



**TESTIMONY IN SUPPORT TO SENATE BILL 544**  
RELATING TO SENTENCING OF MINOR DEFENDANTS

House Committee on Judiciary & Hawaiian Affairs  
Hawai'i State Capitol

March 14, 2025

2:00M

Room 325

---

Dear Chair Tarnas, Vice Chair Poepoe, and Members of the House Committee on Judiciary & Hawaiian Affairs:

The Office of Hawaiian Affairs (OHA) submits this testimony **SUPPORT** of SB 544 which requires courts to consider certain factors when sentencing a person convicted as an adult for an offense that the person committed when the person was a minor. This measure additionally allows courts to reduce a mandatory minimum period of incarceration or depart from a mandatory sentencing enhancement if the court determines that the reduction or departure is warranted given certain factors. **This measure may help mitigate the long-lasting traumas inflicted upon youth, including a disproportionate number of Native Hawaiians, who are exposed to our criminal justice system.**

**Native Hawaiian youth are disproportionately represented in the juvenile justice system, which may contribute significantly to Native Hawaiians' disproportionate representation in the criminal justice system.** In 2010, OHA produced a comprehensive report detailing the overrepresentation and disparate treatment of Native Hawaiians in the criminal justice system. This report found that Native Hawaiian youth are disproportionately represented in the juvenile justice system and are also the most frequently arrested ethnic group in all offense categories.<sup>1</sup> In 2012, the Native Hawaiian Justice Task Force (NHJTF) was tasked by the Legislature to address the issues raised in OHA's 2010 report; in its report, the NHJTF further acknowledged that "an individual's contact with the criminal justice system . . . often begins at youth."<sup>2</sup>

---

<sup>1</sup> THE OFFICE OF HAWAIIAN AFFAIRS, THE DISPARATE TREATMENT OF NATIVE HAWAIIANS IN THE CRIMINAL JUSTICE SYSTEM 10 (2010), available at [http://www.oha.org/wp-content/uploads/2014/12/ir\\_final\\_web\\_rev.pdf](http://www.oha.org/wp-content/uploads/2014/12/ir_final_web_rev.pdf).

<sup>2</sup> THE OFFICE OF HAWAIIAN AFFAIRS, NATIVE HAWAIIAN JUSTICE TASK FORCE REPORT 23 N. 28 (2012), available at [http://www.oha.org/wp-content/uploads/2012NHJTF\\_REPORT\\_FINAL\\_0.pdf](http://www.oha.org/wp-content/uploads/2012NHJTF_REPORT_FINAL_0.pdf).

Unfortunately, mandatory minimum sentences for minors fail to recognize the extenuating circumstances that often lead youth to offend and may significantly limit their otherwise high potential for rehabilitation and reform. Other jurisdictions have even found mandatory minimum sentences for minors to violate “standards of decency and fairness,” and have ruled them unconstitutional as applied to youth.<sup>3</sup> By failing to allow for flexible penalties that can take young offenders’ diminished executive decision-making capacity and unique circumstances into account, mandatory minimum sentences may contribute directly to Native Hawaiians’ representation in the juvenile justice system and increase their risk of involvement in the criminal justice system later in life.

This measure represents an opportunity to reduce the harmful and unnecessary effects of mandatory minimum sentences on our youth. Requiring greater discretion when sentencing youth as adults will ensure the mitigating circumstances surrounding the charged offense are considered, and that tailored sentences are issued that can take advantage of, rather than foreclose, their high rehabilitation potential, and thereby reduce the unjust and unnecessary impacts of mandatory sentencing on offenders who are minors.

The Office of Hawaiian Affairs urges this committee to **PASS SB 544**. Mahalo nui for the opportunity to testify.

---

<sup>3</sup> See *State v. Houston-Sconiers*, 188 Wn.2d 1, 391 P.3d 409 (2017) (holding trial courts are “vested with full discretion to depart from the sentencing guidelines and any otherwise mandatory sentence enhancements.”); *State v. Andre Jerome Lyle Jr.* No. 11-1339 (2014).

