

The Debate about the Reform of the Juvenile Law

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Juvenile Delinquency as a result of and cause for social change

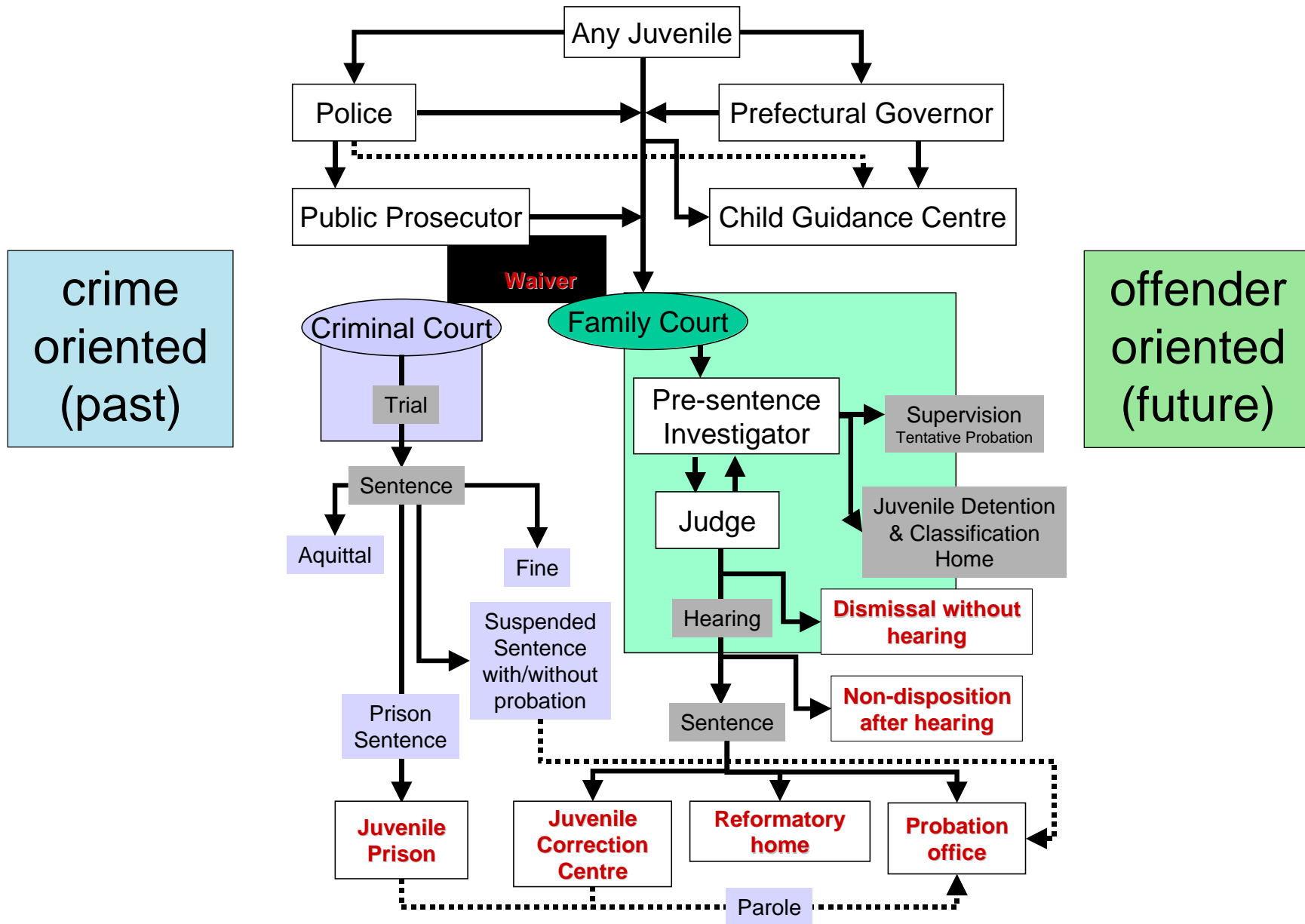
University of Halle

8.6.2001

