

Honolulu, Hawaii

MAR 15 2019

RE: H.B. No. 218
H.D. 1
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirtieth State Legislature
Regular Session of 2019
State of Hawaii

Sir:

Your Committee on Human Services, to which was referred H.B. No. 218, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO MINORS,"

begs leave to report as follows:

The purpose and intent of this measure is to grant the Circuit Court when sentencing a minor for a criminal offense, the discretion to:

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

Your Committee received testimony in support of this measure from the State of Hawaii Office of the Public Defender, Hawaii Youth Services Network, Human Rights for Kids, Community Alliance on Prisons, and three individuals. Your Committee received testimony in opposition to this measure from the Honolulu Police Department and Department of the Prosecuting Attorney of the City and County of Honolulu. Your Committee received comments on this measure from The Sex Abuse Treatment Center.



Your Committee finds that minors differ from adults in the way they behave, solve problems, and make decisions. Minors are more likely to be influenced by their peers, act on impulse, misread or misinterpret social cues, and engage in dangerous and risky behavior. Research has shown that minors have brains that are still developing and that they are still learning and maturing as they transition into adulthood. Your Committee further finds that the recent trend in the United States has been to give greater discretion to courts when sentencing minors. This measure gives the Circuit Court the opportunity to consider mitigating factors when determining an appropriate sentence for a minor, which will allow certain minors to avoid harsh mandatory sentencing and provide a greater opportunity for rehabilitation.

Your Committee has heard the concerns raised in testimony regarding the judicial discretion proposed by this measure. According to the Department of the Prosecuting Attorney of the City and County of Honolulu and The Sex Abuse Treatment Center, there is already a process by which the Family Court considers mitigating factors in determining whether a minor is transferred to and sentenced in the adult court system. Testimony also indicated that the adult court system already makes accommodations for minors when determining sentencing. Concerns were also raised that this measure requires the Circuit Court to consider leniency for those who committed violent felony offenses, and whose crimes resulted in serious injury to others. Your Committee acknowledges these concerns and notes that lighter sentencing guidelines for minors may be more appropriately applied for non-violent offenses.

Accordingly, your Committee has amended this measure by:

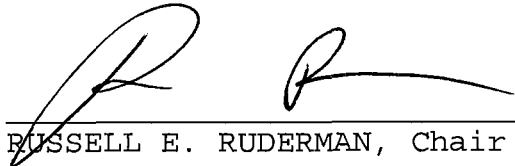
- (1) Clarifying that the judicial discretion proposed by this measure does not apply when a minor is being sentenced for a felony that is a violent crime or that resulted in serious bodily injury; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Human Services that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 218, H.D. 1, as amended herein, and recommends that it pass



Second Reading in the form attached hereto as H.B. No. 218,
H.D. 1, S.D. 1, and be referred to your Committee on Judiciary.

Respectfully submitted on
behalf of the members of the
Committee on Human Services,



RUSSELL E. RUDERMAN, Chair



The Senate
Thirtieth Legislature
State of Hawai'i

Record of Votes
Committee on Human Services
HMS

Bill / Resolution No.:* HB 218, HD1	Committee Referral: HMS, JDC	Date: 3/11/19		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
RUDERMAN, Russell E. (C)	✓			
RHOADS, Karl (VC)	✓			
IHARA, Jr., Les				✓
RIVIERE, Gil	✓			
FEVELLA, Kurt				✓
TOTAL	3	0	0	2
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Karl Rhoads</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes