

**PA 15-84**

SB796

House	4905-4917	13
Senate	726-734, 2641-2646	15
Judiciary	937-996, (997-1000), 1001-1036, 1040-1059, 1061-1090, 1093-1109, 1111-1147, 1153-1155, 1194, 1200-1200A, 1201, <u>1206-1208, 1211</u>	215

**H-1216**

**CONNECTICUT  
GENERAL ASSEMBLY  
HOUSE**

**PROCEEDINGS  
2015**

**VOL.58  
PART 15  
4903 - 5253**

004905

/am/rc  
HOUSE OF REPRESENTATIVES

236  
May 26, 2015

DEPUTY SPEAKER RYAN:

Have all members voted? Have all members voted? Will the members please check the board to see if their vote is properly cast. If all members've, voted the machine will be locked and the Clerk will take a tally.

The Clerk will announce the tally.

CLERK:

Senate Bill 1022 in concurrence with the Senate

Total Number Voting	146
Necessary for Passage	74
Those voting Yea	146
Those voting Nay	0
Absent and not voting	5

DEPUTY SPEAKER RYAN:

The bill passes. [gavel] Will the Clerk please call Calendar No. 480.

CLERK:

House Calendar 480, on Page 29, Favorable Report of the Joint Standing Committee on Judiciary, Senate Bill 796 AN ACT CONCERNING LENGTHY SENTENCES FOR CRIMES COMMITTED BY A CHILD

004906

/am/rc

237

HOUSE OF REPRESENTATIVES

May 26, 2015

OR YOUTH AND THE SENTENCING OF A CHILD OR YOUTH  
CONVICTED OF CERTAIN FELONY OFFENSES.

DEPUTY SPEAKER RYAN:

Representative Tong, Chairman of the Judiciary  
Committee. Sir, you have the floor.

REP. TONG (147<sup>th</sup>):

Thank you, Mr. Speaker. I move acceptance of  
the Joint Committee's Favorable Report and passage  
of the bill.

DEPUTY SPEAKER RYAN:

The question is acceptance of the Joint  
Committees' Favorable Report and passage of the  
bill. Representative Tong, you have the floor.

REP. TONG (147<sup>th</sup>):

Thank you, Mr. Speaker. This enables the State  
of Connecticut to comply with two landmark  
decisions of the United States Supreme Court. The  
first decision, known as the Graham decision,  
addresses a situation where a juvenile under the  
age of 18 receives a life sentence without  
possibility of parole for non-homicide offense.

The U. S. Supreme Court has held definitely  
that such a sentencing regime is unconstitutional  
and violates the 8<sup>th</sup> Amendment and its prohibition

of cruel and unusual punishment because of the lack of proportionality with the crime.

The second decision, the Miller decision, similar to the Graham decision, holds that for a homicide offense a mandatory minimum sentence of life imprisonment without possibility of parole is similarly unconstitutional because it violates the 8<sup>th</sup> Amendment's prohibition on cruel and unusual punishment.

The reason why the Supreme Court found these situations violate the 8<sup>th</sup> Amendment is because the Supreme Court has observed that "developments in psychology and brain science continued to show fundamental differences between juvenile and adult minds." In part, the Supreme Court found that children lack maturity and an under-developed sense of responsibility leading to recklessness, impulsivity, and needless risk taking.

The Supreme Court also found that children are more vulnerable to negative influences and outside pressures including from their family and peers. They have limited control over their own environment, and lack the ability to extricate themselves from horrific, crime-producing settings.

And third, a child's character is not as well formed as an adult's. His traits are less fixed and actions less likely to be evidence of irretrievable depravity. The Supreme Court also found that when you sentence a child to life you make a determination at the outset that the child is incorrigible, that there's no way they can change.

And we know that based on science and data, and our observation over the years that very few children are incorrigible, that most can be changed through therapy, through programs designed to assist them to become better human beings. And the Supreme Court emphatically made that judgment that under the 8<sup>th</sup> Amendment we have to adjust the way that we sentence juveniles.

To address that this bill does a couple of significant things. First of all, it includes a look-back provision to address the Graham situation. So in this bill if a juvenile in our state receives a sentence of 50 years or less at the point at which they serve 60 percent of the their sentence or 12 years, whichever is later, the court will reconsider their sentence and whether there's a possibility for parole. Also, if they

/am/rc

240

HOUSE OF REPRESENTATIVES

May 26, 2015

have been sentenced to a sentence of greater than 50 years that opportunity for look-back will come after 30 years of serving their sentence.

Also, this bill provides an answer to the Miller case, a series of factors that a court in our state must consider any time they sentence a child in adult court to an A or B felony. This set of factors includes as I noted earlier in the Miller decision, a child's lack of maturity, a child's vulnerability to negative influences, a child's increased capacity for change and rehabilitation, and a variety of other factors.

Mr. Speaker, this bill was amended in the Senate earlier. I'd like to call that amendment. The Clerk has an amendment LCO No. 6400. I'd ask the Clerk to call that amendment and I be allowed to summarize.

DEPUTY SPEAKER RYAN:

Will the Clerk please call LCO 6400, which was designated Senate Amendment Schedule "A."

CLERK:

Senate Amendment Schedule "A" LCO 6400 as introduced by Representative Tong, Senator Looney,

004910

/am/rc

241

HOUSE OF REPRESENTATIVES

May 26, 2015

Senator Duff, Senator Coleman, Senator Fasano, et  
al.

DEPUTY SPEAKER RYAN:

The Representative seeks leave of the Chamber to summarize the amendment. Is there objection to summarization? Is there objection? Hearing none, Representative Tong, you have the floor.

REP. TONG (147<sup>th</sup>):

Thank you, Mr. Speaker. This bill makes some clarifying changes and also provides that the Connecticut Sentencing Commission shall conduct a study of how victims may be notified of the parole eligibility laws and other release mechanisms governing cases where a person is convicted of one or more crimes and receives a sentence of more than two years for such crimes. I move adoption.

DEPUTY SPEAKER RYAN:

Question's before the Chamber is adoption of House - Senate Amendment Schedule "A." Will you remark on the amendment? Representative Rebimbas of the 70<sup>th</sup>. Ma'am, you have the floor.

REP. REBIMBAS (70<sup>th</sup>):

Thank you, Mr. Speaker. I rise in support of the amendment and certainly will reserve my

004911

/am/rc

242

HOUSE OF REPRESENTATIVES

May 26, 2015

comments for when the bill, if this passes, becomes amended.

DEPUTY SPEAKER RYAN:

Thank you, Representative. Representative Tong of the 147<sup>th</sup>. Will you remark further? Will you remark further on the amendment before us? If not, I'll try your minds. All those in favor please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER RYAN:

Opposed, nay. The ayes have it. The bill is amended. [gavel] Will you remark further on the bill as amended? Representative Tong.

REP. TONG (147<sup>th</sup>):

Yes, thank you, Mr. Speaker. I'd like to propose a further amendment LCO No. 8217. I ask that the Clerk please call the amendment and I be given leave to summarize.

DEPUTY SPEAKER RYAN:

Will the Clerk please call LCO 8217, which'll be designated House Amendment Schedule "A."

CLERK:

004912

/am/rc  
HOUSE OF REPRESENTATIVES

243  
May 26, 2015

House "A" LCO 8217 as introduced by  
Representative Tong and Rebimbas, Senator Coleman,  
et al.

DEPUTY SPEAKER RYAN:

The Representative seeks leave of the Chamber to summarize the amendment. Is there objection to summarization? Is there objection? Hearing none, Representative Tong, you may proceed with summarization.

REP. TONG (147<sup>th</sup>):

Thank you, Mr. Speaker. This amendment further clarifies the application of the Miller factors that a judge in our state should consider when sentencing a juvenile to an A or B felony. This represents the work of all four caucuses here in the General Assembly. But in particular, reflects the comments of Representative Rebimbas, Representative Labriola, and Representative Smith, all of the Judiciary Committee who through their input suggested these changes, and those are reflected here. I move adoption.

DEPUTY SPEAKER RYAN:

004913

/am/rc

244

HOUSE OF REPRESENTATIVES

May 26, 2015

Question before the Chamber is adoption of House Amendment Schedule "A." Will you remark on the amendment? Representative Rebimbas.

REP. REBIMBAS (70<sup>th</sup>):

Thank you, Mr. Speaker, and I do rise in support of the amendment. And certainly again as Representative has indicated there was input on both sides of the aisle for this amendment, and again I'll reserve the rest of my comments when the bill becomes amended.

DEPUTY SPEAKER RYAN:

Thank you, Representative. Will you remark further on the amendment before us? Will you remark further? Representative Smith of the 108<sup>th</sup>. Sir, you have the floor.