JON N. IKENAGA  
STATE PUBLIC DEFENDER

**DEFENDER COUNCIL**  
1130 NORTH NIMITZ HIGHWAY  
SUITE A-254  
HONOLULU, HAWAI'I 96817

**HONOLULU OFFICE**  
1130 NORTH NIMITZ HIGHWAY  
SUITE A-254  
HONOLULU, HAWAI'I 96817

**APPELLATE DIVISION**  
TEL. No. (808) 586-2080

**DISTRICT COURT DIVISION**  
TEL. No. (808) 586-2100

**FAMILY COURT DIVISION**  
TEL. No. (808) 586-2300

**FELONY DIVISION**  
TEL. No. (808) 586-2200

**FACSIMILE**  
(808) 586-2222



STATE OF HAWAI'I  
**OFFICE OF THE PUBLIC DEFENDER**

HAYLEY Y.C. CHENG  
ASSISTANT PUBLIC DEFENDER

**HILO OFFICE**  
275 PONAHAHAWAI STREET  
SUITE 201  
HILO, HAWAI'I 96720  
TEL. No. (808) 974-4571  
FAX No. (808) 974-4574

**KONA OFFICE**  
75-1000 HENRY STREET  
SUITE #209  
KAILUA-KONA HI 96740  
TEL. No. (808) 327-4650  
FAX No. (808) 327-4651

**KAUAI OFFICE**  
3060 EIWA STREET  
SUITE 206  
LIHUE, HAWAI'I 96766  
TEL. No. (808) 241-7128  
FAX No. (808) 274-3422

**MAU'I OFFICE**  
81 N. MARKET STREET  
WAILUKU, HAWAI'I 96793  
TEL. No. (808) 984-5018  
FAX No. (808) 984-5022

**Testimony of the Office of the Public Defender,  
State of Hawai'i to the House Committee on Judiciary & Hawaiian Affairs**

March 14, 2025

**S.B. 544: RELATING TO SENTENCING OF MINOR DEFENDANTS.**

Chair Tarnas, Vice-Chair Poepoe, and Members of the Committee:

The Office of the Public Defender **strongly supports S.B. 544:**

We believe that the preamble of the bill clearly states principles that are generally accepted in the legal, scientific, and psychological communities on the topic of juvenile development. Juveniles are psychologically and developmentally different from adults and these differences should be recognized by the legal system. Juveniles should not be equated with adults in our criminal justice system. Juveniles are extremely vulnerable to negative environments and are easily influenced by crime-producing influences such as physical, sexual, and psychological abuse by family members, other adults, and older juveniles. Juveniles are less capable than adults to consider the long-term impact of their actions, control their emotions and impulses, or evaluate risks and reward. Juveniles do not have control over their living situations and may experience traumas related to family homelessness, abandonment, exposure to adult drug abuse, and the realities of living in poverty that create environments susceptible to gang involvement or exposure to adult criminal behaviors.

Through the formation of a family court, Hawaii has recognized that children must be treated differently from adults in our justice system. Nevertheless, juveniles, through the waiver of jurisdiction process, are still able to be tried by the adult criminal justice system and receive the harshest penalties under our state laws. S.B. 544 seeks to reform this situation and make our laws compliant under United States Supreme Court decisions which have outlawed the imposition of such penalties on juvenile offenders. The Office of the Public Defender is in full support of the proposed sentencing factors in this measure, and we submit that this bill will create a fairer and more just system for the determination of an appropriate sentence for any juvenile waived into the adult system.

Thank you for the opportunity to provide testimony on this bill.



---

## **TESTIMONY IN SUPPORT OF SB 544 BEFORE THE HOUSE JUDICIARY & HAWAIIAN AFFAIRS COMMITTEE**

---

Dear Chairman Tarnas and Members of the Judiciary & Hawaiian Affairs Committee:

Human Rights for Kids respectfully submits this testimony for the official record to express our full support for SB 544 and to urge the committee to pass this important measure. We are grateful to Senator Gabbard for his leadership in introducing this bill and appreciate the Hawaii Legislature's willingness to address this important human rights issue concerning the sentencing of Hawaii's children.

Human Rights for Kids is a Washington, D.C.-based non-profit organization dedicated to the promotion and protection of the human rights of children. We use an integrated, multi-faceted approach which consists of research & public education, coalition building & grassroots mobilization, and policy advocacy & strategic litigation to advance critical human rights on behalf of children in the United States. A central focus of our work is advocating in state legislatures and courts for comprehensive justice reform for children consistent with the U.N. Convention on the Rights of the Child. We also work to inform the way the nation understands Adverse Childhood Experiences (ACEs) from a human rights perspective, to better educate the public and policymaker's understanding of the relationship between early childhood trauma and negative life outcomes.

