



## House Republican Staff Analysis

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Bill: SF 365  
Committee: Judiciary  
Date: 4/12/2011  
Member: Rep. Garrett  
Staff: Amanda Freel (1-5230)

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### Summary

SF 365 permits participants in the Youthful Offender Program to be eligible for a deferred judgment or deferred sentence.

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### Summary of Action

- Subcommittee 3/22/2011
  - Committee 3/25/2011 (20-0)
  - Passed House with Amendments 4/12/11 (94-0)
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### Section-by-Section Analysis

Current law: A child who is waived to district court for prosecution as a youthful offender can receive a deferred sentence but not a deferred judgment. A child who is waived to district court for prosecution as an adult offender can receive a deferred judgment or deferred sentence.

SF365: Amends the chapter on Juvenile Justice to permit a participant in the Youthful Offender program to be eligible for a deferred judgment or a deferred sentence.

The Youthful Offender Program gives juveniles a chance to correct their behavior under supervision with the threat of being referred to district court (adult court) rather than juvenile court. Deferred judgments and deferred sentences are available to juveniles referred to district court but not those in the juvenile court under current law. The bill reflects a deal between prosecutors and the Bar Association.

Deferred sentence: defers the courts imposition of a sentence, but requires an adjudication of guilt

Deferred judgment: defers both the adjudication of guilt and the imposition of a sentence. If the defendant completes the conditions required by the court, a deferred judgment will be expunged from the defendant's criminal history.

### Amendment- Adopted

#### H-1543- J. Taylor-

##### Section I Class "A" Felony

1. Class "A" felony- A person convicted of a class "A" felony is sentenced to life in prison without the possibility of parole. (Possible Class "A" felonies include: murder, manslaughter, rape, kidnapping, arson)
2. Notwithstanding subsection 1:

- a. A person convicted of a class “A” felony who was under the age of 18 at the time of the offences shall be eligible for parole after serving a term of 25 years.
- b. If the juvenile is paroled standard procedures apply.
- c. A person who commits murder in the first degree shall not be eligible for parole under this law.
- d. A person convicted of murder in the second degree who is also convicted of either kidnapping or sexual abuse in the first degree shall not be eligible for parole.

#### Information on Juveniles in the Prison System- LSA information

According to current data, there are 43 offenders serving a life sentence who committed the offense as juveniles. Of these, 36 were convicted of first degree murder. These offenders are not eligible for parole under the provisions of this Bill.

The seven remaining offenders are eligible for parole. However, of the seven, three were also convicted of murder in the second degree. Current law provides a 50 year sentence with a 70% mandatory minimum term (35 years) for murder in the second degree. These offenders would not be eligible for parole consideration until they have served this mandatory minimum term.

Case of Bonilla vs State of Iowa- Defendant was sentenced to life without the possibility of parole. His sentence has now been changed to life in prison with the possibility of parole. Life without the possibility of parole for a non-homicide class “A” felony that was committed by a juvenile is cruel and unusual punishment (US Supreme Court Ruling in the case of Graham) “A life without parole sentence improperly denies the juvenile offender a chance to demonstrate growth and maturity.” A juvenile must be given “some meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation”

#### H1642-Garrett

Extends date for 654.4B from July 1, 2011 to July 1, 2012- This section of the bill shall be effective upon enactment.

This code section requires a creditor to give borrower a 14 day demand for payment of an accelerated balance to qualify for attorney fees. Additionally, the creditor must inform the owner of the availability of counseling and mediation on a form prescribed by the attorney general.

Bill name will also be changed to reflect amendments in bill.