REP. SMITH (108<sup>th</sup>):

Thank you, Mr. Speaker. I do also appreciate the bipartisan workmanship between both sides of the aisle. This bill has been around for a while and over the years we've sought to make it a better bill and better piece of legislation. I think we're doin' so with this amendment, and I urge my colleagues to support it.

DEPUTY SPEAKER RYAN:

004914

/am/rc  
HOUSE OF REPRESENTATIVES

245  
May 26, 2015

Thank you, Representative. Will you remark further on the amendment before us? Will you remark further? If not, I will try your minds. All those in favor please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER RYAN:

Opposed, nay. The ayes have it. The amendment is adopted. [gavel] Will you remark further on the bill as amended? Representative Rebimbas of the 70<sup>th</sup>.

REP. REBIMBAS (70<sup>th</sup>):

Thank you, Mr. Speaker. Mr. Speaker, I rise in support of the bill as amended that's before us. Certainly a lot of good work not only went into the proposal of the legislation but there has been a lot of modifications that have been done since. Certainly the Chairman of the Judiciary Committee did highlight the two decisions that were handed down by the Court that were the catalyst in proposing the legislation before us.

And I think again in a bipartisan manner many people came together, had the discussions of what we needed to address that was appropriate within

/am/rc

246

HOUSE OF REPRESENTATIVES

May 26, 2015

those decisions. And the legislation that's before us is certainly a compromise in that regard, and certainly one that safeguards notices to victims. And we'll be getting more information through the study in that regard, but also making certain that we are in compliance with those decisions, but certainly maintaining again our penalty system when it comes to juveniles. So I do rise in support of the bill as amended before us.

DEPUTY SPEAKER RYAN:

Thank you, Representative. Representative Labriola of the 131<sup>st</sup>. Sir, you have the floor.

REP. LABRIOLA (131<sup>st</sup>):

Thank you, Mr. Speaker. I just wanted to echo the comments of my ranking member, Representative Rebimbas, and thank Chairman Tong for his work on this bill. I do think that it comports with those decisions, the Miller decision and the more recent decision the Rowley decision, and so that it's constitutionally sound. And I appreciate that he was - that Chairman Tong listened to the input from some members from this side of the aisle as well as - not only the majority party in the House, but also all four caucuses worked on this bill. It is a

004916

/am/rc

247

HOUSE OF REPRESENTATIVES

May 26, 2015

good piece of legislation and I urge passage. Thank  
you.

DEPUTY SPEAKER RYAN:

Thank you, Representative. Will you remark  
further on the bill as amended before us? Will you  
remark further on the bill as amended before us? If  
not, will staff and guests please come to the Well  
of the House? Will the members please take your  
seats? The machine'll be open.

CLERK:

[bell ringing] The House of Representatives is  
voting by roll. The House of Representatives is  
voting by roll. Will members please report to the  
Chamber immediately.

[pause]

DEPUTY SPEAKER RYAN:

Have all members voted? Have all members  
voted? Will the members check the board to see if  
their vote is properly cast. If all members have  
voted, the machine'll be locked and the Clerk'll  
take a tally.

The Clerk'll announce the tally.

004917

/am/rc  
HOUSE OF REPRESENTATIVES

248  
May 26, 2015

CLERK:

Senate Bill 796 as amended by Senate "A" and  
House "A" in non-concurrence with the Senate

Total Number Voting	146
Necessary for Passage	74
Those voting Yea	135
Those voting Nay	11
Absent and not voting	5

DEPUTY SPEAKER RYAN:

The bill, as amended, is passed in non-  
concurrence with the Senate. [gavel] Are there any  
announcements or introductions? Are there any  
announcements or introductions? Seeing none. Will  
the Clerk please call Calendar No. 250.

CLERK:

On Page 11, Favorable Report of the Joint  
Standing Committee on Education, Substitute House  
Bill 6979 AN ACT ESTABLISHING A TASKFORCE TO STUDY  
DECLINING STUDENT ENROLLMENT.

DEPUTY SPEAKER RYAN:

Representative Sanchez of the 25<sup>th</sup> District.  
Sir, you have the floor.

REP. SANCHEZ (25<sup>th</sup>):

Thank you, Mr. Speaker. Mr. Speaker, I move

**S - 681**

**CONNECTICUT  
GENERAL ASSEMBLY  
SENATE**

**PROCEEDINGS  
2015**

**VOL. 58  
PART 3  
703 - 1013**

/zm  
SENATE

85  
April 22, 2015

On page 36, Calendar 409, Senate Bill No. 796: AN ACT CONCERNING LENGTHY SENTENCES FOR CRIMES COMMITTED BY A CHILD OR YOUTH AND THE SENTENCING OF A CHILD OR YOUTH CONVICTED OF CERTAIN FELONY OFFENSES. Favorable Report of the Committee on Judiciary. And there's an amendment.

THE CHAIR:

Senator Coleman.

SENATOR COLEMAN:

Thank you, Madam President. I move acceptance of the Joint Committee's Favorable Report and passage of the bill.

THE CHAIR:

Motion's on acceptance and passage. Will you remark?

SENATOR COLEMAN:

Madam President, I will be brief and to the point and hopefully quick in my explanation of the bill because I know that Senator Fasano is very eager.

THE CHAIR:

Yes.

[laughter]

SENATOR COLEMAN:

To remark on this bill.

THE CHAIR:

[laughs]

SENATOR COLEMAN:

But the bill is before us, Madam President, because it is a response to a couple of U.S. Supreme Court cases. Miller versus Alabama, and Florida - sorry. Grant versus Florida. And both of those cases conclude that

/zm  
SENATE

86  
April 22, 2015

it is unconstitutional to sentence people who committed offenses when they were less than 18 years of age to life in prison without the possibility of parole.

Additionally, Miller goes into some extensive discussion regarding the science of brain development and the differences between adolescent brain and the adult brain, and those considerations and factors are included in this bill.

Many of my colleagues, both here in the Senate and in the House of Representatives, have been instrumental in advancing this bill. And that includes Senators Looney and Duff and Kissel and Fasano as well as Representative Tong in the House as well as others. And I wanted to express gratitude for their contributions regarding the development of this bill. As well, Retired Supreme Court Justice David Borden contributed significantly to this bill, and he continues to provide great service to the State of Connecticut. Also, Andrew Clark and former State Representative Bill Dyson were very helpful to moving this bill in this process.

What this bill does, simply is it - well what it does not do is guarantee that anyone will be released from incarceration, but rather, it does provide for an opportunity for, as indicated, a person who committed an offense at the time when they were less than 18 years of age. It provides an opportunity for such a person to appear before the Board of Parole and to receive the benefit of rules that have been developed for people who committed offenses when they were less than 18 years of age.

The bill has four main features, and the first main feature is that it retroactively eliminates life sentences for capital felonies in arson murder as well as convictions for murder with special circumstances. Its second feature is that it requires criminal courts to consider certain mitigating factors that are characteristic of youth when the courts come to the point in the process of sentencing such youth.

The bill also, as a third feature, establishes alternative parole eligibility rules. And finally, the

/zm

87

SENATE

April 22, 2015

bill prohibits a child who was convicted of an A or B felony from waiving a pre-sentence investigation. There is an amendment, Madam President. The amendment is LCO 6400. I'd ask that that amendment be called -

THE CHAIR:

Mr. Clerk.

SENATOR COLEMAN:

- and I be permitted to summarize.

THE CHAIR:

Mr. Clerk.

CLERK:

LCO No. 6400. Senate "A," offered by Senators Looney, Duff, et al.

THE CHAIR:

Senator Coleman?

SENATOR COLEMAN:

Adoption of the amendment, Madam President.

THE CHAIR:

Motion's on adoption. Will you remark, sir?

SENATOR COLEMAN:

The amendment before us does three things. First of all, it replaces references to 'aggregate sentence' with the term 'total effective sentence.' Secondly, it makes clear that a child or youth who is convicted of a Class C felony does not receive the benefit of the parole rules that are provided for in this bill. And thirdly, it requires the Connecticut Sentencing Commission to conduct a study concerning how victims are notified of parole eligibility laws.

/zm  
SENATE

88  
April 22, 2015

This is - this amendment is the product of the efforts of a lot of people, many of whom I've named. It is a bipartisan amendment, and again, I'd like to thank those Senators and Representatives who committed a lot of time and energy, thought and effort, to making this a bipartisan amendment and a bipartisan bill. Thank you, Madam President.

THE CHAIR:

Thank you. Will you remark? Senator Kissel.

SENATOR KISSEL:

Thank you very much, Madam President. I strongly support the amendment, and after the amendment moves forward, I'm going to speak very briefly on the bill as amended. Thank you, Madam President.

