

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 HOUSE BILL 3134

By: Virgin

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5
6 AS INTRODUCED

7 An Act relating to juveniles; stating findings of the
8 Legislature regarding differences between juvenile
9 and adult offenders; providing legislative intent;
10 defining term; directing courts to consider
11 differences between juvenile and adult offenders;
12 authorizing courts to reduce mandatory minimum
13 sentencing requirement by certain percentage;
14 authorizing courts to depart from certain sentencing
15 enhancements; providing for codification; providing
16 for noncodification; and providing an effective date.

17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. NEW LAW A new section of law not to be
19 codified in the Oklahoma Statutes reads as follows:

20 A. The Legislature finds that children are different from
21 adults and that these differences must be taken into account when
22 children are sentenced for adult crimes.

23 B. As stated by the United States Supreme Court in *Miller v.*
24 *Alabama*, 567 U.S. 460 (2012), "only a relatively small proportion of
adolescents" who engage in illegal activity "develop entrenched
patterns of problem behavior." *Id.*, at 570.

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

5 D. The United States Supreme Court has emphasized through cases
6 such as *Roper v. Simmons*, 543 U.S. 551 (2005), *Graham v. Florida*,
7 560 U.S. 48 (2010), *Miller v. Alabama*, 567 U.S. 460 (2012), and
8 *Montgomery v. Louisiana*, 136 S. Ct. 718 (2016) that "the distinctive
9 attributes of youth diminish the penological justifications for
10 imposing the harshest sentences on juvenile offenders, even when
11 they commit terrible crimes."

12 E. The Legislature further finds that there is a recent trend
13 in the United States of giving greater discretion to judges when
14 sentencing children, including departing from mandatory minimum
15 sentences in appropriate cases.

16 F. Therefore, it is the intent of the Legislature to allow
17 courts to depart up to thirty-five percent (35%) from any applicable
18 mandatory minimum sentence when sentencing children, as well as any
19 applicable mandatory sentencing enhancements, if the court believes
20 such a reduction is warranted given the young age of the child and
21 the prospects for rehabilitation.

22 SECTION 2. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 2-5-401 of Title 10A, unless
24 there is created a duplication in numbering, reads as follows:

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

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

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

18 D. Before the imposition of a sentence for a person who was
19 under eighteen (18) years of age at the time of the offense and
20 after consideration of the factors in subsection B of this section,
21 the court may depart from any minimum mandatory sentencing
22 enhancement that the court would otherwise be required to impose.
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1 SECTION 3. This act shall become effective November 1, 2020.

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