Human Rights for Kids supports SB 544 because, if it is signed into law, it will end the shameful practice of using adult mandatory minimum sentences on children and allow judges to craft more age-appropriate and trauma-informed sentences for youth tried as adults.

### **Children Sentenced as Adults**

In the late 1980's and early 1990's states began passing laws to make it easier to transfer children into the adult criminal justice system which exposed them to harsh mandatory minimum sentences and mandatory sentencing enhancements. By the year 2000, a child as young as 10 years old could be tried as an adult for certain offenses. And by 2010, an estimated 139,000 children were housed in adult prisons and jails across the United States.

Policymakers were driven by the now-debunked "Super-Predator Theory" which stated that a new generation of child predators were coming of age who were more violent and less remorseful than ever before. These children, the authors said, were "Godless, jobless, and

fatherless” monsters and urged states to respond by treating them as adults and thereby exposing them to overly punitive mandatory minimum sentences.

An estimated 53,000 children are tried in the adult criminal justice system every year in the United States. These children can face severe punishment that is not age-appropriate and is disproportionate given their young age and lessened culpability relative to that of adults. Through our research HRFK estimates that there are more than 32,000 people in U.S. prisons for crimes committed as children. This represents more than 3% of the entire U.S. prison population.

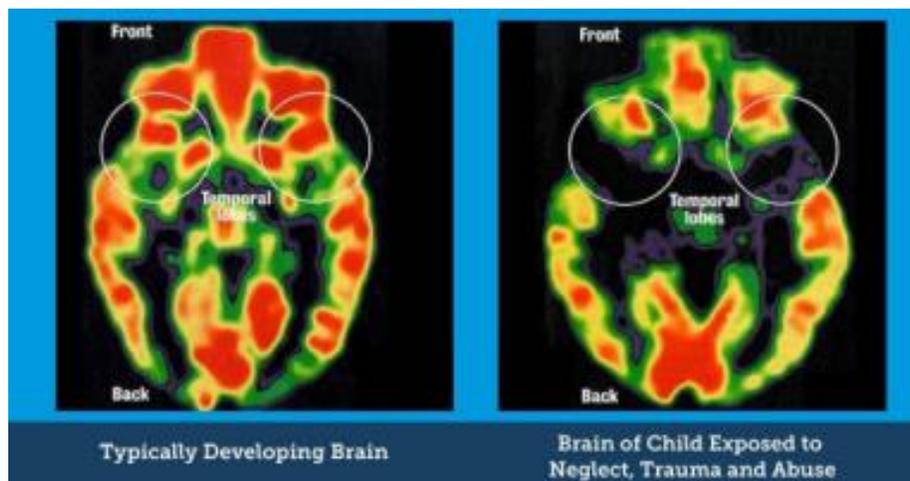
The confluence of the relaxation of juvenile transfer laws and increase in mandatory minimum sentences has been the driving force behind the tens of thousands of people who have been incarcerated since childhood.

**Adverse Childhood Experiences**

In the vast majority of cases, children who come into conflict with the law are contending with early childhood trauma and unmitigated adverse childhood experiences (ACEs), including physical and emotional neglect; physical, emotional, and sexual abuse; parental separation, domestic violence, household substance abuse, mental illness, and incarceration.

Research by Human Rights for Kids has shown that nationally more than 70% of children tried as adults experienced both physical and emotional abuse prior to their offense. Another 45% experienced sexual abuse. Almost every child tried as an adult came from broken homes where witnessing domestic violence (53%), substance abuse (75%), and mental illness (54%) were normalized.

This type of trauma often leads to early-onset PTSD and subsequently impacts children’s brain development, particularly the prefrontal cortex. This means that kids traumatized by violence in their homes and communities have impaired brain development that influences their behavior and decision making.



