

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0771/2dn
EHS:cjs

January 30, 2015

Lane:

In order to address the issue of how a 17-year-old is treated between arrest and charging, “child,” “juvenile,” and “minor” in the draft now mean someone under 18, except that for purposes of investigating or prosecuting a person alleged to have violated a law, these terms do not include a 17-year-old who has previously been convicted of a crime or adjudicated delinquent *or who is alleged in a criminal complaint to have committed (i.e., is charged with committing)* certain violent crimes. Therefore, a 17-year-old who is alleged to have committed certain violent crimes but who has not yet been charged, would be treated as a “child,” “juvenile,” or “minor.”

You asked me to confirm, in the proposed changes to sections in ch. 961, starting with section 52 of the draft, that the term “minor” applies to everyone under 18 with no exceptions. Sections 52, 53, 54, 57, and 59 involve an adult who has used a minor in the commission of a crime or delivered drug paraphernalia to a minor. In these cases, because the minor is not being investigated or prosecuted under these sections, “minor” means anyone who is under 18. Sections 55, 56, and 58 involve a minor who has committed a crime related to drug paraphernalia. In these cases, “minor” means someone who is under 18 except for a 17-year-old who has previously been convicted of a crime or adjudicated delinquent or who is charged with committing certain violent crimes. Let me know if you would like any changes to sections 52 to 59.

You requested that in Section 21 of the draft, which amends s. 938.183 (3), the reference to the Truth in Sentencing law in the last sentence be removed as a clean up. However, it is possible that someone who was a juvenile when he or she was sentenced for an act committed before December 31, 1999 is still subject to that criminal penalty (i.e., if it was a very long sentence). Therefore, the requirement that such a person be eligible for parole might still apply to some people, and removing this language would be a substantive change, rather than simply a clean up. I have left this section as it was. Let me know if you still want this change.

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