THE CHAIR:

Thank you. Will you remark any further on the amendment? Seeing none, I'll try your minds. All those in favor of Senate "A," please say aye.

SENATORS:

Aye.

THE CHAIR:

Opposed, Senate "A" is adopted. Senator Kissel.

SENATOR KISSEL:

Thank you very much, Madam President. This bill has been a long time in coming to get through this Chamber. Here it is, our third session with this issue before us that was brought to our attention by the United States Supreme Court decision in Miller versus Alabama. But this is something that we here in the State of Connecticut have been grappling with in one way or another for over a decade. We have recognized as a state, and we have been leaders, that young people can be redeemed and that a young person's brain does not mature as quickly as an adult's who has matured.

The science is that, for young men and women, their brains don't typically mature until age 25. This isn't just studies that are done by people in universities and colleges throughout the United States, but, if you're looking for empirical evidence that this has been put into practice. Talk to any actuary who works for an insurance company here in the Insurance Capital of the United States, and they will say 25 is about when peoples' brains mature, and they can make good, reflective judgments as to risks and other consequences to their behavior. We've enacted some of these reforms over the last decade or so by raising the age when people can be addressed as adults in our criminal justice system, and what this does is add yet another portion to our criminal justice system, where people, young people, convicted of very serious offenses, A and B felonies, that are sentenced for at least 10 years or more, are offered that opportunity to have a review.

But for my constituents that are concerned about crime and punishment or those that are aware of heinous crimes done by young people, I can assure them that the right to review a young person who has been incarcerated does not necessarily mean that they will be released. It merely states that the State of Connecticut will continue its leadership role when it comes to criminal justice in comporting itself with recent United States Supreme Court decisions, but in a narrow, thoughtful fashion. Not too broad but in comportment. And in many ways, this is a good thing in that - and as someone who joins you, Madam Lieutenant Governor, just yesterday, in the reintegration opening ceremonies in my neck of the woods at the Cybulski Correctional area in Enfield - if we can break the cycle of recidivism, we are doing a benefit to taxpayers and reducing victimization.

That's a good thing. And if we can take young people, even after they've been incarcerated 10, 15, 20 years, and review them and they've taken the classes and they've worked to turn their lives around and they've shown that they can become productive adults, then we should trust them to go out, back into society. If you have something they can work towards, we may not capture everyone, but we're going to capture some.

And that's a good thing for our state. I join with senator Coleman and the others that have worked on this, in stating that there's been many people who have worked together to make this happen. And I wanna commend Senator Fasano in particular for taking a leadership role regarding this and working this through the process. As well as Justice Borden, who reached out from the Sentencing Commission and came down to talk to people on both sides.

The amendment that we just voted on that helps make this Bill the best bill that it can be, is a bipartisan amendment. And I stand strong in this circle to state that when we work together across party lines, we come up with some of our very best laws for the people of the State of Connecticut. By moving this Bill forward down to the House of Representatives, Connecticut will continue to maintain its leadership role regarding criminal justice reform. And that does not mean that we're not tough on crime, but that also means that we're trying to be smart on crime.

And for those reasons, Madam President, I am happy to support the underlying bill that's been a long time in coming but is in comportment with the United States Supreme Court decisions and continues to make sure that the people of Connecticut know that we are in the vanguard of making sure that there is redemption, but there is also justice here in the State of Connecticut. Thank you

THE CHAIR:

Thank you. Will you remark? Senator Fasano.

SENATOR FASANO:

Thank you, Madam President. I was testing the speech earlier. That's why I went a little -

THE CHAIR:

And you were doing very well, sir.

SENATOR FASANO:

[laughs] Thank you. I wanna thank Senator Coleman, Senator Kissel, Representative Tong, and Representative Rebimbas for leading the charge on this matter and not giving up. And the Sentencing Commission - it's nice not to see them parading through this hall every day, grabbing us, trying to figure out if we can resolve this matter. This is very important. The Supreme Court has spoken, and we need to abide by the law as set down by the Supreme Court. And this bill does nothing more than to say what the Supreme Court said we must do, we will do. And we should do it. Juveniles do not have the mental capacity at times to understand what they're doing. And what this says is, we get to test that. And we should test that before we incarcerate these people for a significant number of years. I echo the comments by Senator Coleman, by Senator Kissel, with respect to the policy behind this bill, and I look forward to its passage here in the circle. Thank you, Madam President.

THE CHAIR:

Thank you. Will you remark further? Senator Looney.

SENATOR LOONEY:

Thank you, Madam President. Madam President, speaking in support of the bill as amended, wanna join my comments to those of Senator Coleman, Senator Kissel, and Senator Fasano. This is a very important bill. It does put us in compliance with the U.S. Supreme Court in the Miller case, but more importantly, as Senator Kissel pointed out, it does recognize the realities of brain development. I've represented a number of young people in the course of my own law practice who have committed offenses, and in many ways, you can clearly see that those offenses are connected to the impulsive behavior and lack of thought and lack of reflection, lack of maturity that gives rise to so many, so much misconduct on the part of younger people. So as we come to have a better understanding of human psychology and developmental psychology, and adolescent psychology, [clears throat] this merely reflects that in terms of our sentencing procedures. [clears throat]

And as was said also, this does not guarantee a release at any point. It only guarantees a review, and that is something that I think provides for a fair and effective procedural due process. And once again, I think this is an important bill for us to pass this year and to get down to the House of Representatives. Thank you, Madam President.

THE CHAIR:

Thank you. Will you remark? Will you remark? Really? Okay, Senator Boucher.

SENATOR BOUCHER:

Thank you, Madam President. First I want to apologize, certainly, to our President Pro Tem of the Senate. I would not want to speak after him, but I was trying to be recognized prior to our Minority Leader speaking as well. Just to commend, certainly, the Chairs and Ranking Members of this Committee for finding a way to compromise and work together so that a couple of us that originally voted no on the bill support it, certainly, going forward. I think that is a really great process. I wish we could do that for many of our difficult proposals that we have. But because there was so much spoken about brain development, I also needed to mention that that is a concern that many of us have on many other bills that we're going to be debating. And it does set the stage for a thorough discussion on brain development going to the age of 25 when we discuss bills and drugs and other types of medications that are being promoted for those that are minors. And that will be a discussion certainly for another day. But I did wanna commend, certainly, the Chairs for making it easy for us to agree to voting this forward. And again, I apologize to the President of the Senate for his indulgence. Thank you, Madam President.

THE CHAIR:

Thank you. Will you remark? Will you remark? Senator Coleman.

SENATOR COLEMAN:

000734

/zm  
SENATE

93  
April 22, 2015

Madam President, I don't have any further remarks to make, and if my colleagues do not have any further remarks to make, I would move this item to our Consent Calendar.

THE CHAIR:

Okay. I see no objection. At this time, Mr. Clerk? Will you please call for a roll call vote? And the machine will be open.

CLERK:

Immediate roll call has been ordered in the Senate.  
Immediate roll call has been ordered in the senate.

THE CHAIR:

If all members have voted, the machine will be closed. Mr. Clerk, will you please call a tally?

CLERK:

Senate Bill 796

Total Number of Voting	36
Those voting Yea	31
Those voting Nay	5
Absent/not voting	0

THE CHAIR:

The bill passes. [gavel] Senator Duff.

SENATOR DUFF:

Thank you, Madam President. Madam President, I'd urge Senators to stay in the Chamber for a vote on the Consent Calendar. Next we're gonna call Calendar page 16, Calendar 239, Senate Bill 18. And then after that, we'll have a vote on our Consent Calendar followed by two referrals after that. Thank you, Madam President.

THE CHAIR:

Mr. Clerk.

**S - 686  
CONNECTICUT  
GENERAL ASSEMBLY  
SENATE**

**PROCEEDINGS  
2015**

**VOL. 58  
PART 8  
2311 - 2667**

002641

/dd  
SENATE

146  
May 29, 2015

An immediate roll call vote has been ordered in the Senate. An immediate roll call vote has been ordered in the Senate.

[pause]

THE CHAIR:

If all members have voted, all members voted, the machine will be closed. Mr. Clerk, will you call the tally.

CLERK:

Senate Amendment "A," LCO No. 8374

Total Number Voting	35
Necessary for Adoption	18
Those voting Yea	32
Those voting Nay	3
Absent/not voting	1

THE CHAIR:

The amendment passes. [gavel] Will you remark further on the bill? Will you remark further on the bill? Senator - I'm sorry? Senator Duff.

SENATOR DUFF:

Thank you, Madam President. Madam President, I'd like to mark this item PT and I do mean T and move on to the next bill, please.

THE CHAIR:

Thank you, sir. Mr. Clerk. Page 37.