The image above depicts the impact of trauma on the developing brain of young children.  
**Juvenile Brain & Behavioral Development Science**

Even in the absence of trauma studies have shown that children’s brains are not fully developed. The pre-frontal cortex, which is responsible for temporal organization of behavior, speech, and reasoning continues to develop into early adulthood. As a result, children rely on a more primitive part of the brain known as the amygdala when making decisions. The amygdala is responsible for immediate reactions including fear and aggressive behavior. This makes children less capable than adults to regulate their emotions, control their impulses, evaluate risk and reward, and engage in long-term planning. This is also what makes children more vulnerable, more susceptible to peer pressure, and being heavily influenced by their surrounding environment.

### Dynamic mapping of human cortical development



Source: "Dynamic mapping of human cortical development during childhood through early adulthood," Nitin Gogtay et al., Proceedings of the National Academy of Sciences, May 25, 2004; California Institute of Technology.

Children’s underdeveloped brains and proclivity for irrational decision-making is why society does not allow children to vote, enter into contracts, work in certain industries, get married, join the military, or use alcohol or tobacco products. These policies recognize that children are impulsive, immature, and lack solid decision-making abilities until they’ve reach adulthood. It’s worth noting that these traits are exacerbated for children exposed to trauma.

### Racial Disparities

Black children are disproportionately represented in the adult criminal justice system, comprising 60% of all children confined in adult prisons. In addition, roughly 83% of children prosecuted in the adult criminal justice system are racial minorities. Black children represent 87% of drug cases, 48% of property cases, and 63% of the public order offense cases where children are tried in the adult criminal justice system.

### The U.S. Supreme Court

The Supreme Court has emphasized through its cases in *Roper v. Simmons* (2005), *Graham v. Florida* (2010), *Miller v. Alabama* (2012), and *Montgomery v. Louisiana* (2016) that **“the distinctive attributes of youth diminish the penological justifications for imposing the harshest sentences on juvenile offenders, even when they commit terrible crimes.”** (Emphasis Added).

The Court has also found that, “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.”

### **International Human Rights Law**

In 1989 the United Nations adopted the Convention on the Rights of the Child (CRC), which sets forth minimum standards for the treatment of children who come into conflict with the law. For the purposes of this legislation, Articles 10 and 14 of the International Covenant on Civil and Political Rights states:

“Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status . . . the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.”

Article 37 of the CRC adds that:

“Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age.”

The need to treat children differently from adults is at the core of these human rights protections. This cannot be accomplished, however, if the same standards used to hold adults accountable are used on children. To protect children’s human rights Hawaii must join Washington, Iowa, Nevada, Virginia, Montana, Maryland, and D.C. in allowing judges greater discretion when sentencing children who have been convicted in adult court.

Nelson Mandela once said, *“There is no keener revelation of a society’s soul than the way in which it treats its children.”* Children can and do commit serious crimes. While they must be held responsible, our response must not be focused on retribution. Instead, it must be measured and assure age-appropriate accountability that focuses on the unique capacity of children to grow, change and be rehabilitated. SB 544 does that, by simply giving judges greater discretion when sentencing children. It does not require judges to do anything, aside from consider how children are different from adults at the time of sentencing. And if children are not deserving of mercy when they make mistakes, who among us is?

We strongly urge this committee to vote favorably upon SB 544 to give judges greater flexibility to depart from mandatory minimum sentences for children and to ensure that their trauma is adequately considered by the court. Thank you for your consideration.

With hope and love,



James. L. Dold  
President & Founder,  
Human Rights for Kids

 Star  Advertiser

## Traumatized Children Need Our Love, Not Mass Incarceration

By: John Mizuno



Every year the United States prosecutes more children as adults than any other country in the world. A [2023 report by Human Rights for Kids](#) (HRFK) found that today there are more than 32,000 people in our prisons for crimes committed as children and more than 80 percent of them are people of color. In nearly every case where a child is tried as an adult, they are contending with adverse childhood experiences (ACEs), which measure ten distinct types of abuse, neglect, and traumatic events in early childhood. A national ACEs survey by HRFK of children tried as adults revealed that more than 70% experienced emotional and physical abuse, and another 40% experienced sexual abuse prior to their system-involvement.

Parental divorce or separation is the most common traumatic event reported and is often accompanied by household substance abuse (75%), domestic violence (53%), mental illness (54%), and incarceration (64%).