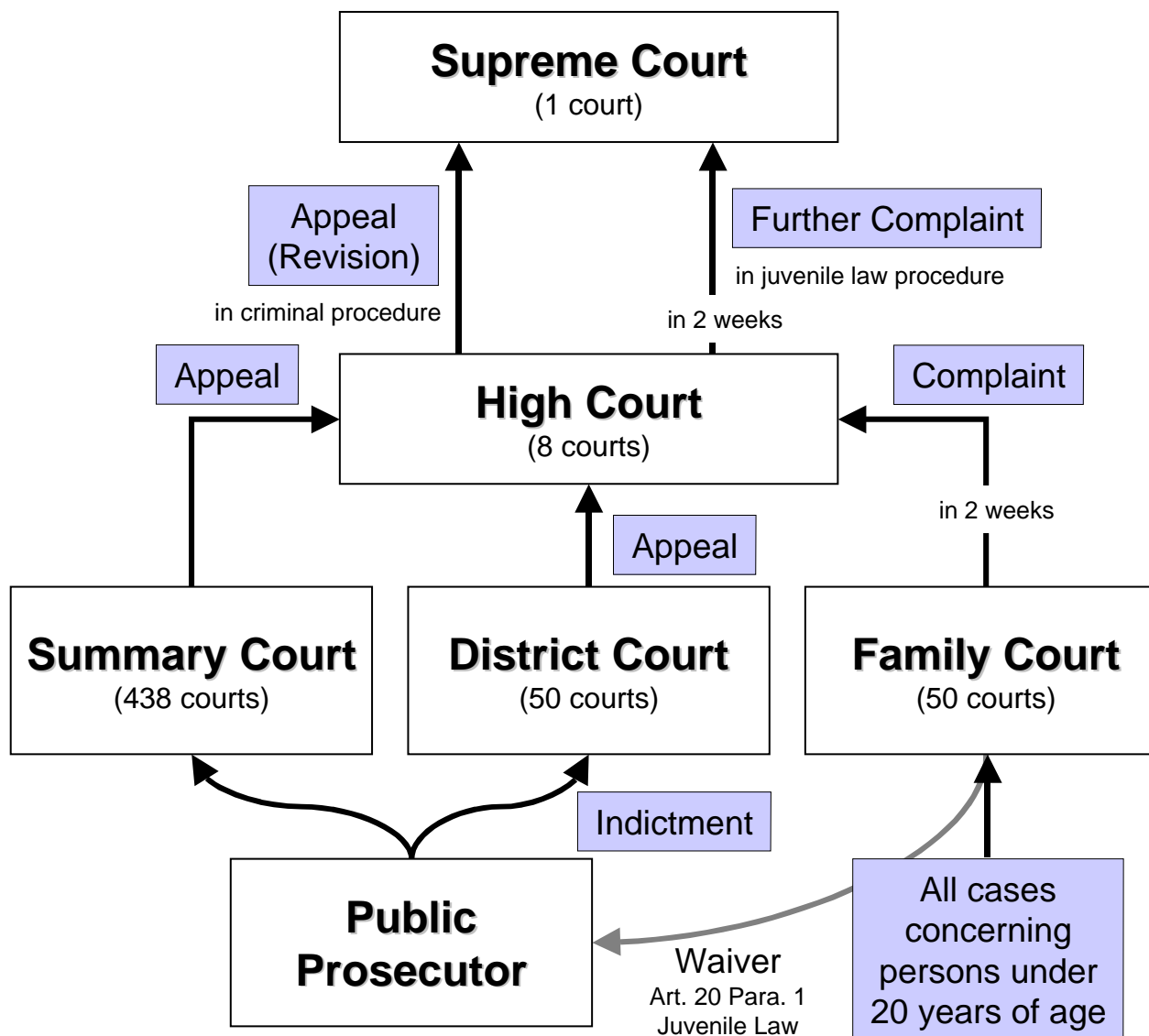
Introduction

- ➔ Basic characteristics of the Japanese Juvenile Law (before the reform)
- ➔ What led to the urge for reform?
- ➔ Some empirical evidence
- ➔ The changes to the Juvenile Law

