

The Sentencing of Youthful Offenders In Wisconsin Adult Court

Drafted Bill Components:

- It creates a “youthful offender” definition, meaning a person who committed an offense before the person attained the age of 18 years.
- In the two statutes that tell judges what to consider at sentencing, a section would be added requiring that in youthful offender cases, they must consider that children are different from adults for purposes of sentencing, that they have diminished culpability for their crimes and greater prospects for reform, that sentencing objectives of deterrence, retribution and incapacitation are not as applicable to children as to adults, and that children must be given a meaningful opportunity to obtain release from prison based on a showing of maturity and rehabilitation. These criteria come directly from the United States Supreme Court Cases.
- It eliminates the sentencing option of “life without parole” for youthful offenders. Instead, courts are given the option of ordering release eligibility after 15 years, or of setting their own date for release eligibility. There are no restrictions on the date they can set.
- A section is added providing that “youthful offenders” are entitled to a “sentence adjustment” hearing in the sentencing court, after they have been incarcerated for 15 years. (This is what we’ve called a “second chance” hearing). It requires that DOC give the offender, the judge, the DA and the Public Defender notice one year before the eligibility for the sentence adjustment hearing. The offender can hire an attorney or request a public defender attorney for purposes of preparing a petition for sentence adjustment and representing them at the hearing. It says that the court can reduce the term of confinement for a youthful offender “if the court finds the interests of justice warrant a reduction.” It says the court must consider the sentencing factors (described above) and the youthful offender’s growth, behavior and rehabilitation subsequent to the offense. If the court denies the request, the offender can try again, every 5 years, four more times. If the court decides to release the person to parole/ES, it provides a way the court can do that directly, without going through a parole hearing or another court hearing.
- It makes the statute retroactive, so it is applicable to youthful offenders who are currently incarcerated.