
A BILL FOR AN ACT

RELATING TO CRIME.

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

1 SECTION 1. Section 571-22, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§571-22 Waiver of jurisdiction; transfer to other courts.**

4 (a) The court may waive jurisdiction and order a minor or adult
5 held for criminal proceedings if, after a full investigation and
6 hearing [~~where~~], the person during the person's minority, but on
7 or after the person's sixteenth birthday, is alleged to have
8 committed an act that would constitute a felony if committed by
9 an adult, and the court finds that:

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

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

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



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

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

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

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

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

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

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

21 (1) The seriousness of the alleged offense;



- 1 (2) Whether the alleged offense was committed in an
- 2 aggressive, violent, premeditated, or wilful manner;
- 3 (3) Whether the alleged offense was against persons or
- 4 against property, greater weight being given to
- 5 offenses against persons, especially if personal
- 6 injury resulted;
- 7 (4) The desirability of trial and disposition of the
- 8 entire offense in one court when the minor's
- 9 associates in the alleged offense are adults who will
- 10 be charged with a crime;
- 11 (5) The sophistication and maturity of the minor as
- 12 determined by consideration of the minor's home,
- 13 environmental situation, emotional attitude, and
- 14 pattern of living;
- 15 (6) The record and previous history of the minor,
- 16 including previous contacts with the family court,
- 17 other law enforcement agencies, courts in other
- 18 jurisdictions, prior periods of probation to the
- 19 family court, or prior commitments to juvenile
- 20 institutions;
- 21 (7) The prospects for adequate protection of the public
- 22 and the likelihood of reasonable rehabilitation of the



1 minor (if the minor is found to have committed the
2 alleged offense) by the use of procedures, services,
3 and facilities currently available to the family
4 court; and

5 (8) All other relevant matters.

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

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

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

17 (e) The court shall waive jurisdiction and order the minor
18 held for criminal proceedings if, after a full investigation and
19 hearing, the court finds that:

20 (1) The minor is alleged to have committed an act that
21 would constitute murder in the first degree if
22 committed by an adult;



1 (2) The minor has not been charged with any other criminal
2 offense arising from the same incident; and

3 (3) The minor is at least fifteen years of age, but less
4 than eighteen years of age.

5 Subsequent to a waiver by the family court, upon motion by the
6 defendant, the circuit court may remand the minor back to the
7 jurisdiction of the family court if the circuit court finds that
8 the rehabilitation of the minor would be seriously impaired if
9 the minor remained under the jurisdiction of the circuit court,
10 or that the minor is committable to an institution for
11 individuals with intellectual disabilities or the mentally ill.

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

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



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

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

9 ~~[(i)]~~ (j) When a petition is filed bringing a minor before
10 the court under section 571-11(1) and (2), and the minor resides
11 outside of the circuit, but within the State, the court, after a
12 finding as to the allegations in the petition, may certify the
13 case for disposition to the family court having jurisdiction
14 where the minor resides. Thereupon, the court shall accept the
15 case and may dispose of the case as if the petition was
16 originally filed in that court. Whenever a case is so
17 certified, the certifying court shall forward to the receiving
18 court certified copies of all pertinent legal and social
19 records.

20 ~~[(j)]~~ (k) If the court waives jurisdiction pursuant to
21 subsection (b) or (d), the court also may waive its jurisdiction



H.B. NO. 646

1 with respect to any other felony charges arising from the same
2 episode to the charge for which the minor was waived."

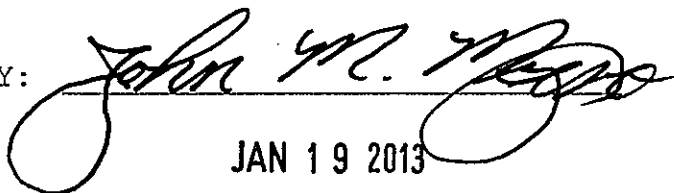
3 SECTION 2. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun before its effective date.

6 SECTION 3. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

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

9

INTRODUCED BY:



A handwritten signature in black ink, appearing to read "John M. Pappas", is written over a horizontal line. The signature is stylized and cursive.

JAN 19 2013



H.B. NO. 646

Report Title:

Crime; Minors Tried as Adults

Description:

Mandates minors ages fifteen to seventeen be tried as adults in cases of first degree murder when no other offenses are charged. Provides for discretionary remand of the minor to the family court in specified cases.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