Most of these children first come into contact with the system in our juvenile or family courts. Yet, the legal system rarely identifies or effectively responds to these levels of severe childhood trauma which have been causally linked to adverse brain development. Instead, when young children reach adolescence and predictably begin to act out we label them “Super Predators” and lock them away in cages.

Our mass incarceration of children begins as young as elementary school. In Hawaii, for example, we don’t have a minimum age for when a child can be arrested or prosecuted in juvenile court. Most Hawaiians might be shocked to learn that between 2020 and 2023 nearly 600 children age 11 or younger were arrested on the islands. These are kids in grade school who still believe in Santa Claus and the tooth fairy.

Treating children this way is a clear violation of the UN Convention on the Rights of the Child (CRC). While states like Texas, Louisiana, and Massachusetts have passed laws establishing a

minimum age for delinquency, sadly we have not. The CRC also prohibits sentencing children by the same standards we use for adults and placing children in adult jails and prisons. Despite Hawaii passing a resolution urging the U.S. government to ratify the CRC, we have yet to embrace these requirements.

That is why when I was in the Legislature, I worked with former Rep. Karen Awana to end life without parole sentences for children and then worked to pass a law requiring children to consult with legal counsel prior to waiving their Miranda Rights in 2023. These laws were based on human rights norms embraced the world over.

We still have more work to do in Hawaii which is why I am encouraging my former colleagues in the legislature to pass a trio of bills recently introduced by Senator Gabbard. His legislation would require judges to consider the impact of childhood trauma when sentencing youth tried as adults and give judges the flexibility to deviate from mandatory minimums. Another bill would prohibit children from being placed in adult correctional facilities in order to protect them from physical and sexual violence at the hands of adult prisoners. Finally, his reforms would also establish a minimum age of 12 before a child could be arrested and adjudicated delinquent.

Fred Rogers once said that “Love is at the root of everything, all learning, all relationships. Love or the lack of it.” We must embrace this notion and show the most victimized and vulnerable children in our state that we love them despite their mistakes. We can uphold public safety while simultaneously protecting the human rights of our children. Senator Gabbard has provided a blueprint; we should embrace it.



## Hawaii House Judiciary and Hawaiian Affairs Committee

### Testimony of Rights4Girls

### In Support of Senate Bill 544

### Relating to Sentencing of Minor Defendants

March 14, 2025

Thank you, Chair Tarnas, Vice Chair Poepoe, and Members of the Committee for the opportunity to provide testimony on SB 544. Rights4Girls is a national human rights organization dedicated to defending the rights of vulnerable young women and girls throughout the United States, including here in Hawaii. We work to change the policies that punish girls and young women when they experience violence and exploitation, and promote approaches that provide survivors with opportunities for safety, healing, and support. As human rights attorneys and advocates dedicated to defending survivors' rights, we submit this testimony to **voice our strong SUPPORT for SB 544**, legislation that allows for trauma-informed sentencing of child sex crime victim-defendants when they are accused of harming their abusers.

At Rights4Girls we work to support survivors' rights at the federal, state, and local levels through policy advocacy, research, training and technical assistance, and coalition building. For the last decade, we have worked with our partners at the National Council of Juvenile and Family Court Judges to develop and lead the *National Judicial Institute on Domestic Child Sex Trafficking* and the *National Multi-Disciplinary Institute on Child Sex Trafficking* where we train judges, child welfare, juvenile justice, probation, law enforcement, and other systems professionals on how to identify and better serve child trafficking survivors they encounter and encourage systems professionals to end policies that punish girls for suffering and surviving abuse. We have also worked to shed light on the widespread criminalization of child survivors of sexual violence and exploitation through the publication of reports like [The Sexual Abuse to Prison Pipeline: The Girls' Story](#) and our more recent report, [Criminalized Survivors: Today's Abuse to Prison Pipeline](#) published together with the Georgetown Law Center for Gender Justice and Opportunity which examines the very issue that this critical legislation seeks to address— child sex crime survivors who face extreme sentences for their attempts to defend themselves or escape violence at the hands of their abusers. It is for these reasons that we strongly urge the committee to support SB



544.

