

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

SENATE BILL 607

By: Senators Irvin, G. Leding

For An Act To Be Entitled

AN ACT CONCERNING THE SENTENCING OF A JUVENILE
OFFENDER; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING THE SENTENCING OF A JUVENILE
OFFENDER.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Legislative findings and intent.

(a) The General Assembly finds that children are different from adults and that these differences must be taken into account when children are sentenced for adult crimes.

(b) As stated by the United States Supreme Court in Miller v. Alabama, 567 U.S. 460 (2012), "[o]nly a relatively small proportion of adolescents" who engage in illegal activity "develop entrenched patterns of problem behavior." Id., at 570 (quoting Steinberg & Scott, "Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty", 58 American Psychologist 1009, 1014 (2003) Miller, 471).

(c) Children are more vulnerable to negative influences and outside pressures, including from their family and peers, and they have limited control over their own environment and lack the ability to extricate themselves from horrific, crime-producing settings.

(d) The United States Supreme Court has emphasized through cases such as Roper v. Simmons, 543 U.S. 551 (2005), Graham v. Florida, 560 U.S. 48 (2010), Miller, and Montgomery, 577 U.S. ___ (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.”

(e) The General Assembly further finds that there is a recent trend in the United States of giving greater discretion to judges when sentencing children, including departing from mandatory minimums in appropriate cases.

(f) Therefore, it is the intent of the General Assembly to allow courts to depart up to thirty-five percent (35%) from any applicable mandatory minimum when sentencing children, as well as any applicable mandatory sentencing enhancements, if the court believes such a reduction is warranted given the young age of the child and the child’s prospects for rehabilitation.

SECTION 2. Arkansas Code Title 16, Chapter 90, Subchapter 1, is amended to add an additional section to read as follows:

16-90-124. Sentencing a juvenile – Factors.

(a) As used in this section, "mandatory minimum" means the minimum number of years of imprisonment a person is required to serve based on the felony or misdemeanor classification of the offense.

(b) If a person is convicted as an adult for an offense that the person committed when he or she was less than eighteen (18) years of age, in addition to any other factors that the court is required to consider before imposing a sentence upon that person, the court shall consider the differences between juvenile and adult offenders, including without limitation the diminished culpability of juveniles as compared to that of adults and the typical characteristics of youth.

(c) After considering the factors set forth in subsection (b) of this section, the court may reduce any mandatory minimum period of incarceration that the person is required to serve by not more than thirty-five percent (35%) if the court determines that a reduction in the person’s sentence is warranted given the age of the person and his or her prospects for rehabilitation.

(d) Before the imposition of a sentence for a person who was less than eighteen (18) years of age at the time of the offense and after consideration of the factors in subsection (b) of this section, the court may depart from any minimum mandatory sentencing enhancement that the court would otherwise

be required to impose.