
A BILL FOR AN ACT

RELATING TO MINORS.

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

1 SECTION 1. The legislature finds that there are
2 fundamental differences between minor and adult criminal
3 offenders that are critical to consider during sentencing.
4 Consideration of these differences becomes especially important
5 when the minors are tried and convicted as adults. In 2012, the
6 Supreme Court noted that advances in psychology and neurology
7 continue to show developmental differences in parts of minors'
8 brains that are responsible for impulsiveness and behavior
9 control. Studies have shown that minors can be more vulnerable
10 to negative influences and to pressure from their peers, family
11 members, or others. Most minors also have limited control over
12 their environment and may be unable to extricate themselves from
13 horrific settings and life circumstances that tend to lead to
14 crime.

15 The legislature recognizes that lawmakers in other states
16 are increasingly acknowledging these differences, granting
17 judges greater discretion when sentencing minors. Many states



1 now allow judges to depart from mandatory minimum sentences in
2 appropriate cases.

3 Accordingly, the purpose of this Act is to require circuit
4 courts to apply special sentencing considerations when
5 sentencing a minor for a nonviolent offense and to allow the
6 courts, in their discretion, to impose a sentence up to fifty
7 per cent shorter than the mandatory minimum or to decline to
8 impose a mandatory enhanced sentence in certain circumstances.

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

12 "§706- Special sentencing considerations for minors.

13 (1) In a case in which the family court has waived jurisdiction
14 over a minor pursuant to section 571-22 and the minor is
15 convicted of a nonviolent criminal offense in circuit court, the
16 circuit court shall consider, in addition to any other factors
17 that the court is required to consider, the psychological and
18 developmental differences between minor and adult offenders,
19 including the minor's vulnerability, impulsiveness,
20 susceptibility to suggestion, and diminished culpability.



1 (2) Notwithstanding any law to the contrary, after
2 considering the factors set forth in subsection (1) and the
3 factors identified in the pre-sentence diagnosis and report
4 prepared pursuant to section 706-601, the circuit court may, in
5 its discretion:

6 (a) Impose a sentence that includes a period of
7 incarceration that is shorter than any mandatory
8 minimum sentence otherwise required by law if the
9 minor enters a rehabilitation or diversion program;
10 provided that the period of incarceration shall not be
11 shorter than half of the mandatory minimum sentence
12 otherwise required by law; and

13 (b) Decline to impose a mandatory sentencing enhancement
14 otherwise required by law when imposing a sentence
15 that includes a period of incarceration of five years
16 or more."

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

20 SECTION 4. New statutory material is underscored.



1 SECTION 5. This Act shall take effect on December 31,
2 2059.



Report Title:

Minors; Circuit Courts; Criminal Proceedings; Sentencing;
Nonviolent Offenses

Description:

Requires circuit courts to apply special sentencing considerations when sentencing a minor for a nonviolent offense. Allows the circuit courts, in their discretion, to impose a sentence up to fifty per cent shorter than the mandatory minimum or to decline to impose a mandatory enhanced sentence in certain circumstances. Effective 12/31/2059. (HD2)

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