

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 2449

By: Virgin

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5  
6 AS INTRODUCED

7 An Act relating to children; 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  
sentencing requirement by certain percentage;  
13 authorizing courts to depart from certain sentencing  
14 enhancements; providing for codification; providing  
15 for noncodification; and providing an effective date.

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

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

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

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

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

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

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

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

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

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

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

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

21           D. Before the imposition of a sentence for a person who was  
22 under eighteen (18) years of age at the time of the offense and  
23 after consideration of the factors in subsection B of this section,  
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1 the court may depart from any minimum mandatory sentencing  
2 enhancement that the court would otherwise be required to impose.

3 SECTION 3. This act shall become effective November 1, 2021.

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