



RESEARCH AND ADVOCACY FOR REFORM



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In support of SB 796

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Committee on the Judiciary**

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Established in 1986, The Sentencing Project works for a fair and effective U.S. criminal justice system by promoting reforms in sentencing policy and addressing unjust racial disparities and practices.

We are grateful for this opportunity to submit this testimony strongly endorsing S.B. 796, though we find it lamentable that similar legislation has stalled in recent years. Twelve months ago, we submitted testimony in support of H.B. 5221, noting that the bill was a new version of 2013's H.B. 6551. Both of those bills passed the General Assembly with overwhelming and bipartisan support before failing to attain a vote in the Senate. We are grateful to see Senate President Looney and Committee Chair Coleman's leadership, along with that of the other bill sponsors, and hope for speedy passage.

S.B. 796 provides a common-sense approach to a juvenile's chances for parole. Laws pertaining to juvenile sentencing should be grounded in science and should align with the intent of the U.S. Supreme Court. This bill achieves both these aims.

S.B. 796 allows juvenile offenders a chance at parole after serving 60 percent of their sentence or twelve years, whichever is greater, up to a maximum of 30 years for sentences of 50 years or longer. The bill would prevent excessively lengthy sentences that do little to improve public safety while still allowing extended sentences for those individuals who pose a risk to public safety. It is our opinion that a 30-year sentence is still too long, though we still applaud this bill as an improvement over the status quo.

Importantly, S.B. 796 would end Connecticut's indefensible use of life without parole for juveniles. The United States is the only country in the world that sentences people to die in prison for offenses committed before turning eighteen. Thirteen states and the District of Columbia,¹ often in response to the U.S. Supreme Court's decisions in *Graham v. Florida* (2010)² and *Miller v. Alabama* (2012)³ decisions, have already banned the use of life without parole for juveniles, including so-called red states like Alaska, Montana, Wyoming and West Virginia. Others never use it. Connecticut should join them.

WHAT "ANY PARENT KNOWS" ABOUT THE TEENAGED BRAIN

Common sense and one's own life experiences demonstrate that adolescents are different from adults and, thus, ought to be treated differently under the law. Adolescence is marked by immature decision-making, poor judgment, and impulsive behavior. These are not permanent attributes;

¹ The following states have banned or strictly limited the use of life without parole for juvenile offenders: Alaska, Colorado, Delaware, the District of Columbia, Hawaii, Kansas, Kentucky, Massachusetts, Montana, New Mexico, Oregon, Texas, West Virginia, and Wyoming. Legislation to ban JLWOP has also been introduced in Arkansas, Connecticut and Vermont, and will soon be introduced in Nevada.

² *Graham v. Florida*, 130 S. Ct. 2011 (2010).

³ *Miller v. Alabama*, 132 S. Ct. 2455 (2012).

teenagers have strong capacity for change. Of course, juveniles need to be held responsible for their actions.

In *Roper v. Simmons* (2005), a decision that banned the use of capital punishment for juveniles, Justice Kennedy emphasized that, “as any parent knows,” the differences between adolescents and adults limit adolescents’ culpability.⁴ The extent to which adolescents are responsible for their behavior undergirds the Supreme Court’s rulings on juvenile justice. For example, in *JDB v. North Carolina* (2011), the Court wrote, “Time and again, this Court has drawn these common-sense conclusions for itself ... [C]hildren characteristically lack the capacity to exercise mature judgment and possess only an incomplete ability to understand the world around them.”⁵

Due to these characteristics, this state’s laws – like all states’ laws – treat adolescents differently than adults. Children in Connecticut, after all, cannot legally purchase cigarettes or alcohol. Connecticut limits the right to drive a car through age 18. People under 18 cannot get married in Connecticut without parental consent. Juveniles here can’t serve on juries. Not one juvenile voted for anyone in this legislature, nor for the Governor. Americans cannot join the military until they attain 18 years of age. The law asserts these limitations to protect youth from their own immaturity and society as a whole for the consequences of that immaturity.

Brain science research has buttressed our understanding of the pitfalls of adolescence. Teenagers are impulsive. They are poor decision-makers, especially in times of stress or when in the presence of other adolescents. Adolescents lack impulse control and are bad at weighing risks. These marks of youth are not unique to those who commit crimes, but instead derive from the way the brain develops post-puberty. Many of the attributes listed above are controlled, in adults, by the brain’s pre-frontal cortex – the area behind the forehead. This is one of the last regions of the adolescent brain to fully mature. This development typically continues through age 25.

