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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 minors differ  
2 from adults in a number of ways, and that these differences must  
3 be taken into account when minors or adults convicted of a  
4 felony offense that was committed before reaching the age of  
5 majority are sentenced after being convicted in the same circuit  
6 courts in which adults are tried. As noted by the Supreme Court  
7 of the United States in *Miller v. Alabama*, 567 U.S. 460 (2012),  
8 "[o]nly a relatively small proportion of adolescents who engage  
9 in illegal activity develop entrenched patterns of problem  
10 behavior", and "developments in psychology and brain science  
11 continue to show fundamental differences between juvenile and  
12 adult minds", including "parts of the brain involved in behavior  
13 control" (internal quotation marks omitted).

14           The legislature also finds that minors are more vulnerable  
15 to negative influences and outside pressures from their family,  
16 peers, and others. Minors also have limited control over their  
17 environment and lack the ability to extricate themselves from



1 horrific and crime-producing settings. The *Miller* decision  
2 noted that, in *Roper v. Simmons*, 543 U.S. 551 (2005), and *Graham*  
3 *v. Florida*, 560 U.S. 48 (2010), the Supreme Court "emphasized  
4 that the distinctive attributes of youth diminish the  
5 penological justifications for imposing the harshest sentences  
6 on juvenile offenders, even when they commit terrible crimes".

7 The legislature further acknowledges that the recent trend  
8 in the United States has been to allow greater judicial  
9 discretion when sentencing minors, even allowing judges to  
10 depart from mandatory minimum sentences in appropriate cases.

11 The purpose of this Act is to grant a circuit court, when  
12 sentencing a minor for a criminal offense or adult convicted of  
13 a felony criminal offense that was committed before reaching the  
14 age of majority, the discretion to:

- 15 (1) Impose a sentence that includes a period of  
16 incarceration that is as much as fifty per cent  
17 shorter than any mandatory minimum; and  
18 (2) In certain cases, decline to impose a mandatory  
19 enhanced sentence.



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

4 "§706- Sentencing of minors or adults convicted of a  
5 felony offense that was committed before reaching the age of  
6 majority. (1) In a case in which the family court has waived  
7 jurisdiction over a minor or adult convicted of a felony offense  
8 that was committed before reaching the age of majority pursuant  
9 to section 571-22 and the minor or adult is convicted of a  
10 criminal offense in circuit court, the circuit court shall  
11 consider, in addition to any other factor that the court is  
12 required to consider, the differences between minor and adult  
13 offenders, including the diminished culpability of minors as  
14 compared to that of adults, and the typical characteristics of  
15 youth.

16 (2) Notwithstanding any law to the contrary, after  
17 considering the factors set forth in subsection (1), the circuit  
18 court, in its discretion:

19 (a) May impose a sentence that includes a period of  
20 incarceration that is shorter than any mandatory  
21 minimum otherwise required by law; provided that the



1           period of incarceration shall not be shorter than one-  
2           half of the mandatory minimum otherwise required by  
3           law; and

4           (b) When imposing any sentence that includes a period of  
5           incarceration of five years or more, may decline to  
6           impose a mandatory sentencing enhancement otherwise  
7           required by law."

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

11          SECTION 4. New statutory material is underscored.

12          SECTION 5. This Act shall take effect on July 1, 2023.



**Report Title:**

Minors; Circuit Courts; Criminal Proceedings; Sentencing

**Description:**

Grants a circuit court, when sentencing a minor for a criminal offense or adult convicted of a felony criminal offense that was committed before reaching the age of majority, the discretion to impose a sentence that includes a period of incarceration that is as much as fifty per cent shorter than any mandatory minimum and, in certain cases, decline to impose a mandatory enhanced sentence. (HD1)

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