



BACKGROUND ON HB 2989

Evolution of Factors for Judicial Sentencing

Where did the sentencing factors language come from?

In 2012, the U.S. Supreme Court issued a historic ruling in *Miller v. Alabama* that juvenile mandatory life-without-parole sentences are unconstitutional. The *Miller* decision required lower courts to conduct new sentencing hearings where judges demonstrate consideration of a set of factors specifically linked to the age of the individual being sentenced.

In its effort to bring Illinois into compliance with *Miller*, from 2012-2014, stakeholders (including law enforcement, victims rights groups, and reform advocates) negotiated an Illinois-specific set of factors based on those outlined in *Miller*. In 2014, the following sentencing factors were adopted with bipartisan support by the Illinois General Assembly in Public Act 99-0069. Illinois's courts now consider these factors when sentencing individuals under 18 years of age in adult court.

Sentencing Factors of Individuals Under the Age of 18¹:

1. The person's age, impetuosity, and level of maturity at the time of the offense, including the ability to consider risks and consequences of behavior, and the presence of cognitive or developmental disability, or both, if any;
2. Whether the person was subjected to outside pressure, including peer pressure, familial pressure, or negative influences;
3. The person's family, home environment, educational and social background, including any history of parental neglect, physical abuse, or other childhood trauma;
4. The person's potential for rehabilitation or evidence of rehabilitation, or both;
5. The circumstances of the offense;
6. The person's degree of participation and specific role in the offense, including the level of planning by the defendant before the offense;
7. Whether the person was able to meaningfully participate in his or her defense;
8. The person's prior juvenile or criminal history; and
9. Any other information the court finds relevant and reliable, including an expression of remorse, if appropriate. However, if the person, on the advice of counsel chooses not to make a statement, the court shall not consider a lack of an expression of remorse as an aggravating factor.

HB 2989 makes firearm enhancements discretionary for individuals under the age of 21. Judges would use these existing sentencing factors to determine the appropriate sentence.

¹ 730 ILCS 5/5-4.5-105