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# A BILL FOR AN ACT

RELATING TO MINORS.

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

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

12           The legislature also finds that minors are more vulnerable  
13 to negative influences and outside pressures from their family,  
14 peers, and others. Minors also have limited control over their  
15 environment and lack the ability to extricate themselves from  
16 horrific and crime-producing settings. The *Miller* decision  
17 noted that in *Roper v. Simmons*, 543 U.S. 551 (2005), and *Graham*



1 v. *Florida*, 560 U.S. 48 (2010), the Supreme Court emphasized  
2 that "the distinctive attributes of youth diminish the  
3 penological justifications for imposing the harshest sentences  
4 on juvenile offenders, even when they commit terrible crimes."

5 The legislature further acknowledges that the recent trend  
6 in the United States has been to give greater judicial  
7 discretion when sentencing minors, even allowing judges to  
8 depart from mandatory minimums in appropriate cases.

9 The purpose of this Act is to grant a circuit court, when  
10 sentencing a minor for a non-violent criminal offense, the  
11 discretion to:

12 (1) Impose a sentence that includes a period of  
13 incarceration that is as much as fifty per cent  
14 shorter than any mandatory minimum; and

15 (2) In certain cases, decline to impose a mandatory  
16 enhanced sentence,

17 if the court believes that such a reduction is warranted in  
18 light of the defendant's age and prospects for rehabilitation.

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



1           "§706- Sentencing of minors. (1) In a case in which  
 2 the family court has waived jurisdiction over a minor pursuant  
 3 to section 571-22 and the minor is convicted of a criminal  
 4 offense in circuit court, the circuit court shall consider, in  
 5 addition to any other factor that the court is required to  
 6 consider, the differences between minor and adult offenders,  
 7 including the diminished culpability of minors as compared to  
 8 that of adults, and the typical characteristics of youth.

9           (2) Notwithstanding any law to the contrary, after  
 10 considering the factors set forth in subsection (1), the circuit  
 11 court, in its discretion:

12           (a) May impose a sentence that includes a period of  
 13 incarceration that is shorter than any mandatory  
 14 minimum otherwise required by law; provided that the  
 15 period of incarceration shall not be shorter than half  
 16 of the mandatory minimum otherwise required by law;  
 17 and

18           (b) When imposing any sentence that includes a period of  
 19 incarceration of five years or more, may decline to  
 20 impose a mandatory sentencing enhancement otherwise  
 21 required by law."



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

4           SECTION 4. New statutory material is underscored.

5           SECTION 5. This Act shall take effect on January 1, 2059.



**Report Title:**

Minors; Circuit Courts; Criminal Proceedings; Sentencing;  
Non-violent Offenses

**Description:**

Grants a circuit court, when sentencing a minor for a non-violent criminal offense, the discretion to: (1) impose a sentence that includes a period of incarceration that is as much as fifty per cent shorter than any mandatory minimum; and (2) in certain cases, decline to impose a mandatory enhanced sentence. Takes effect 1/1/2059. (SD2)

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