CLERK:

Page 37, Calendar No. 409, Senate Bill No. 796, AN ACT CONCERNING LENGTHY SENTENCES FOR CRIMES COMMITTED BY A CHILD OR YOUTH AND THE SENTENCING OF A CHILD OR YOUTH CONVICTED OF CERTAIN FELONY OFFENSES, as amended by Senate Amendment Schedule "A," LCO 6400, and House

002642

/dd  
SENATE

147  
May 29, 2015

Amendment Schedule "A," LCO 8217. House passed with  
House "A," LCO 8217 on May 26.

THE CHAIR:

Thank you.

CLERK:

The Committee on the Judiciary.

THE CHAIR:

Judiciary. Good evening again, Senator Coleman.

SENATOR COLEMAN:

Good evening, Madam President. I move acceptance of  
the Joint Committee's Favorable Report and passage of  
the bill in concurrence -

THE CHAIR:

Motion's on -

SENATOR COLEMAN:

- with the House.

THE CHAIR:

Sorry. Motion's on acceptance and passage in  
concurrence with the House. Will you remark, sir?

SENATOR COLEMAN:

Madam President, it appears as if there was - well,  
first, this bill was before us and we acted favorably  
on it a few weeks ago. It was taken up in the House  
and apparently the House adopted an amendment. And  
I'm not entirely certain what - how that amendment was  
designated but -

THE CHAIR:

House "A."

/dd  
SENATE

148  
May 29, 2015

SENATOR COLEMAN:

- I would move adoption of that same amendment.

THE CHAIR:

You move adoption - acceptance and adoption of the bill in accordance with the House.

SENATOR COLEMAN:

In concurrence with the House. Yes, Madam President.

THE CHAIR:

Thank you. Will you proceed, sir?

SENATOR COLEMAN:

Just to refamiliarize the members of the Senate with what is before them. This was one of the priority pieces of legislation of the Judiciary Committee. I believe it had some significant bipartisan support when we considered it.

But it's a bill that responded to two Supreme Court cases, Miller v. Alabama and Graham v. Florida. And the essence of those two cases is that when juveniles are prosecuted and convicted and about to be sentenced for - or as adults, if they are less than 18 years of age, that the court must take into consideration some characteristics that are typical and common to juveniles, including some of the science that has to do with the juvenile brain.

What happened when the bill went to the House, some of those characteristics, which were specified in the bill, were taken out. And just a general provision that the court must consider such characteristics, as well as things like the capacity for rehabilitation of a juvenile and some of the science regarding the development of the adolescent brain.

It's still a good bill, Madam President. I would've preferred that the bill pass in the manner that we did when we were entertaining the bill. But I come to the

/dd  
SENATE

149  
May 29, 2015

conclusion that this is not Burger King and I can't have it always my way.

THE CHAIR:

[laughs] I think you should, sir.

SENATOR COLEMAN:

Madam President, I urge support - re-support for the bill. Thank you.

THE CHAIR:

Thank you. Will you remark? Senator Kissel.

SENATOR KISSEL:

Thank you very much, Madam President. I would like to commend Senator Coleman, as well as the Judiciary Committee leaders and the House. If anything, this is perhaps a tad bit narrower than when we sent it down to the House. But a lotta people spent an awful lotta time working on this and I am urging my colleagues to adopt it. I believe when we sent it to the House, it was a unanimous vote.

And with this, we will finally be in compliance with the United States Supreme Court decisions, as well as a very recent Connecticut Supreme Court decision authored by our friend and colleague from the Senate, now-Justice Andrew McDonald, the Riley case. And in the Riley case, they - the Connecticut Supreme Court spelled out what we need to comply with but deferred to the legislature to put the law into effect and to write the law and we are doing that.

And this is an issue that's been around this Senate Chamber for the last three years and I think we've finally gotten it right. So while Senator Coleman may not always have it his way, I think this is all of us having it our way. And I would urge support. Thank you, Madam President.

THE CHAIR:

/dd  
SENATE

150  
May 29, 2015

Will you remark further? Will you remark further?  
Senator Boucher.

SENATOR BOUCHER:

Thank you very much, Madam President. Madam President, this discussion regarding this bill gives me a brief opportunity - because of the lateness of the night, I'm not going to go into the expanded version of how the teenage brain develops.

But it's interesting because just this last week, *Scientific American* on their front cover talks about the science around the teenage brain and how they now know so much more about this. And in fact, have sophisticated medical equipment and devices that actually track what happens to the teenage brain. They talk about how they're much more susceptible to risky behavior during this period of time.

And that, as the General Assembly considers expanding the providing of some illicit drugs to minors, to people that're 18 years of age and under, they might want to consider what we're discussing right now. They might wanna consider the fact that the growing brain can be affected very dramatically by what substances they are also added to their lifestyle.

And this should be a very cautionary moment because even though this particular bill deals with 18-year-olds, the State of California has decided that it's 25-year-olds and under may have a problem with decision making, that their brain hasn't been fully developed. So I am hoping that this is one of those interesting moments when we can think about this, dwell on it, and as I said, because of the lateness of the hour, I'm going to expound on this.

But it's possible that in the future, between now and the 3<sup>rd</sup>, we might have another opportunity to really discuss this in great depth. Thank you, Madam President.

THE CHAIR:

Thank you. Will you remark further on the bill? Will you remark further on the bill? If not, Mr. Clerk, I

002646

/dd 151  
SENATE May 29, 2015

call for a roll call vote on the bill and the machine is open.

CLERK:

An immediate roll call vote has been ordered in the Senate. An immediate roll call vote has been ordered in the Senate.

[pause]

THE CHAIR:

Have all members have voted, all members voted, the machine will be closed. Mr. Clerk, will you call the tally,, please.

CLERK:

Senate Bill 796

Total Number Voting	35
Necessary for Passage	18
Those voting Yea	32
Those voting Nay	3
Absent/not voting	1

THE CHAIR:

[gavel] The bill is passed. Senator Duff.

SENATOR DUFF:

Thank you, Madam President. Madam President, if we could return to the item I had marked PT and ask Senator Gomes to finish what he was doing with the bill. Thanks.

SB 446

SENATOR GOMES:

Thank you, Madam President. For purposes of an amendment, I yield to Senator Coleman.

THE CHAIR:

Senator Coleman.



000937

23  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

problems which became so clear in -- in Stamford and has existed in other schools. This bill is -- is a -- it's a good bill and we'll leave to the important resolution of those issues. Thank you.

With regard to the juvenile sentencing bills those are both on. The sentencing commission people will be here to testify about those bills. I want to state as I have in previous years, this is the third time now, that this is a compromised bill coming out of the commission. It's an important bill. It's a good bill. The division I supported. I was part of the -- the end. We went through a two year process before we finally created a new subcommittee after having gone through two other subcommittees in a very different form than this. We really did work hard to hammer out this compromise.

SB 796  
HB 6926

It does some significant things. It makes people eligible for parole who wouldn't have been eligible otherwise. It sets parameters. Some of this bill was required and Graham and Miller. Some of this bill. The bill does go beyond Graham and Miller. I think for good reasons, for a variety of reasons. It also changes the -- directs the parole board to follow this -- the criteria set forth in 53-300 subsection C in deciding whether or not a person eligible to be paroled is suitable to be paroled.

Now that's a stricter standard than applies to the adults, than would apply to the adults. It's a standard which -- which requires the parole board to consider all of the factors that go into sentencing and balance them all together rather than focusing just on the defendant's rehabilitation and just on the public safety. There are considerations that

000938

24

law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

the parole board ought to consider. It puts the burden on them to follow and it's a good bill in the division of criminal justice and I support it. Any questions? I'd be glad to try to answer but it's been a long -- starting to be a long day.

SENATOR COLEMAN: Senator Kissel.

SENATOR KISSEL: Thank you very much, Mr. Chairman. Chief State's Attorney Kane, great to see you. I just -- there's two bills on here in reference to the juvenile reviews. The first one the senate bill and then down below the house bill. And you were part of discussions regarding taking elements of the house bill and actually making that the bill that moves forward out of this committee.

And you were there as a member of the sentencing commission. That's our understanding up here. So is it your testimony that you don't agree with that compromise or that you agree with the compromise that was discussed a week ago last Monday? Not this past Monday but the Monday before that.

KEVIN KANE: I agree with the compromise that was discussed a week ago last Monday definitely. And I did have one concern because it requires before a plea is accepted by the court the prosecutor must advise the victim if the victim so requests of the -- the date the defendant will be eligible for parole. I'm concerned about having the prosecutors be the one to have to make that calculation. I'm a little concerned about the language.

