

Snapshot

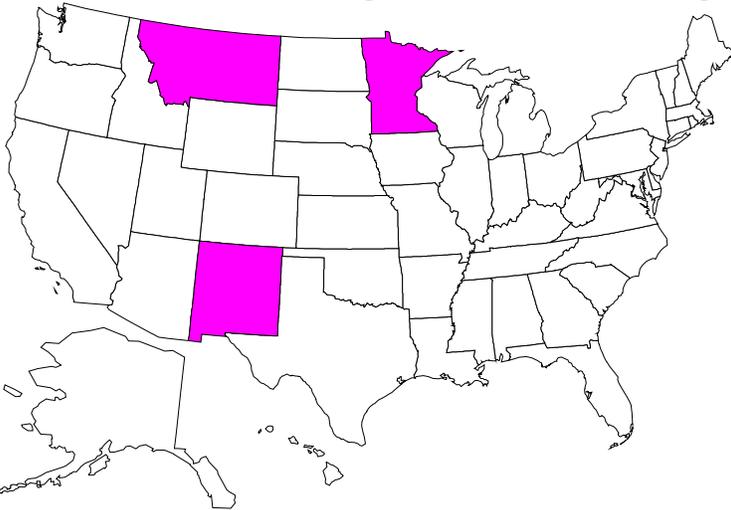
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Research Division of the National Council of Juvenile and Family Court Judges

Constitutional Challenges to Blended Sentencing Statutes

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Constitutional Challenges to Blended Sentencing



Constitutional challenge (3)
 No constitutional challenge (48)

To date, three states have faced constitutional challenges to their blended sentencing statute: Minnesota in 1995, New Mexico in 1996, and Montana in 1997. Only the Montana statute was declared unconstitutional.

Under the Minnesota statute, if a juvenile proceeding is designated by the prosecutor as an extended jurisdiction juvenile (EJJ) prosecution, the juvenile gets both a juvenile disposition and an adult sentence, but the adult sentence is suspended on the condition that the juvenile complies with the terms of the juvenile disposition.

This procedure faced constitutional challenge in the 1995 case of *In the Matter of the Welfare of: L.J.S. and J.T.K.*, 539 N.W.2d 408. It was

argued that the language of the statute was unconstitutionally vague, creating the potential for arbitrary and discriminatory enforcement and that the prosecutor's exclusive role in designating the proceeding as such violates the separation of powers doctrine, because the designation sharply restricts the juvenile court's sentencing powers.

The Court of Appeals of Minnesota found that the statutory criteria for EJJ were very specific, applying only to offenders of a certain age and only to specified offenses. The court found that these criteria kept prosecutorial discretion from being arbitrary. The court also found that these limits on the prosecutor's authority kept the EJJ procedures from violating the separation of powers doctrine.

Under the New Mexico youthful offender procedure, the Children's Court has the discretion to sentence a child who has committed a serious felony as an adult. Before an adult sentence is invoked the judge must find that the child is not amenable to treatment in available juvenile facilities and that the child is mentally and developmentally competent. In addition, the judge must consider seven statutory factors in deciding whether to invoke an adult sentence.

In the 1996 case of *State v. Ernesto M., Jr.*, 915 P.2d 318, the Court of Appeals found the statute constitutional. In that case, the juvenile argued that the statute was unconstitutionally vague because it does not provide a standard of proof to guide the court's decision in invoking the adult sentence. The juvenile also argued that sentencing him as an adult constitutes cruel and unusual punishment because it deprives him of any hope of rehabilitation.

The state appellate court mentioned all the factors the judge must consider before invoking the adult sanction and held that New Mexico's blended sentencing statute is not arbitrary or discriminatory and adequately provides for the elemental due process rights of the child. The court also found that in light of the fact that the child was 17 at the time of sentencing and had tortured the victim of his crime and enjoyed himself while doing so, the adult sentence was not cruel and unusual.

However, in 1997, the Supreme Court of Montana found its Extended Jurisdiction Prosecution Act (EJPA) unconstitutional because it violated both the equal protection and rights of minors provisions of the state constitution.

In the case of *In the Matter of S.L.M.* (951 P.2d 1365), the court found that if a juvenile who had received both a juvenile disposition and a suspended adult sentence violated the terms of his or her juvenile disposition, he or she would be subject to a longer term of imprisonment or detention than an adult convicted of the same offense. Thus, the court concluded that the EJPA was unconstitutional because the state did not demonstrate that a compelling interest would be furthered by this unequal treatment of juveniles and adults, and because the EJPA did not provide juveniles with increased protection. The EJPA was amended in 1999 to bring it into constitutional compliance.

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