Our research has highlighted that sexual abuse is a key driver of criminal justice-involvement in girls. Alarming, our reports have showed that the vast majority of girls behind bars in multiple states reported past experiences of sexual abuse prior to entering the system.<sup>1</sup> A more recent nationally representative study revealed that 84% of women who were incarcerated as girls had histories of physical and sexual abuse prior to entering the justice system.<sup>2</sup> We know from available data that Native children are overrepresented in the juvenile justice system here in Hawaii.<sup>3</sup> Furthermore, according to research by the Hawaii Commission on the Status of Women, girls make up 78% of child sex trafficking victims in Hawaii, and nearly 83% of all child sex trafficking victims identify as all or part Native Hawaiian.<sup>4</sup> Our reports, as well as subsequent research, found that when vulnerable girls (and other marginalized youth) experience abuse and trauma, they often lack access to support services and vital interventions needed to heal. Moreover, they are often failed by the adults and systems that are entrusted to keep them safe. This often forces abused children to fend for themselves and resort to self-protection. Often this looks like avoidant behaviors such as running away or substance abuse as a coping mechanism, but in the most extreme cases child survivors can resort to acts of violence as a form of self-defense or means to escape their abuser or exploiter. Thus, girls are literally being incarcerated for their responses to trauma and violence because they are being denied resources and support. In many cases—because of who these girls are—they are even being denied their status as children and as victims of crime— due to an insidious form of intersectional bias known as “adulthood bias.”<sup>5</sup>

Girls of color bear the brunt of this punitive response with girls of color accounting for 55% of incarcerated girls even though they comprise only 20% of the youth population.<sup>6</sup> SB 544 is critical because it will allow for trauma-informed sentencing of child sexual abuse victims who defend

---

<sup>1</sup> Saada Saar et. al., Rights4Girls, Georgetown Law Center on Poverty and Inequality & Ms. Foundation for Women, *The Sexual Abuse to Prison Pipeline: The Girls' Story*, <https://rights4girls.org/wp-content/uploads/2020/11/SexualAbusettoPrisonPipeline-Report.pdf> (2015)

<sup>2</sup> Sara Krizan & Aiden Lesley, Unheard: The Epidemic of Severe Childhood Trauma Among Girls Tried as Adults, Human Rights for Kids (2024), <https://humanrightsforkids.org/publication/unheard-the-epidemic-of-severe-childhood-trauma-among-girls-tried-as-adults/>

<sup>3</sup> Office of Hawaiian Affairs, *The Disparate Treatment of Native Hawaiians In the Criminal Justice System*, (2010), [https://www.oha.org/wp-content/uploads/2014/11/es\\_final\\_web\\_0.pdf](https://www.oha.org/wp-content/uploads/2014/11/es_final_web_0.pdf)

<sup>4</sup> Rights4Girls, *Sexual Violence Among Native Women and Girls Fact Sheet*, (2024), <https://rights4girls.org/wp-content/uploads/2024/07/Sexual-Violence-Among-Native-Women-Girls-2024.pdf>

<sup>5</sup> Rights4Girls, *Child Sex Trafficking and Black Girls Fact Sheet*, (2024), <https://rights4girls.org/wp-content/uploads/2024/09/Child-Sex-Trafficking-Black-Girls-2024.pdf>

<sup>6</sup> Office of Juvenile Justice and Delinquency Prevention. (n.d.). *Easy access to juvenile court statistics (EZAJCS): 1985–2021*. U.S. Department of Justice. Retrieved March 13, 2025, from <https://ojjdp.ojp.gov/statistical-briefing-book/data-analysis-tools/ezaics>



themselves against their adult abusers. By allowing judges to bypass mandatory minimums when considering these cases and evaluating child victims' trauma histories, including adverse childhood experiences (ACEs), SB 544 will save so many children from a cycle of unnecessary harm.

As advocates who work at the intersection of juvenile justice, gender justice, and violence prevention, Rights4Girls strongly supports SB 544 because it is a critical step in shifting the response to child victims of violence, particularly vulnerable girls who have been sexually abused or exploited. This legislation would create more just outcomes moving forward, help provide greater insight into the experiences that contributed to a survivor's actions or inactions, and use a more developmentally appropriate and trauma-informed response assessing child victims' culpability.

We ask that you consider SB 544 for what it is: a bill that will help the justice system remember they are looking at a child; a child who has experienced abuse beyond comprehension. And we ask that you swiftly support its passage.