I would ask that the corrections department upon request from a prosecutor notify the date -- notify the prosecutor of the -- of the eligibility information. Corrections

ultimately makes the -- the calculation to determine when a person is eligible to be -- or how much time a defendant has served based on their computation of the pretrial time and any other credits. I don't want to run a risk that the prosecutors are going to do his or her calculations because they have to do it quickly and estimate that, inform the victim of that and have corrections come up with a different set of calculations which changes the criteria. I'd like to work a little bit on the language.

But I think it's very important that the prosecutors be able to know themselves what the anticipated eligibility date is and be able to properly advise the victims. Because that's one of the tragedies that we have in having to deal with this issue now is victims who have contemplated a -- a sentence, have agreed to a plea agreement based on that and find out that's -- that's not going to occur. I think that's a very good principle in this section. I agree that that's a good compromise to be added and I'd like to work a little bit on the wording of that section.

SENATOR KISSEL: I think that would be a great idea. We probably need that information sooner rather than later so perhaps you could reach out to Commissioner Semple and his staff. If you have -- if you could work out some proposed language on that that we could incorporate into the bill that would be terrific.

KEVIN KANE: Thank you.

SENATOR COLEMAN: Do other members have questions or comments? Representative Smith.

REP. SMITH: Thank you, Mr. Chairman. Good afternoon, Attorney Kane. I was looking at subsection two of that same bill you were just

000940

26  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

referring to, and that's the section that talks about what the judge has to consider when rendering a sentence. And there's -- basically it's broken down to four subsets and subsection two also of that same area talks about what the judgment must consider if the child is likely to die while he's incarcerated or she's incarcerated.

I'm just wondering, because I'm not familiar with this area, how that actually plays out in terms of the judge's actual decision or whether or it's written or oral. What must the judge do to be able to satisfy those looking at the decision that this particular judge complied with this statute as -- or the bill as drafted?

KEVIN KANE: Well Connecticut State Supreme Court the other day decided the case State vs. O'Reilly which addressed this issue. And it actually set aside the sentence that the trial court imposed in that case and sent it back for resentencing. And said that the sentencing judge has to give due consideration to these factors. Due consideration was what they used. And has to -- and that has to appear on the record that the sentencing judge has done that.

The presentence investigation that opinion also noted that CSSD has revised its procedures for doing presentence investigations and in the presentencing investigation report is addressing each of those factors, those four categories of factors.

It's certainly our position and I believe the sentencing commission that it's not recruit -- the trial court's not required to hold an evidentiary hearing on -- on those. It is required to consider anything the defendant produces at the time and it is required to make that fact known on the record that the

sentencing court has considered those factors in relation to all of the other factors in the case, the seriousness of the offense, the impact on the community, the expectation of the community that there will be punishment, the fact that sentences have to be -- encourage respect for the law and a variety of factors there.

But the sentencing judge has to make it clear that he has considered and given due consideration to all of those factors and then he'll impose the sentence that the court feels is appropriate after having given all of the factors due consideration. Now what due consideration means, the sentencing judges will decide that. I think as long as it appears on the record that the sentencing judge considers -- considered those factors and explain that he is giving one -- more weight to one factor than another because of the case I would think that would suffice.

REP. SMITH: Thank you for that answer. In fact that was one of the concerns I had last year when a similar bill came before us and the factors were -- they were a bit larger than they are in particular bill. They've been whittled down some. But I was concerned about the very fact of an appellate court taking a look and saying well the superior court judge did not consider all these factors and therefore I'm going to overturn that decision. And I guess it happens. Sometimes you hate to be right.

So I am still concerned that because there are factors that are delineated in this bill and some can be -- you know I won't go through the language but some of the language can be somewhat nebulous that an appellate court judge could also then say that despite the lower

000942

28  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

court judge on the record stating I considered these factors, the appellate court judge saying well they really didn't get into it in depth, those types of things. So I don't know if it can be addressed or how we address that but it is concerning. I'd hate to see these decisions overturned just because you know we have some language in the statute that's hard to follow. Do you have any thoughts on that?

KEVIN KANE: I think this language in the bill with the -- I think this language in the bill A it -  
- section one applies to the -- the standards the parole board must file and incorporates 54-300C which I think is very important; 54-300C also is -- sets for the purposes of sentencing which in slightly different language we talk about the general deterrents, specific deterrents, punishment, rehabilitation and the other factors that trial courts traditionally consider all of the time. What sentencing courts were not inclined to do but they will certainly be now inclined to do is put more on the record when the impose sentence at the time, laying forth that.

And I think sentencing judges will be able to do that, will be able to do that carefully. There may be some appellate issues that will have to be resolved but words are words, language is language, whatever words we use there can be issues. I would think the factor due consideration leaves a lot of leeway which sentencing should be individualized. A sentencing judge should give consideration to a whole variety of thins.

You know the defendant, the nature and character of the defendant which certainly includes his age, his family history, any number of things. Courts should do that. Traditionally they do do that. I think in the

(inaudible) case I'm sure Judge O'Keefe did do that. Unfortunately on the record he didn't state that and lay that out in the sentencing transcript and that's why the Supreme Court set it aside. I can't imagine a supreme court -- a court -- an appellate court deciding well we disagree.

We think the trial judge should have given more weight to this factor than the other factor. That would be a very hard subjective judgment to make as a matter of fact when the sentencing judge is the one who was closest to the fact, closest to the witnesses, closest to the scene. And I think this bill will not change that. The Miller factors in Reilly is what it is.

The Supreme Court decided what it decided unless the U.S. Supreme Court should decide it as a matter of eighth amendment law the Connecticut Supreme Court went too far. I think there are those, and I agree that I think the Connecticut Supreme Court went a little farther than I ever thought the U.S. Supreme Court intended to go in Graham and Miller. But the Connecticut Supreme Court made the decision. It was a five to two opinion. You can't get - I think this bill is still a good bill.

REP. SMITH: Just one more question if I may, Mr. Chairman, through you. Just following up on the dialogue we just had then if a lower court judge did not specifically address A through D and all the language -- so there's a lot of different categories within A through D such as recklessness, impulsivity, risk taking tendencies.

Let's assume that the judge -- lower court judge did in fact consider all those but on the record doesn't get that specific as --

000944

30  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

identified or considered each of these factors. Are we setting ourselves up for appellate review in that situation or is there a way that the lower court judge can simply state I've looked at the presentence investigation report, I've considered the factors set forth in whatever statute it may be and -- and I'm going to rule this way. Is that enough or does the judge have to get more specific in your opinion

KEVIN KANE: I think if the judge refers to those four groups of factors he certainly doesn't have to go word for word through factors or item by item through the factors. A these are things that sentencing judges should consider and I would argue they do consider it even though they may not say so. Judges are going to have these four groups of factors before them now. They're already laid out very clearly in the majority opinion in Reilly.

The trial judges read the Supreme Court options they can take those four groups of factors and indicate that they have considered each group. And I'm sure that the sentencing judges will do that in imposing sentences. The presentence investigation that CSSD prepares by their new procedures that were referred to by the supreme court in the Reilly decision lay out or contain a great deal of information that also -- that will also remind the judge to touch on or to indicate that he's considered those four groups of factors. I think that's enough.

REP. SMITH: Thank you, Attorney Kane. Thank you, Mr. Chairman.

SENATOR COLEMAN: Representative Adinolfi.

REP. ADINOLFI: thank you, Mr. Chairman. I see you here every year.

31  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

KEVIN KANE: Morning. I know, Representative Adinolfi.

REP. ADINOLFI: It's nice. Question for you. Is there a recourse that the victim of the crime can take if they disagree with judge's decision because usually you find the defendant might appeal the sentence but I haven't seen much of a victim doing that. Is it allowed? Is there a procedure where they can appeal the sentence?

KEVIN KANE: No. A victim's not a party to the case. A victim has a right by the statute and by our constitution to be notified before a court accepts the plea and to be notified before the court imposes a sentence. A victim has the right to be heard in the court but if the victim disagrees with the sentence the victim does not have a right to appeal. No.

REP. ADINOLFI: Well I'm talking about a Victim that might be a minor and might not want to appear in court in public.

KEVIN KANE: A minor certainly would have a right to have a guardian or family member appear. And courts traditionally for sentencing allow not only those who the court's required to speak but the court's will traditionally allow other people, other friends or family members of victims who may be cousins say or not so closely related. Courts do want to hear the impact that the crime had on the victim and on the community and on those people.

So traditionally sentencing courts allow more people often than they're required. They do have to set some limits because just the time. But that really happens as a matter of practicality. But no, they do not have a right to appeal if somebody disagrees with the sentence. Just as if we recommend -- the state

000946

32  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

recommends a sentence and the court imposes a sentence that's less than we recommend the state cannot appeal.