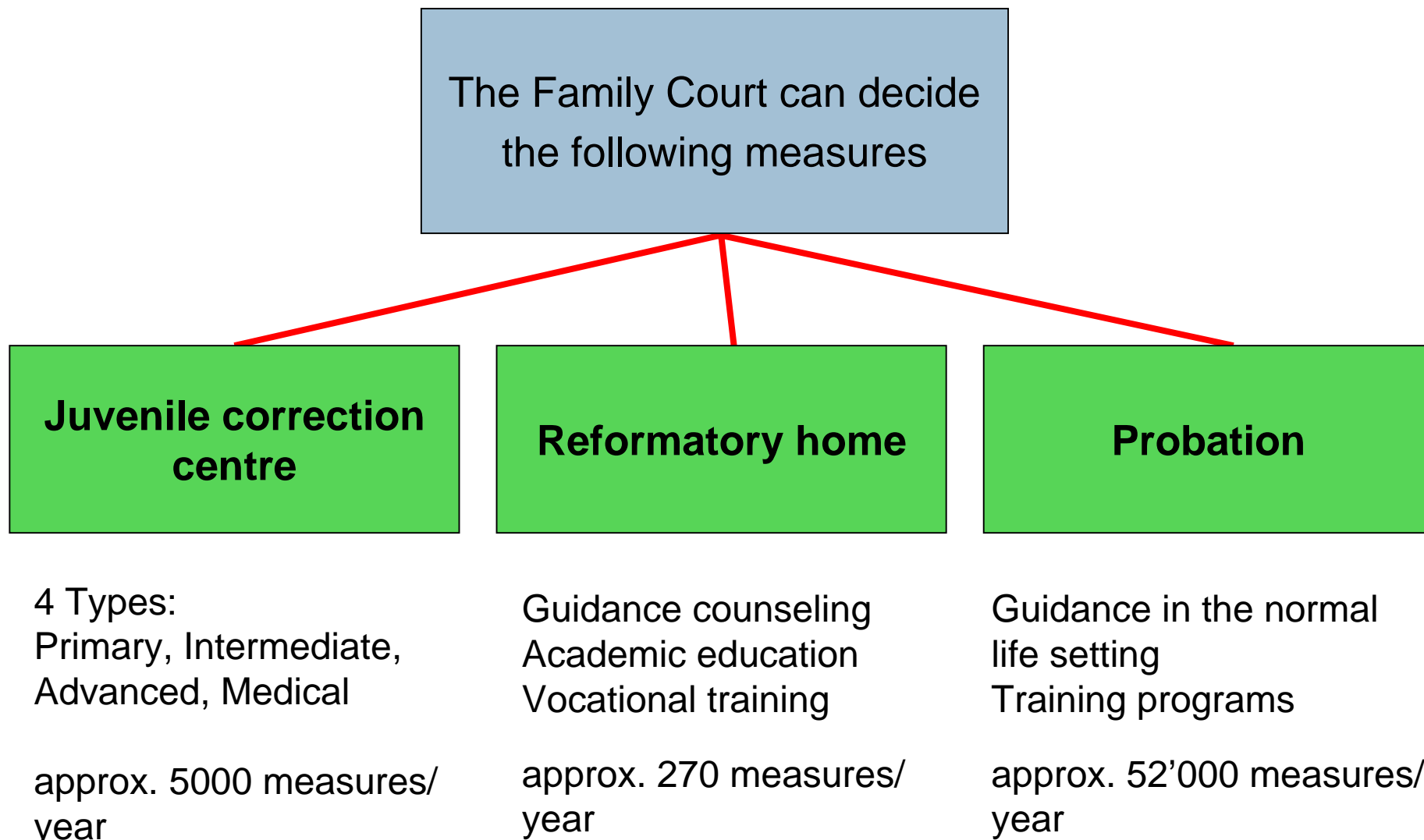
Juvenile Justice System of Japan



The Court System in Japan

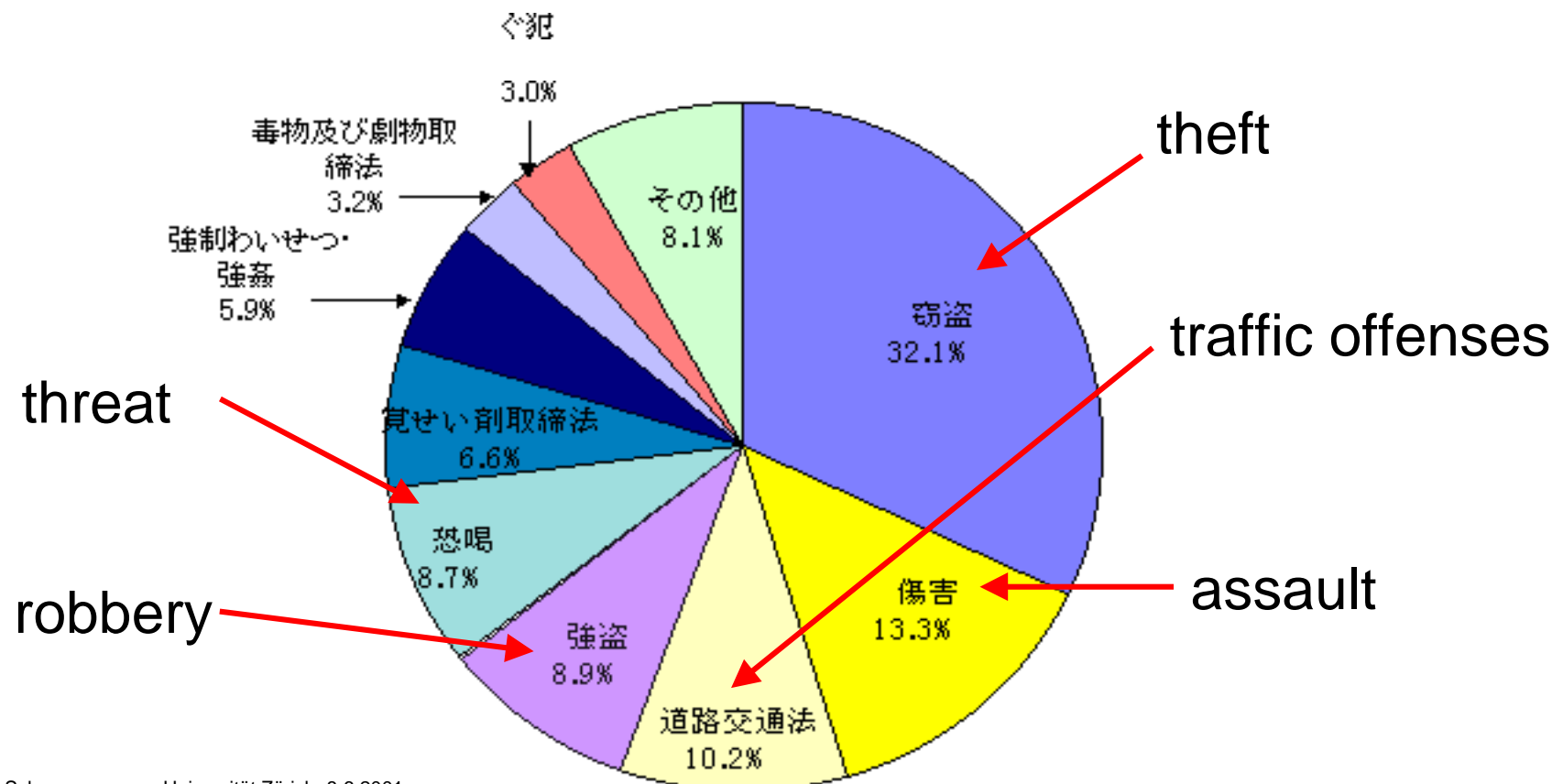


Protective Measures of the Juvenile Law



Commitment to Juvenile Correctional Centre according to Crime (1999)

