THE SENATE
THIRTY-THIRD LEGISLATURE, 2026
STATE OF HAWAII

S.B. NO. 2108 S.D. 1

A BILL FOR AN ACT

RELATING TO JURISDICTION.

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

SECTION 1. The legislature finds that children who are prosecuted as adults often come from traumatic home and community environments. Research has shown that more than seventy per cent of children tried as adults experienced both emotional and physical abuse, while another forty-five per cent were sexually abused before their involvement in the justice system. Approximately one third of these minors were also victims of human trafficking, with one in ten reporting that they committed their offense alongside a co-defendant or victim in the case who previously abused them.

The legislature further finds that more than eighty per cent of minors who enter the adult criminal justice system come from homes where one or both parents are absent and more than twenty-five per cent had previous involvement in the foster care or child welfare system. Additionally, research has demonstrated that early childhood trauma is significantly

associated with early onset post traumatic stress disorder, which has been linked to adverse brain development in children.

Accordingly, the purpose of this Act is to:

(1) Amend the factors a family court is required to consider in deciding whether the court may waive jurisdiction over a minor or adult held for criminal proceedings;

(2) Preserve the family court's jurisdiction over a minor transferred for criminal proceedings for subsequent acts that would otherwise be within the family court's jurisdiction; and

(3) Require the court to retain jurisdiction over a minor if the court finds by clear and convincing evidence that the minor was trafficked, sexually abused, or raped by the alleged victim in the case before or during the commission of the alleged offense.

SECTION 2. Section 571-22, Hawaii Revised Statutes, is amended to read as follows:

"**§571-22 Waiver of jurisdiction; transfer to other courts.** (a) The court may waive jurisdiction and order a minor or adult held for criminal proceedings after full investigation and

hearing where the person during the person's minority, but on or after the person's sixteenth birthday, is alleged to have committed an act that would constitute a felony if committed by an adult, and the court finds that:

(1) There is no evidence the person is committable to an institution for individuals with intellectual disabilities or the mentally ill;

(2) The person is not treatable in any available institution or facility within the State designed for the care and treatment of children; or

(3) The safety of the community requires that the person be subject to judicial restraint for a period extending beyond the person's minority.

(b) The court may waive jurisdiction and order a minor or adult held for criminal proceedings if, after a full investigation and hearing, the court finds that:

(1) The person during the person's minority, but on or after the person's fourteenth birthday, is alleged to have committed an act that would constitute a felony if committed by an adult and either:

(A) The act resulted in serious bodily injury to a victim;

(B) The act would constitute a class A felony if committed by an adult; or

(C) The person has more than one prior adjudication for acts that would constitute felonies if committed by an adult; and

(2) There is no evidence the person is committable to an institution for individuals with intellectual disabilities or the mentally ill.

(c) The factors to be considered in deciding whether jurisdiction should be waived under subsection (a) or (b) are as follows:

(1) The seriousness of the alleged offense;

(2) Whether the alleged offense was committed in an aggressive, violent, premeditated, or wilful manner;

(3) Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted;

(4) [~~The desirability of trial and disposition of the entire offense in one court when the minor's associates in the alleged offense are adults who will be charged with a crime;~~] Whether and to what extent adult co-defendants were involved and exerted undue influence or peer pressure on the minor's participation in the offense;

(5) The sophistication and maturity of the minor as determined by consideration of the minor's home, environmental situation, emotional attitude, and pattern of living;

(6) The record and previous history of the minor, including previous contacts with the family court, other law enforcement agencies, courts in other jurisdictions, prior periods of probation to the family court, or prior commitments to juvenile institutions;

(7) The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the minor (if the minor is found to have committed the alleged offense) by the use of procedures, services,

and facilities currently available to the family court; [~~and~~]

(8) The minor's exposure to adverse childhood experiences, childhood trauma, involvement in the child welfare or foster care systems, and status as a victim of human trafficking, sexual abuse, or rape;

(9) Whether the minor has any diagnosable mental, emotional, or physical disability that would best be treated through the family court; and

[~~(8)~~] (10) All other relevant matters.

(d) The court may waive jurisdiction and order a minor or adult held for criminal proceedings if, after a full investigation and hearing, the court finds that:

(1) The person during the person's minority is alleged to have committed an act that would constitute murder in the first degree or second degree or attempted murder in the first degree or second degree if committed by an adult; and

(2) There is no evidence the person is committable to an institution for individuals with intellectual disabilities or the mentally ill.

[~~(e) Transfer of a minor for criminal proceedings terminates the jurisdiction of the court over the minor with respect to any subsequent acts that would otherwise be within the court's jurisdiction under section 571-11(1) and thereby confers jurisdiction over the minor to a court of competent criminal jurisdiction.~~

~~(f)~~] (e) If criminal proceedings instituted under subsection (a), (b), or (d) result in an acquittal or other discharge of the minor involved, no petition shall be filed thereafter in any family court based on the same facts as were alleged in the criminal proceeding.

[~~(g)~~] (f) A minor shall not be subject to criminal prosecution based on the facts giving rise to a petition filed under this chapter, except as otherwise provided in this chapter.

[~~(h)~~] (g) Where the petition has been filed in a circuit other than the minor's residence, the judge, in the judge's discretion, may transfer the case to the family court of the circuit of the minor's residence.

[~~(i)~~] (h) When a petition is filed bringing a minor before the court under section 571-11(1) and (2), and the minor resides

outside of the circuit, but within the State, the court, after a finding as to the allegations in the petition, may certify the case for disposition to the family court having jurisdiction where the minor resides. Thereupon, the court shall accept the case and may dispose of the case as if the petition was originally filed in that court. Whenever a case is so certified, the certifying court shall forward to the receiving court certified copies of all pertinent legal and social records.

[~~(j)~~] (i) If the court waives jurisdiction pursuant to subsection (b) or (d), the court also may waive its jurisdiction with respect to any other felony charges arising from the same episode to the charge for which the minor was waived.

(j) If the court finds by clear and convincing evidence that the minor was trafficked, sexually abused, or raped by the alleged victim in the case before or during the commission of the alleged offense, the court shall retain jurisdiction and not waive jurisdiction."

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

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

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

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Report Title:
Family Court; Jurisdiction; Criminal Offenses; Minor Defendants; Abuse; Trauma

Description:
Amends the factors a family court is required to consider in deciding whether the court may waive jurisdiction over a minor or adult held for criminal proceedings. Preserves the family court's jurisdiction over a minor transferred for criminal proceedings for subsequent acts that would otherwise be within the family court's jurisdiction. Requires the family court to retain jurisdiction over a minor if the court finds by clear and convincing evidence that the minor was trafficked, sexually abused, or raped by the alleged victim in the case before or during the commission of the alleged offense. (SD1)

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