



**Connecticut
Sentencing
Commission**

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TESTIMONY IN SUPPORT OF HB 6581

AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING LENGTHY SENTENCES FOR CRIMES COMMITTED BY A CHILD OR YOUTH.

By Hon. Joseph M. Shortall
Chairman, Connecticut Sentencing Commission

Good morning Senator Coleman, Representative Fox, Senator Kissel,
Representative Rebimbas and members of the Judiciary Committee.

I am Joseph Shortall, the Chairman of the Connecticut Sentencing Commission. I am here to testify on behalf of the Commission in support of House Bill 6581, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING LENGTHY SENTENCES FOR CRIMES COMMITTED BY A CHILD OR YOUTH.

Three times in the past seven years the United States Supreme Court has held that juvenile offenders cannot be sentenced as if they were adults.

Current law in Connecticut provides that individuals who are prosecuted as adults for crimes committed when they were under 18 are subject to the same parole rules as adults: they are ineligible for parole for certain crimes and eligible only after serving 85% of their sentences for many other crimes. These decisions have made it necessary for the Commission to look into what changes are necessary in Connecticut's sentencing and parole laws to conform to the U.S. Constitution.

According to the Supreme Court, "because juveniles have lessened culpability, they are less deserving of the most severe punishments." The Court based its conclusion on the results of scientific and sociological studies and developments in psychology and brain science that show (1) a lack of maturity and an underdeveloped sense of responsibility in youth that often lead to impetuous and ill-considered actions and decisions, (2) a greater susceptibility to negative influences and outside pressures, including peer pressure, and (3) fundamental differences between juvenile and adult minds, particularly in the parts of the brain involved in behavior control.

Because the character of a juvenile is not as well formed as that of an adult and juveniles are more capable of change than adults, the Supreme Court found that even a juvenile's commission of a very serious crime cannot be considered evidence that he/she is of a permanent bad character and

incapable of reform.

In the case of *Graham v. Florida* the Supreme Court held that the U.S. Constitution prohibits a sentence of life without parole for a child convicted of a non-homicide offense. The state must give a child convicted of a non-homicide crime a "meaningful opportunity" to obtain release before the maximum term of the sentence imposed "based on demonstrated maturity and rehabilitation." The *Graham* case applied only to non-homicide crimes, but in the case of *Miller v. Alabama* the Court held, again based on the lessened culpability of children, that the Constitution forbids a mandatory sentence of life without parole for children convicted even of homicide.

These decisions of the Supreme Court have prompted both courts and legislatures in several states to come up with differing responses. The Sentencing Commission has been of the opinion that in Connecticut a legislative response would be preferable to case-by-case decisions by different courts as to what these cases require. Therefore, a working group of Commission members from diverse criminal justice backgrounds was charged with and succeeded at coming up with a compromise proposal which is encompassed in SB 6518.

The compromise proposal included the following provisions:

1. Persons serving sentences of more than 10 years for crimes committed while under 18 would be eligible for parole consideration as follow:

* If the sentence imposed is 60 years or less, the offender would be eligible for parole consideration after serving $\frac{1}{2}$ of the sentence or 10 years, whichever is greater.

* If the sentence imposed is more than 60 years, the offender would be eligible for parole consideration after serving 30 years, which is $\frac{1}{2}$ of a statutory life sentence in Connecticut.

2. These rules of parole eligibility would apply only to crimes committed while under 18. If the person committed additional crimes at age 18 or above, the usual rules of parole eligibility would apply, including those which deny parole altogether for certain crimes or require an inmate to serve 85% of a sentence before being eligible for parole.

3. Legal counsel would be appointed to assist prisoners in preparing for a parole hearing. Notice of the parole hearing and of an opportunity to be heard would be given to the state's attorney's office and to the victim or victim's representative. Parole hearings

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would be conducted in the same manner as at present except that counsel for the inmate and the state's attorney may submit relevant reports and other documents to the board. The person seeking parole and the victim or victim's representative would have an opportunity to make a personal statement to the board.

4. The board would allow an offender to be released on parole only if she/he has demonstrated substantial rehabilitation and (1) there is a reasonable probability that the person will not violate the law, (2) the person's release would benefit the public more than his/her continued incarceration and (3) the purposes of sentencing would be served by the offender's release.

5. The board shall use validated risk and needs assessments and its structured decision-making framework to assist in making its parole suitability decisions in such cases.

The following table illustrates the effect of these new parole eligibility provisions:

Age at sentencing	30 Years (100%)	20 Years (50%)	10 Years (25%)	Age Eligible for Parole
25	50%	12.5	26.5	
40	50%	20	34	
50	50%	25	39	
61+	30 years	30	44	
25	50%	12.5	27.5	
40	50%	20	35	
50	50%	25	40	
61+	30 years	30	45	
25	50%	12.5	28.5	
40	50%	20	36	
50	50%	25	41	
61+	30 years	30	46	
25	50%	12.5	29.5	
40	50%	20	37	
50	50%	25	42	
61+	30 years	30	47	

Public Feedback:

The Commission, recognizing the importance of public input, held a public hearing on November 29, 2012 at which it heard testimony from over 60 witnesses addressing lengthy sentences for crimes committed by a child or youth. Prior to the hearing, the Commission had received the cooperation of the Department of Correction, the Victim Services Division of the Judicial Branch

¹ Please note this column does not take into account the time from arrest until sentencing.

and the Office of the Victim Advocate in its efforts to ensure that victims of crime and others interested in the work of the Commission received notice of the hearing.

Request for Joint Substitute Language:

The Sentencing Commission's intention was for the recommendations in HB 6581 to operate independently of risk reduction credits. Respectfully, we ask that all references to risk reduction credits be removed from the bill. Additionally, we ask that a provision be added to the bill stating that "a juvenile offender should be eligible for parole under the provisions in HB 6581 or the existing parole eligibility statutes, if such statutes would result in an earlier parole eligibility date."

Finally, the Commission recommends that the statement of purpose for HB 6581 be redrafted. The following language would add additional clarity.

"To enact the recommendations of the CSC to provide for modified parole eligibility rules applicable to sentences of more than ten years imposed on persons who were under eighteen years of age when they committed their crimes."

Conclusion

The Sentencing Commission supports HB 5681, AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION REGARDING LENGTHY SENTENCES FOR CRIMES COMMITTED BY A CHILD OR YOUTH.