
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 are sentenced after being
4 convicted in the same circuit courts in which adults are tried.
5 As noted by the Supreme Court of the United States in *Miller v.*
6 *Alabama*, 567 U.S. 460 (2012), "only a relatively small
7 proportion of adolescents who engage in illegal activity develop
8 entrenched patterns of problem behavior", and "developments in
9 psychology and brain science continue to show fundamental
10 differences between juvenile and adult minds", including "parts
11 of the brain 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 allow greater judicial
 7 discretion when sentencing minors, even allowing judges to
 8 depart from mandatory minimum sentences in appropriate cases.

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

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

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

19 "§706- Sentencing of minors. (1) In a case in which
 20 the family court has waived jurisdiction over a minor pursuant
 21 to section 571-22 and the minor is convicted of a criminal



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1 offense in circuit court, the circuit court shall consider, in
2 addition to any other factor that the court is required to
3 consider, the differences between minor and adult offenders,
4 including the diminished culpability of minors as compared to
5 that of adults, and the typical characteristics of youth.

6 (2) Notwithstanding any law to the contrary, after
7 considering the factors set forth in subsection (1), the circuit
8 court, in its discretion:

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

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

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



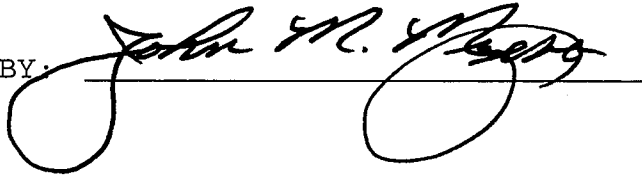
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1 SECTION 4. New statutory material is underscored.

2 SECTION 5. This Act shall take effect on July 1, 2021.

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INTRODUCED BY:

A handwritten signature in black ink, appearing to read "John M. Berg", is written over a horizontal line. The signature is stylized and cursive.

JAN 22 2021



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Report Title:

Minors; Circuit Courts; Criminal Proceedings; Sentencing

Description:

Grants a circuit court, when sentencing a minor for a criminal offense, the discretion to impose a sentence that includes a period of incarceration that is as much as 50% shorter than any mandatory minimum and, in certain cases, decline to impose a mandatory enhanced sentence.

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