REP. ADINOLFI: That's what I was going to get to next. Is there a check and balance where it's possible that our judges violated minimum sentences or something and took a different case -- took a different approach. I -- I'm talking particularly one of my constituents, 14 years old was raped by somebody over 21. He admitted sexual contact and that's all he admitted right. And the judge gave him a year and a half, keep your nose clean and you're free and have no record. And I had a problem with that. And I wasn't even aware that you know we could do anything about it or appear in court or anything because I certainly would have you know when I was notified. But we don't have a check and balance where we can see if a judge is acting within the law. I mean did he have that privilege to make that decision according to the law?

KEVIN KANE: It depends on the statute for which the defendant was convicted. What statute and sometimes what subsection of the statute the defendant was convicted of violating whether or not there is a mandatory minimum sentence applicable to that violation. If the judge -- if the judge did not follow that mandatory minimum that was applicable that might make the sentence illegal and then the State might be able to appeal.

But it depends on the facts and circumstances of every individual case. And there's a lot that goes into determining whether -- what sentence should be imposed including the charge of the conviction and a variety of other things. So I couldn't comment on any specific case.

000947

33  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

REP. ADINOLFI: Great. Thank you.

SENATOR COLEMAN: Are there other questions or comments? Seeing none, thank you all very much.

KEVIN KANE: Thank you.

SENATOR COLEMAN: Chair is going to call Valerie Rossetti next.

VALERIE ROSSETTI: Appreciate being able to give testimony here today. I'm speaking in regard to the Senate Bill 796, the act concerning lengthy sentences in the second bookability. And I'm coming here today. I'm a physician and anesthesia physician and I used to be an emergency medicine physician. I'm not coming to testify on the neuroscience of juvenile brains which I think you've heard a lot of and will hear more of. I think the impetuosity and impulsivity and lack of decision making skills is -- is fairly evident.

But I'm coming to just give some personal information about one of these cases that this bill would be applicable to. A couple years ago I began working as a volunteer at MacDougall Correctional Facility as a mindfulness meditation instructor which is one of my interests. And I -- I met a young man, Nick who I never before had been in prison or worked in prison and I didn't really know too much about this bill or care too much about it.

But I came to know details of what had happened with him and have sat with him for a couple hours a week for two years with a group of other inmates who are practicing meditation and trying to rehabilitate themselves. And I'm really struck at how applicable this is. In

000948

34  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

brief he was 17 years old sitting in a new haven hot summer neighborhood drinking with three other members of his family. And you know kind of got taken along to participate in a robbery in which very unfortunately, very horrendously a store clerk was shot and killed.

Nick didn't have a gun. He wasn't holding it. He was assured by the young man who had the gun that nothing violent was going to happen but it did and he was sentenced to 38 years in prison with no opportunity for parole. And since he's been in prison after several years he read a letter from the victim's father and he became very remorseful. I've seen a lot of evidence of this over the last two years. He is one of the most thoughtful persons that I've come to meet not just inside a correctional facility, outside.

There's a quality we try to teach in the mediation practice of becoming mindful of an action before you do it, having a response rather than a reaction and he's become kind of an exemplar of that over the last 18 years that he's been in prison. He's a model prisoner, became a nurse's -- a certified nurse's aide. He's a hospice volunteer. And I'd be happy to have him take care of any member of my family. I'd be happy to support him and I just look at this life which has really been rehabilitated and think of no better person that could have an opportunity to receive a second look, not a free pass out of jail, not an automatic suspension but just another look at what he's been able to do with his life. Thank you.

SENATOR COLEMAN: Thank you. Are there questions for Miss Rossetti? Dr. Rossetti.

VALERIE ROSSETTI: Dr. Rossetti.

000949

35  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

SENATOR COLEMAN: Any questions? Seeing none, thank you very much. Robert Farr is next.

ROBERT FARR: Good afternoon, Senator Coleman, Representative Tong, Senator Kissel and Representative Rebinbas. I'm Robert -- Attorney Robert Farr and I was a working member -- member of the working group of the Connecticut Sentencing Commission which developed the language for Senate Bill 796. I'm joined here today but Andrew Clarke, acting executive director of the sentencing commission and by Professor Sarah Russell from the Quinnipiac University Law School. Andrew Clarke has submitted written testimony and I think you've heard some testimony already from Kevin Kane. But I think Andrew can give a little bit of a summary of the bill. Andrew.

ANDREW CLARKE: Sure. Good afternoon. I'm Andrew Clarke, acting executive director of the Connecticut Sentencing Commission. Commission chair, David Borden unfortunately is not able to be here to testify on behalf of the commission but instead he sent the three of us attempting to fill his shoes. I just -- we submitted written testimony. I know this is essentially the third time that we've been in front of you about this issue.

So I would just like to in the interest to time and everybody else testifying echo Attorney Kane's statements in terms of how he represented the commission on Senate Bill 796. I did want to mention, Senator Kissel had a question on the House Bill 6926 and on page three of our testimony we did have some comments on that and -- and essentially saying that it makes changes -- 796 mirrors the sentencing commission's consensus proposal. Six nine two six makes changes to it in particular section 1F1 aggregate sentence would

000950

36

law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

be changed to total affective sentence. Additionally in section 2A the Miller factors would apply to only A and B felonies and not C felonies as in the commission's original proposal.

We believe these changes are not only consistent with the commission's consensus proposals but help to clarify it as well. Additionally we believe there is an interest in clarifying that the victim or victim's family would be notified whenever a person came eligible for release pursuant to the Graham part of the bill.

That language is not in 6929 but I think there is an interest there and we believe that is consistent with the commission's proposal. Sections ten and 11 of H.B. 6926 which refer to victim notification. Members of the commission's workgroup on this matter are in agreement with the concept as we believe the commission would be -- would want the opportunity to vet these changes with the full commission to ensure all aspects of the system are able to weigh in so as to make it as sound and comprehensive as possible.

I do note the timeframe that Senator Kissel mentioned and actually Judge Devlin's sentence structure workgroup -- committee, I'm sorry, is meeting on that in those two sections tomorrow. So hopefully we will be able to get something to you relatively soon on that. Section 12 addresses the earned risk reduction program.

It was not part of the commission's proposal but we've agreed to recommend the commission examine this program with the intent of presenting a proposal for any recommended legislative or executive actions in time for the next legislative session. And so we thank

000951

37  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

you for your consideration of our testimony and we're glad to answer any questions you may have.

SENATOR COLEMAN: Are there questions for the panel?  
Chairman Tong.

REP. TONG: Thank you, Mr. Chairman. Thank you for your testimony. It was good to meet with you earlier today. There's going to be a lot of discussion, there has been a lot of discussion about Miller, Graham and Reilly. So for the committee and for all of us if you could briefly, maybe professor if you could tell us what the basic holding is -- is of Miller and what the basic holding is of Graham and -- and why it's important that we do anything in reaction to it for those two cases.

SARAH RUSSELL: Sorry. Thank you, Representative Tong and thank you to the committee for hearing from us today. So there -- the Miller and Graham decision are two recent United States Supreme Court decision. Graham was in 2010 and Miller was in 2010 and then the State v. Reilly case that was just mentioned is a Connecticut Supreme Court case that was just decided on Friday.

And so essentially the Graham decision actually followed an earlier decision by the U.S. Supreme Court in Roper versus Simmons and that's where the Supreme Court said that based on essentially the differences in the brains of children and adults and looking at the unique capacity of children to rehabilitate and change the death penalty was unconstitutional and violated the eighth amendment and was no longer possible to impose on someone who committed a crime under the age of 18.

So that was an initial decision in Roper. In

000952

38

law/gbr JUDICIARY COMMITTEE

March 4, 2015

10:00 A.M.

Graham the court there had a case involving someone serving a life without parole so life with no chance of release sentence of a crime committed when he was under the age of 18. It was a nonhomicide robbery related crime in that case and the court held there that states must provide at least some categories of juveniles a meaningful opportunity for release.

And they left it to the states to figure out how to implement such a program. And following Graham was a 2012 decision, in Miller dealt with several cases involving mandatory life without parole sentences imposed on -- on juveniles. Both -- both in homicide cases. And there the court said judges are required to consider youth related factors and give them mitigating weight in -- in all cases and so that you can't have a system that requires -- requires a life sentence for -- for a child.

So those are essentially the trilogy of -- of recent U.S. Supreme Court cases and the commission's proposal was -- was designed to address those and bring Connecticut into compliance. There are a lot of unanswered questions presented by those cases in terms of how far they extend and which categories of cases. There's litigation going on around the country about the scope of those -- those decisions.

At last check I think something like 900 cases citing Miller versus Alabama. So lots of litigation around the country and lots of states responding based on their unique, different statutes in different states. States are responding in different ways to those decisions with lots of states that have now enacted responses. So essentially I think the commission's proposal was designed to you know look specifically at Connecticut's schemes and

respond in the most comprehensive and fair way.