We thank you for the opportunity to weigh in on this important bill. Should you have any questions, we welcome the opportunity to speak with you at your convenience. Inquiries can be directed to Yasmin Vafa ([yasmin@rights4girls.org](mailto:yasmin@rights4girls.org)).

Thank you for your time and consideration.

Respectfully,

Yasmin Z. Vafa, Esq.  
Executive Director  
Rights4Girls



Committee: Judiciary & Hawaiian Affairs  
Hearing Date/Time: Friday, March 14, 2025, at 2:00pm  
Place: Conference Room 325 & Via Videoconference  
Re: **Testimony of the ACLU of Hawai'i in SUPPORT of SB544  
Relating to Sentencing of Minor Defendants**

Dear Chair Tarnas, Vice Chair Poepoe, and Committee Members:

The ACLU of Hawai'i **supports SB544**, which requires courts to consider certain factors when sentencing a person convicted as an adult for an offense that the person committed when they were a minor. It also allows courts to reduce a mandatory minimum period of incarceration or depart from a mandatory sentencing enhancement if the court determines the reduction or departure is warranted given certain factors.

The criminal legal system increasingly recognizes that juveniles are psychologically and developmentally different from adults. While we support this measure for all youth, it is important to acknowledge that Native Hawaiian youth are disproportionately represented in the juvenile justice system. Granting the Court judicial discretion to depart from a mandatory minimum period of incarceration, will increase the likelihood of a sentence that takes into consideration adverse life events and alternatives to incarceration.

Sincerely,

***Carrie Ann Shirota***

Carrie Ann Shirota  
Policy Director  
ACLU of Hawai'i  
[cshirota@acluhawaii.org](mailto:cshirota@acluhawaii.org)

*The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization founded in 1965 that provides its services at no cost to the public and does not accept government funds.*

American Civil Liberties Union of Hawai'i  
P.O. Box 3410  
Honolulu, Hawai'i 96801  
T: 808.522.5900  
F: 808.522.5909  
E: [office@acluhawaii.org](mailto:office@acluhawaii.org)  
[www.acluhawaii.org](http://www.acluhawaii.org)

**SB-544**

Submitted on: 3/12/2025 6:08:57 PM

Testimony for JHA on 3/14/2025 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Christy MacPherson	Individual	Support	Written Testimony Only

Comments:

I am in strong support of SB544. We are talking about our CHILDREN here.

Mahalo for your consideration.

## Opportunity for Youth Action Hawai'i

# KAWAIILOA

March 14, 2025

House Committee on Judiciary and Hawaiian Affairs

Hearing Time: 2:00 PM

Location: State Capitol Conference Room 325

Re: SB544, Relating to Sentencing of Minor Defendants

Aloha e Chair Tarnas, Vice Chair Poepoe, and members of the Committee:

On behalf of the Opportunity for Youth Action Hawai'i hui, we are writing in **support of SB544 Relating to Sentencing of Minor Defendants**. This bill requires courts to consider certain factors when sentencing a person convicted as an adult for an offense that the person committed when the person was a minor. Allows courts to reduce a mandatory minimum period of incarceration or depart from a mandatory sentencing enhancement if the court determines that the reduction or departure is warranted given certain factors.

Youth who are subjected to harsh living conditions and severe trauma often face a significantly higher risk of incarceration. These behaviors that are often learned out of hardship and relied upon for survival often create strife with the court system and cause issues with establishing stability. To address this, courts should consider essential factors during sentencing, such as childhood trauma and family dynamics. By doing so, courts can levy increasingly ethical sentences for vulnerable individuals and ensure they are not penalized for circumstances out of their control. Additionally, allowing courts the discretion to depart from mandatory sentencing in cases of trauma and homelessness reduces the likelihood of causing further harm. This approach cuts down on the punitive methods of the justice system and allows for a more formative approach where the cycle of incarceration can be broken.

Opportunity for Youth Action Hawai'i is a collaboration of organizations and individuals committed to reducing the harmful effects of a punitive incarceration system for youth; promoting equity in the justice system; and improving and increasing resources to address adolescent and young adult mental health needs. We seek to improve the continuity of programs and services for youth and young adults transitioning from minor to adult status; eliminate youth homelessness and housing market discrimination against young adults; and promote and fund more holistic and culturally informed approaches among public/private agencies serving youth.

**Please support SB544.**