

A Bill for an Act Relating to Sentencing of Minor Defendants.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that children are different from adults and that these differences must be taken into account when children are being sentenced for adult crimes. As stated by the United States Supreme Court in *Miller v. Alabama*, 567 U.S. 460 (2012), “only a relatively small proportion of adolescents” who engage in illegal activity “develop entrenched patterns of problem behavior”, and “developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds”, including “parts of the brain involved in behavior control”. Children are more vulnerable to negative influences and outside pressures, including from their family and peers, and they have limited control over their own environment and lack the ability to extricate themselves from horrific, crime-producing settings. The United States Supreme Court has also emphasized that “the distinctive attributes of youth diminish the penological justifications of imposing the harshest sentences on juvenile offenders, even when they commit terrible crimes”. The legislature further acknowledges recent research demonstrating high rates of adverse childhood experiences and childhood trauma among children tried as adults. Specifically, children tried as adults have often been victims of physical, emotional, and sexual abuse, and come from broken homes where domestic violence, substance abuse, mental illness, and incarceration are common.

Accordingly, the purpose of this Act is to allow courts to depart from mandatory minimum and sentencing enhancements when sentencing minor defendants if the court believes the reduction is warranted given certain factors.

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

“§706- Discretion when sentencing a defendant for an offense committed while a minor. (1) If a person is convicted as an adult for an offense that the person committed when the person was a minor, in addition to any other factor that the court is required to consider before sentencing the person, the court shall consider the following factors:

- (a) The person’s exposure to an adverse childhood experience or early childhood trauma, including involvement in the child welfare or foster care systems;
- (b) The person’s status as a victim of human trafficking or abuse at the time of the offense;
- (c) The differences between minor and adult offenders, including but not limited to the diminished culpability of minors as compared to that of adults and the typical characteristics of youth;
- (d) The level of participation in the offense and the impact of peer or familial pressure;

- (e) The person’s intellectual capacity and any underlying mental health conditions; and
- (f) Any other factors the court deems relevant.
- (2) Notwithstanding any other provision of law, after considering the factors set forth in subsection (1), the court may, in its discretion, reduce any mandatory minimum period of incarceration or depart from any mandatory sentencing enhancement that the person is required to serve if the court determines that the reduction or departure is warranted given the person’s age, trauma history, and prospects for rehabilitation.
- (3) For the purposes of this section, “minor” means any person under the age of eighteen years.”

SECTION 3. New statutory material is underscored.¹

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

(Approved May 29, 2025.)

Note

- 1. Edited pursuant to HRS §23G-16.5.