As noted by the United States
5 Supreme Court in *Miller v. Alabama*, 567 U.S. 460, 471 (2012),
6 "only a relatively small proportion of adolescents who engage in
7 illegal activity develop entrenched patterns of problem
8 behavior," and "developments in psychology and brain science
9 continue to show fundamental differences between juvenile and
10 adult minds," including "parts of the brain involved in behavior
11 control".

12 The legislature further finds that children are more
13 vulnerable to negative influences and outside pressures,
14 including from their family and peers, they have limited control
15 over their own environment, and lack the ability to extricate
16 themselves from horrific, crime-producing settings. The United
17 States Supreme Court emphasized in *Roper, Graham, Miller, and*



1 *Montgomery* that the distinctive attributes of youth diminish the
2 penological justifications for imposing the harshest sentences
3 on juvenile offenders, even when they commit terrible crimes.

4 The legislature further acknowledges recent research
5 demonstrating high rates of adverse childhood experiences and
6 childhood trauma among children tried as adults. Specifically,
7 children tried as adults have often been victims of physical,
8 emotional, and sexual abuse and come from broken homes where
9 domestic violence, substance abuse, mental illness, and
10 incarceration are common.

11 Accordingly, the purpose of this Act is to allow courts to
12 modify the sentences of juvenile offenders if the court finds
13 that the defendant is not a danger to the safety of any person
14 or the community and the modification is in the interests of
15 justice after considering certain factors.

16 SECTION 2. Chapter 706, Hawaii Revised Statutes, is
17 amended by adding a new section to part IV to be appropriately
18 designated and to read as follows:

19 **"§706- Sentence modification for juvenile offenders.**

20 (1) Notwithstanding any other law to the contrary, the court
21 may reduce a term of imprisonment imposed upon a defendant



1 convicted as an adult for offenses committed and completed
2 before the defendant attained eighteen years of age if:

3 (a) The defendant has served not less than fifteen years
4 in custody for the offenses; and

5 (b) The court finds, after considering the factors set
6 forth in subsection (c), that the defendant is not a
7 danger to the safety of any person or the community
8 and that the interests of justice warrant a sentence
9 modification.

10 (2) Any defendant whose sentence is reduced pursuant to
11 subsection (a) shall be ordered to serve a period of supervised
12 release of not less than three years following release from
13 imprisonment.

14 (3) The court, in determining whether to reduce a term of
15 imprisonment pursuant to subsection (a), shall consider:

16 (a) The nature of the offense and the history and
17 characteristics of the defendant;

18 (b) The age of the defendant at the time of the offense;

19 (c) A report and recommendation of the department of
20 corrections and rehabilitation, including information
21 on whether the defendant has substantially complied



1 with the rules of each institution in which the
2 defendant has been confined and whether the defendant
3 has completed any educational, vocational, or other
4 prison program, where available;

5 (d) The recommendation of the prosecuting attorney from
6 the county in which the defendant was prosecuted;

7 (e) Whether the defendant has demonstrated maturity,
8 rehabilitation, and a fitness to reenter society
9 sufficient to justify a sentence reduction;

10 (f) Any statement, which may be presented orally or
11 otherwise, by any victim of an offense for which the
12 defendant is imprisoned or by a family member of the
13 victim if the victim is deceased;

14 (g) Any report from a physical, mental, or psychiatric
15 examination of the defendant conducted by a licensed
16 health care professional;

17 (h) The family and community circumstances of the
18 defendant at the time of the offense, including any
19 history of abuse, trauma, or involvement in the child
20 welfare system;



1 (i) The extent of the role of the defendant in the offense
2 and whether, and to what extent, an adult was involved
3 in the offense;

4 (j) The diminished culpability of juveniles as compared to
5 that of adults, and the hallmark features of youth,
6 including immaturity, impetuosity, and failure to
7 appreciate risks and consequences, which counsel
8 against sentencing children to the otherwise
9 applicable term of imprisonment; and

10 (k) Any other information the court determines relevant to
11 the decision of the court.

12 (4) If the court denies or grants, in part, a motion to
13 reduce a sentence under this section, the defendant shall not:

14 (a) File a second motion to reduce a sentence for at least
15 three years;

16 (b) File a third motion to reduce a sentence for at least
17 three years; or

18 (c) File a fourth motion to reduce a sentence.

19 (5) The department of corrections and rehabilitation shall
20 provide written notice of this section to any defendant who has
21 served not less than fourteen years in prison for offenses



1 committed and completed before the defendant attained eighteen
2 years of age for which the defendant was convicted as an adult.

3 (6) A request for sentence modification under this section
4 shall:

5 (a) Be filed as a motion to reduce the sentence of the
6 defendant and may include affidavits or other written
7 material; and

8 (b) Be filed with the sentencing court and a copy shall be
9 served on the prosecuting attorney in the county in
10 which the sentence was imposed.

11 (7) After the filing of a motion to reduce a sentence
12 pursuant to this section:

13 (a) The court may direct the parties to expand the record
14 by submitting additional written materials relating to
15 the motion;

16 (b) The court shall conduct a hearing on the motion, at
17 which the defendant and counsel for the defendant
18 shall be given the opportunity to be heard;

19 (c) The court may allow parties to present evidence;

20 (d) The defendant shall be present unless the defendant
21 waives the right to be present; provided that this



1 requirement may be satisfied by the defendant
2 appearing by video teleconference;

3 (e) A defendant who is unable to obtain counsel is
4 entitled to have counsel appointed to represent the
5 defendant for proceedings under this section,
6 including any appeal, unless the defendant waives the
7 right to counsel; and

8 (f) The court shall state in open court, and file in
9 writing, the reasons for granting or denying a motion
10 under this section.

11 (8) The prosecuting attorney or the defendant may file a
12 notice of appeal for review of a final order under this
13 section."

14 SECTION 3. This Act shall have retroactive application and
15 apply to any sentences imposed on juvenile offenders entered
16 before, on, or after the effective date of this Act.

17 SECTION 4. If any provision of this Act, or the
18 application thereof to any person or circumstance, is held
19 invalid, the invalidity does not affect other provisions or
20 applications of the Act that can be given effect without the



1 invalid provision or application, and to this end the provisions
2 of this Act are severable.

3 SECTION 5. New statutory material is underscored.

4 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: Mike Gabbard



S.B. NO. 2325

Report Title:

Sentencing; Juvenile Offenders; Sentence Modification; Interest of Justice

Description:

Authorizes courts to modify sentences imposed on juvenile offenders if certain conditions are met and the court finds that the defendant is not a danger to the safety of any person or the community and the modification is in the interests of justice after considering certain factors. Establishes procedures, provides for hearings and representation by counsel, and authorizes appellate review.

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