The Reilly decision on Friday dealt with a 100 year sentence imposed on someone under the age of 18. And there held that essentially that there wasn't -- the record didn't show that youth -- that the youth related factor set forth in the Miller decision had been -- had been adequately considered. And the Reilly case specifically said that they weren't going to address the question of parole eligibility and the mechanics of parole eligibility and noted that the -- that issue was before the Legislature and it would be premature for them to step in that point so essentially referenced the fact that the Legislature had the ability set -- set such a system in place.

REP. TONG: And I think we've had this discussion before but could you tell us -- do you have an estimate of how many people in the criminal justice system now would be impacted by this bill, legislative response to Miller and Graham?

SARAH RUSSELL: Sure. So impacted by the bill there are approximately 200 people serving sentences of more than 12 years for crimes committed under the age of 18. About 50 are serving 50 years or more.

REP. TONG: And just to clarify, the second look piece of the bill really is the Graham piece. Right? It's -- it's a response to Graham. My understanding is that in nonhomicide offenses - - with respect to nonhomicide offenses that a life sentence without possibility of parole is -- is effectively unconstitutional. I mean the second -- second look there addresses that decision. Is that correct?

SARAH RUSSELL: Yes. I think that's been the parole

000954

40

law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

eligibility piece has been shorthand called the Graham -- the Graham piece of the bill.

REP. TONG: And then the Miller piece is -- is the discretion piece. And setting out factors that the court must take into when assessing the culpability and imposing a sentence on a juvenile in a homicide case. Is that correct?

SARAH RUSSELL: Well so I think the -- I think the Miller holding really applies to any case where a juvenile would be facing a very lengthy sentence. But yeah, the Miller decision itself involved homicide.

REP. TONG: If I'm not mistaken the Miller decision itself involved a felony murder. Is that right? Do I have that correct?

SARAH RUSSELL: Yeah. I think there are actually two -- two cases up. It was actually Miller and someone -- and a Jackson I believe. So there were two cases up at the same time. One was a felony murder and I think one was an intentional murder case.

REP. TONG: Some members have asked me basic questions so I thought I would ask you for your response. And that is -- you know the U.S. Supreme Court has spoken on this issue recently. We've tried to do something about this in the last few years and we're getting there.

But some have asked you know why do we need to do this and what are the consequences of not acting when the U.S. Supreme Court has spoken. So I'd just like to get the sentencing commission's thoughts on that you know why it's imperative that -- that we as a Legislature take action when the U.S. Supreme Court at the federal level has handed down a decision.

SARAH RUSSELL: Yeah so I mean I think the -- the importance of taking action is -- I mean I think there are a number of reasons but one piece is the sort of degree of litigation that's caused by uncertainty in this area in terms of the many cases that have been filed or may be filed to challenge the different sentences and the sense of uncertainty that that really causes for everyone in the system of not knowing the dates of parole eligibility, not understanding you know which factors will be considered.

So I think there's a sense of certainty that the Legislature can bring to this area and absent legislative action it could be many, many years until the courts sort out -- the courts decide individually so they don't set policies for -- for whole groups of cases typically. And so the commission came up with this proposal and the consensus felt that looking at the system as a whole this was a fair -- fair and predictable response to the decisions and so rather than have all of these issues be decided on case by case basis with lots of litigation and consuming lots of -- lots of time I think the thinking the legislative response was what's preferable.

REP. TONG: Thank you.

ROBERT FARR: Can I just add to that, one of my personal issues here was the treatment of the victim's and the victim's families. And I didn't want to see them revictimized by having this great uncertainty. You can think in the Reilly case where an individual was murdered and a sentence was imposed of 100 years. Nine years later they're now back into court again at a resentencing. Every one of these cases that there -- have been mentioned, the 200

000956

42  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

cases eventually if you do nothing will go into courts and there will be great uncertainty in terms of how individual courts try to resolve that -- the challenge of conforming to the U.S. Supreme Court cases.

And so what we tried to do is -- as has been pointed out is give some certainty so that in the Reilly case instead of having to worry about resentencing what would have happened is in 30 years, 21 years from now there will be a parole hearing and then that parole hearing would decide whether Reilly was going to be -- get another parole hearing or not. So it gave some resolution to this which was consistent we believe with the federal -- with the Supreme Court cases.

SENATOR COLEMAN: Senator Kissel.

SENATOR KISSEL: Thank you very much, Chairman Coleman. First of all I'd like to welcome you all here. As has been stated so many times in the Legislature I think third times a charm. I think it's serendipitous that it was Justice McDonald that wrote the decision that came out in Reilly on Friday. Having his intimate knowledge of how not only the Legislature works but also how the judiciary committee works.

And prior to the issuance of that decision there had been discussions with folks on the sentencing commission by the leadership of some folks on the republican side of the aisle in the Senate. And some good compromises were reached and I'm sort of wondering if perhaps Justice McDonald was channeling Justice Borden prior to issuing the decision. First of all please give our best to Justice Borden for entering into those discussions.

I understand that the working group tomorrow is

000957

43  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

going to look into some of those things and I appreciate Mr. Clarke that you put on the record what my understanding the meeting of the minds of was. And I want the sentencing commission -- I'm hopeful that the sentencing commission through that working group will put its full imprimatur on the final language.

To my friend and colleague, former representative, Bob Farr, former ranking member on this committee for many, many years, Bob Farr. I appreciate where you're coming from. We don't want to have victims go through this. To that extent there's this last little piece that was not -- that was discussed but not necessarily finalized and that was articulated by Chief State's Attorney Kane regarding who's going to come up.

I don't think that anybody at the time of sentencing can with all due precision say on June 16, 2043 this will come up -- this individual will come up for a parole review. But I think that what can come up to make it as clear to the victim or victim's families and relatives as possible is that this individual may come up for a review as early as.

That's sort of what I think we could -- we could do with pretty fair amount of precision at the time of sentencing. And without getting into the whole risk reduction credits and classes and things like that. But just sort of like the timeframe for an appropriate review. So I see the final version having extraordinarily high chance of passage out of this committee and this Legislature this year. I see us avoiding a huge amount of appeals.

I see this freeing up some people in the Public Defender's Office and the State Attorney's Office. I'm seeing this as a cost effective

000958

44  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

measure to address the two Supreme Court decisions. I see Connecticut although not adhering to the -- to the strictest of parameters, taking somewhat of a leadership role although within a range that is acceptable at least for myself and many of my colleagues on our side of the aisle.

So I think it's the best of all possible worlds and it took everybody coming together. And as I stated third time I think is a charm. So I wish you all the best of luck tomorrow. Please try to address Chief State's Attorney Kane's concerns that he had articulated earlier this afternoon as well. The faster you get us that language the better off we will all be.

But I think is what makes Connecticut a special place to live and work and raise a family is that it may not happen overnight but eventually it does happen. And the net result we get by putting a lot of time and effort into issues is a great result. And the last point I want to stress is not only will this help the victims and the victims' families but it also will create a framework such that these young individuals should they so wish to avail themselves of the opportunities available under the Department of Corrections can strive to get to that review period with a proper record such that they can be released and turn their -- having turned their lives around and become productive, law abiding citizens in our State with less victimization for all those other individuals as well.

So I want to thank all of you, Justice Borden, all the other members of the sentencing commission for coming here, putting on the record the agreement that we have and expressing your desire to have the entire sentencing commission and essentially put its

000959

45  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

blessing on it. Thank you. Thank you,  
Mr. Chairman.

SENATOR COLEMAN: Thank you, Senator. Are there  
other questions? Senator McLachlan.

SENATOR MCLACHLAN: Thank you, Mr. Chairman. Thank  
you all for being here today with this  
important topic. Attorney Farr, I wonder if  
you could share with us your viewpoint and  
perhaps your colleagues might want to chime in,  
a concern that I heard from the Chief State's  
Attorney, obviously his opinion that the Reilly  
decision went beyond the U.S. Supreme Court  
Decision and why you think that is true or not.

ROBERT FARR: I believe he's correct in that it did  
go beyond it. But I believe that it was -- I  
would -- in defense I would say it was within  
the spirit of the Supreme Court case but the  
language of the Supreme Court case I don't  
believe -- I agree with the dissent.

I don't believe it was necessary for the court  
to make that decision because it wasn't clear  
to me -- this wasn't a case in which there was  
a mandate that there was -- that they -- there  
was a -- the court didn't have the discretion  
and there was evidence that the failure to  
consider all of the youth factors was in part  
brought on by the defendant in this particular  
case. The defendant didn't cooperate as I  
understand it.

