

# Human Rights Watch

## Children's Rights

**<https://www.hrw.org/news/2013/05/17/florida-has-chance-get-mandatory-youth-sentencing-right-next-time>**

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A bill requiring judges to sentence youth convicted of homicide to at least 50 years in prison has put the Florida Senate on a collision course with the courts unless Florida gets it right.

In the closing days of the recent legislative session, state senators were trying to figure out how to comply with the U.S. Supreme Court ruling, in [Miller v. Alabama](#), that mandatory sentences of [life without parole for youth](#) under 18 at the time of offense were unconstitutional. The senators instead proposed a 50-year mandatory minimum sentence for youth offenders convicted of homicide.

The Supreme Court ruled in Miller that a mandatory sentence of life without parole, in barring a judge from considering a young offenders age-related characteristics and the nature of their crimes violates the Eighth Amendments ban on cruel and unusual punishment. The court said judges must be able to take into account potentially mitigating factors their precise role in the offense, family and home environment, and rehabilitation potential.

Sen. Rob Bradley, Republican of Orange Park, ostensibly proposed the new legislation, Senate Bill 1350, to comply with Miller but in reality, it was crafted [to get around the Supreme Courts ruling](#).

SB 1350 allowed judges to consider mitigating factors, but with a catch. The judge could still issue a life sentence which in Florida means death in prison, since the state has effectively abolished parole. But if the judge found that certain circumstances merited a lower sentence, it could be no less than 50 years.

Effectively, SB 1350 created a choice between two life sentences for youth offenders convicted of homicide. Prison drives down life expectancy. One study found that 20 years in prison will on average cut 16 years off an inmates life. With the life expectancy of US males at 76 years, a youth offender entering prison with a 50 year sentence at 16 would be expected to die in prison at 60, with six years left to serve.

So there is essentially no difference between that 50-year sentence and the mandatory life without parole that the Supreme Court found unconstitutional.

Fortunately, a majority of senators recognized that SB 1350 was a likely target for a court challenge. Republican Sen. Rene Garcia, of Hialeah, proposed an amendment empowering judges to review a youths sentence and revise it if appropriate in keeping with Millers argument that youth are distinctively capable of redemption. The first review could happen only after someone sentenced to 50 years or more had served 25 years. (Other states have started reviews as early as after 15 years).

Sen. Garcias amendment also embraced the spirit of Miller and other recent cases by requiring periodic reviews of the need for continued incarceration. He crafted language to respect the rights of victims and their families by ensuring them a voice in the review process if they chose.

The amendment passed, but the Senate chose not to vote on the bill, effectively killing it for the 2013 session.

What happened on the Senate floor in the closing days of the session provides hope, though, for a resolution in 2014. The starting point should be the Miller decision moving away from excessive sentencing for youth. And it should encompass the resolve of lawmakers like Sen. Garcia to allow Floridas judges to review sentences for youth, with tough and fair guidelines provided by the Legislature.

The Florida Legislature should not spend its time trying to craftily dodge a Supreme Court ruling. It should tackle this difficult issue directly and fairly. Next year, Florida has the chance to get it right.

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