

**Testimony in Support of  
H.B. 5221: An Act Concerning the Recommendations of the Connecticut Sentencing  
Commission Regarding Lengthy Sentences for Crimes Committed by a Child or Youth and  
the Sentencing of a Child or Youth Convicted of Certain Felony Offenses**

Edie Joseph  
Judiciary Committee  
March 3, 2013

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

I am testifying today on behalf of Connecticut Voices for Children, a research-based public education and advocacy organization that works statewide to promote the well-being of Connecticut's children, youth, and families.

**We support H.B. 5221.** This bill would create a process that establishes a “second look” at long adult prison sentences for juveniles after they have served a substantial portion of their time. The bill would bring Connecticut into compliance with the Supreme Court decision in *Miller v. Alabama* by providing that juveniles may not be charged with offenses that carry mandatory life-without-parole sentences, and by identifying mitigating characteristics of youth that judges must consider when sentencing juveniles in adult court.<sup>1</sup> **This bill has received the support of the Connecticut Sentencing Commission**, a bipartisan group of judges, law enforcement and prison officials, prosecutors, public defenders, and citizens that also received extensive input from the victim advocate and the public.

**Even after the recent Raise the Age legislation,<sup>2</sup> juveniles as young as 14 are still automatically tried as adults if they commit certain crimes, and can be subject to adult sentences of fifty years or more without a chance of parole.** About two hundred and seventy-five people are currently serving sentences of greater than ten years for offenses committed as juveniles. Additionally, significant racial and ethnic disparities emerge in the lengthy sentences awarded to juveniles: 88% of individuals serving sentences of greater than ten years for juvenile crimes are black or Hispanic.<sup>3</sup> Given the fact that minority youth in our state are over-represented in our poorest communities, in low-performing schools, and receive harsher treatment at the hands of our state's justice system,<sup>4</sup> the disproportionate impact of lengthy sentences on Connecticut's youth of color is particularly problematic.

H.B. 5221 would give people convicted of juvenile crimes and given very lengthy sentences a chance for parole after serving sixty percent of their sentence or twelve years (whichever is greater), up to a maximum of thirty years for those with sentences greater than fifty years. It does not guarantee release, since the Parole Board would still need to decide that the applicant had truly rehabilitated and was not going to be a public safety threat. The change in law simply gives young people the opportunity to present how they have grown and come to take responsibility for their actions.

With the advent of magnetic resonance imaging (MRI) technology, and exhaustive studies conducted over the last two decades, a scientific consensus has emerged that children's brains are not fully developed until late into their twenties. The last features to develop are those that control judgment, decision-making, and proper understanding of the consequence of actions.<sup>5</sup> This information about teenage brain development ought to have significant impact on how we view

young people’s culpability, competency, and potential for rehabilitation, and therefore how the courts try and sentence juveniles.

The US Supreme Court has recognized the importance of these scientific findings, noting “[j]uveniles’ susceptibility to immature and irresponsible behavior means ‘their irresponsible conduct is not as morally reprehensible as that of an adult’” in justifying their *Roper v. Simmons* decision to declare the death penalty unconstitutional for juveniles.<sup>6</sup> The Supreme Court took further steps in *Graham v. Florida* in 2010, when it declared unconstitutional life sentences for juveniles for all crimes other than homicide and required that states “impose a sentence that provides some meaningful opportunity for release based on demonstrated maturity and rehabilitation.”<sup>7</sup> Most recently, in *Miller v. Alabama* (2012), the Supreme Court struck down mandatory life without parole sentences for all juveniles including those convicted of murder. The Court stated that we must treat juvenile offenders differently from adults, reasoning:

“Mandatory life without parole for a juvenile precludes consideration of his chronological age and its hallmark features—among them, immaturity, impetuosity, and failure to appreciate risks and consequences. It prevents taking into account the family and home environment that surrounds him—and from which he cannot usually extricate himself—no matter how brutal or dysfunctional. It neglects the circumstances of the homicide offense, including the extent of his participation in the conduct and the way familial and peer pressures may have affected him. Indeed, it ignores that he might have been charged and convicted of a lesser offense if not for incompetencies associated with youth—for example, his inability to deal with police officers or prosecutors (including on a plea agreement) or his incapacity to assist his own attorneys...And finally, this mandatory punishment disregards the possibility of rehabilitation even when the circumstances most suggest it.”<sup>8</sup>

In order to comply with *Miller*, Connecticut must reform its laws and ensure that judges incorporate consideration of youth-related factors when sentencing juveniles. **We have taken important steps forward in recent years in recognizing that children take until well beyond 18 to mature. H.B. 5221 helps ensure that juvenile sentencing rules incorporate the scientific and legal consensus that has emerged concerning treatment of juveniles by the courts.**

Thank you for the opportunity to submit testimony.

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<sup>1</sup> *Miller v. Alabama*, No. 10-9646, Supreme Court of the U.S. June 25, 2012

<sup>2</sup> See Senate Bill No. 1500, June Special Session, Public Act No. 07-4 “An Act Implementing the Provisions of the Budget Concerning General Government,” Connecticut General Assembly, (June 2007), available at: <http://www.cga.ct.gov/2007/ACT/PA/2007PA-00004-R00SB-01500SS1-PA.htm>.

<sup>3</sup> Data from Quinnipiac University School of Law Civil Justice Clinic, (February 2014), available upon request.

<sup>4</sup> Even when controlling for various factors, black and Hispanic youth in Connecticut are more likely to be referred to court, placed in secure holding, and held in detention. Most importantly **black and Hispanic youth were more likely than similarly charged youth to be transferred to adult court**, where they are therefore more likely to be subject to the lengthy sentences awarded to adults. See, Dorinda M. Richetelli, Eliot C. Hartstone, and Kerri L. Murphy. “A Second Reassessment of Disproportionate Minority Contact in Connecticut’s Juvenile Justice System,” *Criminal Justice Policy and Planning Division, Connecticut Office of Policy and Management* (May 15, 2009), available at: [http://www.ct.gov/opm/lib/opm/cjppd/cjjyd/jjydpublishations/final\\_report\\_dmc\\_study\\_may\\_2009.pdf](http://www.ct.gov/opm/lib/opm/cjppd/cjjyd/jjydpublishations/final_report_dmc_study_may_2009.pdf)

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<sup>5</sup> See, for example, Kendall Powell, “Neurodevelopment: How Does the Teenage Brain Work?,” *Nature* 442 (24 August 2006): 865-867, available at: <http://www.nature.com/nature/journal/v442/n7105/pdf/442865a.pdf>. See also, Jay M. Giedd, “The Teen Brain: Insights from Neuroimaging,” *Journal of Adolescent Health* 42 (2008): 335-343, available at: [http://brainmind.umin.jp/Jay\\_2.pdf](http://brainmind.umin.jp/Jay_2.pdf) and Debra Bradley Ruder, “The Teen Brain,” *Harvard Magazine*, (September – October 2008) available at: <http://harvardmag.com/pdf/2008/09-pdfs/0908-8.pdf>

<sup>6</sup> *Roper v. Simmons*, 543 U.S. 551 (2005)

<sup>7</sup> *Graham v. Florida*, No. 08-7412, Supreme Court of the U.S. May 17, 2010

<sup>8</sup> *Miller v. Alabama*, No. 10-9646, Supreme Court of the U.S. June 25, 2012