But I'm not here as a member of the sentencing  
commission to talk about that particular case.  
We think that this language in this bill does  
conform to both of those cases, the Graham and  
the Miller case. And will make it -- everyone  
comfortable in the future going forward that  
they won't have to adjust those -- those  
parameters. I think they're very reasonable in

000960

46  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

the bill in terms of release dates.

SENATOR McLACHLAN: Thank you. So I appreciate your answer although it wasn't quite what I was attempting to illicit in -- in a matter of opinion of you will. It does seem that there is a lot of concern out there that what we're trying to fix may be a -- a case that is not over yet in the long run. If I'm not mistaken Professor Russell indicated there were over 900 cases pending on the Miller Graham decision across the country. Lots of discussion still going on there. Isn't this still an unsettled issue and are we premature today trying to fix something that's not quite yet settled.

ROBERT FARR: Can I just make the comment before Professor Russell comments, and that is I think it's settled by the Supreme Court in Connecticut. There is a Supreme Court decision. They've made the dictions. I wouldn't have made the same decision I think if I were sitting in the court but they've made a decision and that we have to live with that decision. And I don't think -- it's not clear to me that we have to get further clarification of the Supreme Court case because I think this -- the Connecticut court has the power to make that decision and they've made it.

ANDREW CLARKE: I would just say on -- as acting on someone on behalf of the sentencing commission we come forth with consensus proposals and -- and we have -- we would not have sent forth -- I don't believe the commissioner's would have sent forth the proposal that they didn't think was necessary.

SENATOR McLACHLAN: Please repeat yourself. Thank you.

ANDREW CLARKE: I would say that the -- the

000961

47  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

commission acting in consensus put forth a proposal to the Legislature that they believed was necessary.

SENATOR McLACHLAN: Thank you. And whoever decides to chime in would be just fine. Could -- could you assess for us please what is the real difference between the Reilly decision in Connecticut and the U.S. Supreme Court decision? What is the difference that some say it went further?

SARAH RUSSELL: So I think the -- the cases involve different scenarios. So the Miller case both defendants in that case had been sentenced to mandatory life without parole sentences. So they were -- they came to the court in that posture. In the Reilly case he received a 100 year sentence. So one issue was whether that 100 years was effectively life without parole.

The other difference between his case and the defendants in the Miller case was that the 100 years was -- could have been as low as 25. So the sentencing judge had some discretion in where to -- where to sentence. I think the debate in Reilly was whether you know within -- given that the judge had had some discretion was that the same -- you know what did Miller mean for that type of case? I don't know if that -- it helps clarify but that's how I see the distinguish -- distinguishing factors of those two cases.

SENATOR McLACHLAN: Thank you. Thank you, Mr. Chairman.

SENATOR COLEMAN: Thank you, Senator. Representative Lemar.

REP. LEMAR: Thank you, Mr. Chairman. Thank you all for coming out today. I think it's clear from

000962

48

law/gbr JUDICIARY COMMITTEE

March 4, 2015

10:00 A.M.

the answers to your questions and the proceedings over the last couple of years even amongst yourself there probably have different recommendations if you were allowed to speak with your own voices.

So I do admire the work that you've done to reach these consensus recommendations and start to move this conversation forward hopefully to a -- to a responsible conclusion in this session. What I was kind of engaged by and intrigued by over the last few years while we've had this debate was the level of response that different states have taken. And wouldn't mind having greater clarification about how these recommendations correlate with recommendations that you're seeing from other states in response to -- to the Supreme Court.

SARAH RUSSELL: Sure. I can address that. Now I have to believe there may be someone here who from a national organization who may have more -- more of the national picture. But yeah I think there have been a range of responses around the country. There -- I think some such as a bill that was passed last year in West Virginia would provide for earlier parole eligibility so their life without parole sentences were replaced essentially with -- with sentences that would allow parole eligibility after 15 years which is an earlier -- earlier threshold than -- than some under Connecticut's proposal would wait 30 years before coming up for parole.

Massachusetts is another one I'm familiar with. There their court also adopted for people currently serving sentences adopted a 15 year rule -- parole after 15 years. Their legislature then addressed that they're -- addressed cases Goggin forward and there made people eligible for parole between 20 and I

believe 30 years depending on the nature of the case. So different states -- California and Delaware have decided people should go through a court system so petition essentially the court for a resentencing rather than do it through a parole board though California for some sentences does go through the parole board.

So it really I think depends on the individual state but what structures they have in place. Some states don't even have functioning parole boards and so are relying on their court systems for a second look. But I think -- I think the bill kind of as you look at what's been passed around the country is a fairly middle of the road sort of -- sort of response. But also you know I do think the Legislature has a -- has an opportunity to still be -- still be a leader in this area. Some states you know still haven't -- still haven't passed legislation. And so I think it is a good opportunity to act.

REP. LEMAR: So again thank you very much for the work that you guys do both on the sentencing commission but Andrew and Sarah the role that your respective clinics and organizations in helping to inform this debate. I think you guys have done an outstanding job to take a complex complicated otherwise controversial issue and condense it into smart reasonable policy solutions that hopefully we can enact this year. So thank you again for -- for your diligence and work on -- on our behalf.

SENATOR COLEMAN: DO other members have questions or comments? If not, thank you all very much.

ANDREW CLARKE: Can I just make one last comment just because it may become unclear in terms of the statement on consensus because as I became

000964

50  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

aware today the victim advocate had some concerns -- the current victim advocate, about the bill? The commission voted on this consensus in the September meeting prior to Attorney Pierre coming on to the commission so we certainly you know as we've done with all the new victim advocates that have come on to the commission, this is the third now, certainly would open the commission meeting up, the next one we have in march to -- to hear her concerns. But I just wanted to put that out there because I am saying this is a consensus and it was at the September meeting.

SENATOR COLEMAN: I'm sure she'll appreciate that.  
Thank you. Senator Len Fasano.

SENATOR FASANO: Good afternoon, Senator Coleman, Representative Tong, Senator Kissel. I'm here to testify and I'll do it very briefly House Bill 6926, AN ACT CONCERNING LENGTHY SENTENCES. First of all I want to start off by thanking the citing -- the citing council -- the sentencing council I should say. Sorry. For their hard work and what they do to get these bills together.

They have been relentless, tireless and as we all know yearly to the capital to get this across. And we had a -- a great meeting the other day and we talked out some issues. And the difference between this bill and Senate Bill 796 is first this bill being the house bill only applies to A and B felonies in that C felonies are only up to up to ten years. Number two it would be for juvenile sentences that are not concurrent but which the actual sentence duration is ten straight years.

Number three it would add a victim's of the crime notice so that they would know about this sentence being under review. And I think those

are very, very important. Another part of this bill talks about the ability to tell victims of the crime what the real sentence is given risk reductions and other credits that one can receive.

So they say the maximum is this however they could be out sooner. And I think that's -- that's very fair. And that's the part that deals with the sentencing commission issue that's bene around this capital for a little while. There's another portion of the bill I just want to spend very brief time on which is the risk reduction credit portion. And what we placed in the bill is something that says that manslaughter given where it's a violent act -- and these acts are where someone is first degree or when they're an intent to cause serious injury and death results.

Risk reduction credits we argue should not be applied in those cases where there's a -- an intent to cause a harm and then that harm results in a death. So we're not talking the manslaughter of accidental purposes. We're talking manslaughter where there's an intent to cause harm. The last issue that's not on today but I just wanted to just raise it was the risk reduction credits in its totality which is I believe that risk reduction credits have a purpose.

I think that people can be rehabilitated -- rehabilitated. And I also believe that if people show the right energy, change their lives they should receive credits for that. I think the current system has some flaws in it in terms of supervision and accountability. And I think that the -- the judiciary committee should look at those issues and perhaps think of some ways of bringing some accountability and some reassurance. That's really my

000966

52  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

testimony. And I thank you.

SENATOR COLEMAN: Thank you, Senator. We appreciate your testimony. Are there questions for Senator Fasano? Senator Kissel.

SENATOR KISSEL: I just want to thank you, Senator Fasano for coming to testify on behalf of the senate republican version of the bill. While not all the recommendations were adopted by the sentencing commission the vast majority were. And as I stated to the representatives of the sentencing commission I think the third time's going to be the charm for the passage of the juvenile reform bill.

I think a lot of folks in this state will be happy to see it move forward. I think reform's a valuable function in complying with the United States Supreme Court decisions as well as the Connecticut Supreme Court decision in the Reilly case that just came down last Friday. And again I appreciate all your efforts in working with the leadership of this committee to help move this issue forward for the betterment of the people of the State of Connecticut but also making sure that public safety is of paramount and continues to remain as paramount importance for the citizens that we represent. So thank you, sir. Thank you, Mr. Chairman.

SENATOR FASANO: Thank you, Senator. If I may, