

NATIONAL
JUVENILE JUSTICE
NETWORK

Testimony of the National Juvenile Justice Network

**To the
Judiciary Committee**

March 23, 2012

H.B. No. 5546, An Act Concerning Sentence Modification for Juveniles

Dear Senator Coleman, Representative Fox, and distinguished members of the Judiciary Committee:

The National Juvenile Justice Network (NJJN) is pleased to submit this testimony regarding H.B. No. 5546, An Act Concerning Sentence Modification for Juveniles. NJJN leads a movement of state-based organizations that seek systemic change in the way youth in trouble with the law are held accountable. Our national reach includes forty-one members in thirty-three states that work to secure state, local and federal laws, policies and practices that are fair and developmentally appropriate for all children, youth and families involved in—or at risk of becoming involved in—the justice system.

We urge the legislature to create a procedure for a “second look” at youth serving lengthy sentences after a portion of their sentence is served. This second look approach accords with current science, spends the State’s money wisely, and follows national trends.

Youth who have committed crimes are still capable of becoming productive members of society because their brains are still developing judgment and impulse control.

There is an ever growing body of research that tells us what parents knew all along, that a teenager’s brain is not fully developed. While teens may have the intellectual capacity of adults, they are much more susceptible to peer pressure, make extremely poor decisions in contexts of high emotion and will actively seek to engage in risky behavior. The good news is that they grow out of this stage as their brains mature.

Two U.S. Supreme Court decisions have affirmed that a child’s culpability level cannot rise to that of an adult, because a youth lacks the capacity to truly weigh the long-term consequences of his or her actions. Due to this distinction, “juvenile offenders cannot with reliability be classified among the worst offenders.”¹ In *Graham v. Florida*, the Court concluded that the “Constitution prohibits the imposition of a life without parole sentence on a juvenile offender who did not commit homicide.”² The Court found that “[n]o recent data provide reason to reconsider the Court’s observations in *Roper* about the nature of juveniles” and that “developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds.”³

Connecticut now has the opportunity to align its policies with the scientific data that youth change over time. Policies that presume that the youth serving lengthy sentences in Connecticut are the exception to the rule that children mature as they grow older defies a vast body of research. Connecticut should follow the Supreme Court’s guidance to offer youth a “realistic opportunity” to demonstrate their rehabilitation by allowing them a second look and, perhaps, a second chance.

By failing to provide a second look, the State may be wasting its resources by confining individuals who pose no harm to their communities.

Every state across the country is re-assessing its budget priorities in the wake of our national recession. Part of this national trend is a reconsideration of the public safety outcomes resulting from states’ current justice investments. The National Juvenile Justice Network has witnessed a wholesale shift away from expensive, punitive responses to youthful offending, to much smarter and effective ways to hold young people accountable that actually reduces recidivism using equal or lesser dollars.

While the absolute number of individuals in Connecticut currently serving ten years or more is only 191⁴, when the annual costs are added over tens of years, this is a massive investment in incarceration. In fact, if these youth serve only the minimal number of years on their sentences, the cost to the State is more than \$223 million.⁵ The only way to know, however, whether this investment in incarceration is worthwhile, is to periodically review the sentences of these youth to see if they have been rehabilitated, and thus will pose no further harm to their communities. A

¹ *Graham v. Florida* at 2026 (quoting *Roper v. Simmons*, 543 U.S. 551 at 569).

² *Graham v. Florida* at 2034.

³ *Graham v. Florida* at 2026.

⁴ *A Second Look: Review of Lifetime Incarceration of Connecticut Children* (2012), 4. Quinnipiac University School of Law Legal Clinic. February 2012.

⁵ This amount is calculated by multiplying the minimum number of years on the sentence of every youth sentenced to 10 or more years by the FY2006 annual cost of adult prison, \$44,000.

second look approach gives Connecticut the opportunity to make on-going, informed decisions about how to reap the most public safety benefits for its justice investments.

National trends show that a growing number of states have changed their sentencing practices in recognition of the fact that youth are capable of rehabilitation.

If Connecticut incorporates a second look approach for these youth, it will join with states that have already or are currently considering a review of youth serving lengthy sentences. Both Colorado and Texas have changed their sentencing practices for youth. Ten⁶ additional states are currently considering second look statutes. Omaha Senator Brenda Council recognized that “from a moral standpoint, it would be misguided to equate the failings of a minor with those of an adult.” Council sponsored L.B. 202, a bill that would provide a second look and opportunity for youth to demonstrate behavioral change.⁷

The consensus among the states pushing for a second look is not to absolve youth offenders of their guilt, but rather to give youth the opportunity to show how they have changed their lives and to give society the opportunity to benefit from their productive talents.

The National Juvenile Justice Network urges the legislature to create a procedure for a “second look” at youth serving lengthy sentences after a portion of their sentence is served.

⁶ These states include: California, Illinois, Louisiana, Massachusetts, Michigan, Nebraska, Oregon, Pennsylvania, Florida, and Iowa.

⁷ Arya, Neelum (2011), 43. *State Trends: Legislative Changes from 2005 to 2010 Removing Youth from the Adult Criminal Justice System*, Washington, DC: Campaign for Youth Justice.

http://www.campaignforyouthjustice.org/documents/CFYJ_State_Trends_Report.pdf