CAPACITY FOR CHANGE

Physical changes in the human brain occur during the adolescent years and into one’s twenties. The physiological development means that adolescents’ poor judgment is part of their transition into adulthood.⁶ In other words, adolescence is not a permanent condition.

How does our understanding of brain development affect the legislature’s task? The answer is a hopeful one. Because juvenile brains are still in the process of better understanding consequences and making better use of the rational parts of the brains (and eschewing the emotional parts), there is every reason to believe that adolescents who commit crimes are much more poised to respond to

⁴ *Roper v. Simmons*, 543 U.S. 551 (2005), slip op. at 15.

⁵ *JDB v. North Carolina*, 131 S. Ct. 2394 at 2403.

⁶ Ritter, Malcolm. "Experts link teen brains' immaturity, juvenile crime." *USA Today* 2 Dec. 2007.

http://usatoday30.usatoday.com/tech/science/2007-12-02-teenbrains_N.htm

rehabilitation than are adults, no matter the severity of their crimes. Specifically, this bill directs the parole board to consider the individual's subsequent growth and increased maturation during the period of incarceration.

A juvenile, even one who is convicted of a serious crime, should have the chance to understand the nature of his or her crime and to consider a better path. Not all will do so. S.B. 796 gives them that chance.

A reasonable minimum sentence allows this state to say that there is a meaningful opportunity to reform and for some youth to make a meaningful contribution to the society that they have wronged. Other states have set their maximum sentence, before a chance of parole, at 15 years.⁷ This bill would require that persons convicted of crimes that were committed when they were under 18 would serve very lengthy terms. But, importantly, it would give the parole board an opportunity to see how the youth who committed such a crime had changed following his lengthy sentence. None of us is the same person in our middle-aged years as we were in our teen years. S.B. 796 would both punish and offer a chance at rehabilitation.

THE LIVES OF JUVENILE LIFERS

Under the status quo, previous legislatures had determined that a juvenile offender's personal background should have no bearing on his or her chance for parole. And yet, while the backgrounds of those currently serving juvenile life sentences vary, they are typically very difficult and marked by frequent exposure to violence; they were often victims of abuse themselves. The Supreme Court made it clear that these circumstances are relevant at the time of sentencing.

Justice Kagan, in 2012's *Miller v. Alabama*, ruled that Alabama and Arkansas had erred because their mandatory sentencing structures did not "tak[e] into account the family and home environment." The petitioners in the cases, Kuntrell Jackson and Evan Miller, both 14 at the time of their crimes, grew up in highly unstable homes. Evan Miller was a troubled child; he attempted suicide four times, starting at age six. Kuntrell Jackson's family life was "immers[ed] in violence: both his mother and his grandmother had previously shot other individuals."⁸ His mother and a brother were sent to prison. Terrance Graham, the defendant in 2010's *Graham v. Alabama*, another Supreme Court ruling on juvenile sentences, had parents who were addicted to crack cocaine.⁹

In 2012, The Sentencing Project surveyed people sentenced to life in prison as juveniles¹⁰ and found the defendants in the above cases were not atypical.

⁷ See: H.B. 4210 (2014), West Virginia.

⁸ *Miller v. Alabama*, 132 S. Ct. 2455 (2012) at 2468.

⁹ *Graham v. Florida*, 130 S. Ct. 2011 (2010) at 2018.

¹⁰ Nellis, A. (2012). "The Lives of Juvenile Lifers: Findings from a National Survey." Available at http://sentencingproject.org/doc/publications/jj_The_Lives_of_Juvenile_Lifers.pdf

- 79% witnessed violence in their homes
- 32% grew up in public housing
- 40% had been enrolled in special education classes
- Fewer than half were attending school at the time of their offense
- 47% were physically abused
- 80% of girls reported histories of physical abuse and 77% of girls reported histories of sexual abuse

Under S.B. 796, the parole board would be required to consider the unique circumstances of each youth at the time for his or her offense, as well as how he or she had matured. Nothing in the bill requires the premature release of individuals who, in the eyes of the parole board, would threaten public safety. However, the bill does require each juvenile offender be treated as an individual with a unique story and unique capacity for reform.

We applaud S.B. 796 and are eager to see it advance in this Committee.