

# Minnesota Sentencing Guidelines Commission

## Comparison of 2015-16 Juvenile Life Sentencing Bills November 17, 2016

**Issue:** The Minnesota Sentencing Guidelines Commission is studying juvenile life sentencing in Minnesota in light of *Miller v. Alabama*, 567 U.S. \_\_\_, 132 S. Ct. 2455 (2012) and related cases.

**Bill Comparison:** Two bills responsive to *Miller* were introduced in the 2015-16 legislative session: SF 994<sup>1</sup> and HF 1373.<sup>2</sup> The following table summarizes and compares some of the bills' provisions:

Issue	SF 994	HF 1373
Applicability to juvenile offenders facing life without the possibility of release (LWOR) under Minn. Stat. § <a href="#">609.106</a>	Applicable, if juvenile was certified to adult court or an extended-jurisdiction juvenile (EJJ) <sup>3</sup>	Applicable
Applicability to juvenile offenders facing LWOR under Minn. Stat. § <a href="#">609.3455, subd. 2</a>	Applicable, if juvenile was certified to adult court or an EJJ	Not applicable
Procedures for sentencing applicable juvenile offenders to imprisonment for life instead of LWOR	Life is mandatory <sup>4</sup> ; LWOR is abolished	After considering six listed factors & any other aggravating or mitigating circumstances bearing on offender's culpability or rehabilitation potential, court <i>may</i> sentence offender to life <i>if</i> preponderance of evidence proves offender's youth & rehabilitation potential outweighs need for LWOR

<sup>1</sup> For purposes of this paper, "SF 994" refers only to Article 2, [Senate File 994](#), 89th Minnesota Legislature, 2nd Engrossment. The bill passed out of the Senate Judiciary Committee but was not voted on by the full Senate. Its companion bill, House File 1069, was not heard in committee.

<sup>2</sup> [House File 1373](#), 89th Minnesota Legislature, was not heard in committee and had no Senate companion.

<sup>3</sup> It is not apparent that SF 994 accounts for 16- & 17-year-olds who are alleged to have committed murder in the first degree. Per Minn. Stat. § [260B.101, subd. 2](#), the district (adult) court has original and exclusive jurisdiction over such juveniles; they are neither certified to adult court nor EJJ. On the other hand, it seems unlikely that SF 994 intended to exclude 16- & 17-year-olds charged with murder in the first degree from its provisions, given the bill's failure to provide other *Miller*-related relief for those offenders.

<sup>4</sup> Although SF 994, art. 2, §§ 7 & 8 establish a mandatory minimum life sentence for certain certified juveniles and EJJs, §§ 4 & 5 make all mandatory minimums optional for certified juveniles and EJJs (*see* text accompanying note 7, below). The bill does not explain how these provisions were intended to interact with each other.

Issue	SF 994	HF 1373
Minimum term to be served by juvenile serving a life sentence (currently 30 years)	20 years for all certified juveniles and EJJs <sup>5</sup>	50 years for first-degree murder of a justice official <sup>6</sup> ; 20 years if offender was 16-17 on offense date; 15 years if offender was 14-15 on offense date
Retroactivity	All of the above provisions apply retroactively; the provision shown below, however, is not retroactive	The above provisions are not retroactive; the resentencing process shown below, however, appears to be available to juvenile offenders already sentenced
Other provisions	For certified juveniles and EJJs, <i>all</i> mandatory minimum penalties become discretionary <sup>7</sup>	<p>A resentencing process is established for all juvenile offenders (except those convicted of first-degree murder of a justice official<sup>6</sup>), including, apparently, those sentenced to LWOR:</p> <ul style="list-style-type: none"> <li>• Offender may petition district court for resentencing after serving— <ul style="list-style-type: none"> <li>➤ 20 years (homicide, age 16-17)</li> <li>➤ 15 years (homicide, age 14-15), or</li> <li>➤ 10 years (nonhomicide)</li> </ul> </li> <li>• May again petition court every five years (three-petition maximum)</li> <li>• Court must consider 16 nonexclusive, listed factors</li> <li>• Resentencing permitted only if preponderance of evidence proves offender is not a danger to public, has been rehabilitated, and has remorse</li> </ul>

<sup>5</sup> See note 3.

<sup>6</sup> That is, a violation of Minn. Stat. § 609.185(a)(4).

<sup>7</sup> “Notwithstanding any law to the contrary”; *but see* note 4 and accompanying text.