

INTERIM STUDY PROPOSAL 2019-055

1
2 State of Arkansas
3 92nd General Assembly
4 Regular Session, 2019

A Bill

SENATE BILL 607

5
6 By: Senators Irvin, G. Leding

7 Filed with: Senate Committee on Judiciary
8 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

9
10 AN ACT CONCERNING THE SENTENCING OF A JUVENILE
11 OFFENDER; AND FOR OTHER PURPOSES.

Subtitle

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14 CONCERNING THE SENTENCING OF A JUVENILE
15 OFFENDER.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

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

25 (b) As stated by the United States Supreme Court in Miller v. Alabama,
26 567 U.S. 460 (2012), "[o]nly a relatively small proportion of adolescents"
27 who engage in illegal activity "develop entrenched patterns of problem
28 behavior." Id., at 570 (quoting Steinberg & Scott, "Less Guilty by Reason of
29 Adolescence: Developmental Immaturity, Diminished Responsibility, and the
30 Juvenile Death Penalty", 58 American Psychologist 1009, 1014 (2003) Miller,
31 471).

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

1 (d) The United States Supreme Court has emphasized through cases such
 2 as Roper v. Simmons, 543 U.S. 551 (2005), Graham v. Florida, 560 U.S. 48
 3 (2010), Miller, and Montgomery, 577 U.S. ___ (2016) that “the distinctive
 4 attributes of youth diminish the penological justifications for imposing the
 5 harshest sentences on juvenile offenders, even when they commit terrible
 6 crimes.”

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

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

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

19 16-90-124. Sentencing a juvenile – Factors.

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

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

30 (c) After considering the factors set forth in subsection (b) of this
 31 section, the court may reduce any mandatory minimum period of incarceration
 32 that the person is required to serve by not more than thirty-five percent
 33 (35%) if the court determines that a reduction in the person’s sentence is
 34 warranted given the age of the person and his or her prospects for
 35 rehabilitation.

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

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8 Referred requested by the Arkansas Senate

9 Prepared by: BPG/VJF

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