新規収容者の非行名別構成比(少年院)



Juvenile Cases at the Family Court

FAMILY COURT — all juvenile cases*	295'296
Waiver to the public prosecutor's office for adjudication in ordinary criminal procedure = serious offences (Art. 20 Juvenile Law) and offenders 20 years of age and over (Art. 19 Para. 2 Juvenile Law)	16'343
Protective measures — all cases = Probation, committal to a reformatory home, committal to a juvenile correction centre (Art. 24 Juvenile Law)	56'092
Case referred to the prefectural governor or the child guidance centre (Art. 18 Juvenile Law)	155
Dismissal after hearing (without imposing measures)	74'617
Dismissal before hearing (without imposing measures)	117'085
Other settlement	31'004
High Court — complaint Only against the imposition of a protective measure, only by juvenile or his legal representative or attendant (Art. 32 Juvenile Law)	452
Supreme Court — further complaint Only against the imposition of a protective measure, only by juvenile or his legal representative or attendant (Art. 35 Juvenile Law)	n.a.

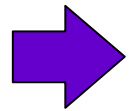
* including traffic offences resulting in bodily harm and homicide by negligence and status offences.

What led to the urge for reform?

- ➔ Juvenile Law imported from the U.S. & Resistance from the Ministry of Justice
- ➔ Fear of crime as consequence of serious crimes committed by very young offenders
- ➔ Dominant influence of mass media reporting (moral panics?)
- ➔ Victim's Rights movement in Japan
- ➔ Due process in juvenile procedure

Changes to the Juvenile Law

(effective as of April 2001)

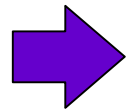


Extending the waiver system

- **Waiver is possible with respect to offenders between 14 and 20 years of age**
(if the crime is punishable with death penalty of imprisonment with or without forced labour)
- **Regular waiver of homicide cases, if the offender is 16 or over**

Changes to the Juvenile Law

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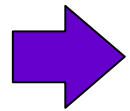


Improvement of the family court hearings

- **Stress on introspection of the juvenile**
- **3 judges will sit in juvenile proceedings**
- **Participation of the public prosecutor, if the family court rules to that effect**
(only in cases of homicide or the minimal punishment is 2 years of imprisonment)
- **If the public prosecutor takes part, a lawyer must be appointed acting as attendant**

Changes to the Juvenile Law

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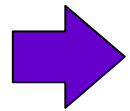


Improvement of the victims' role in juvenile procedure

- **Victim and victim's family may inspect and copy court recordings**
- **They may convey a statement to the Family Court**
- **Victim and victim's family are notified of all important decisions made during the proceedings**

Changes to the Juvenile Law

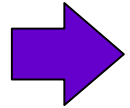
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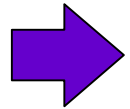
Power to appeal for the Public Prosecutor

- **If the public prosecutor is taking part in the proceedings, he may file a complaint with the High Court in case the family court ruling contains serious mistakes**

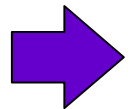
Consequences



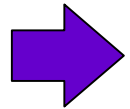
Similar trends in Europe and Japan
“Get tough” on young offenders



Lowering of the upper age limit for full
criminal responsibility

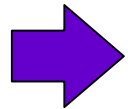


Lowering of the lower age limit
“loss of childhood”

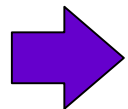


More institutionalisation or incarceration
expected

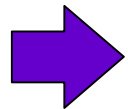
Conclusion



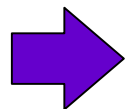
“Get tough” does not work
No evidence of deterrent effects



Media use youth crimes for entertainment
and moral drama
Distorted reporting influences public opinion
(similar to fear of crime)



Link to the abolition of the welfare state
orientation



Positive aspect: Empowering the victims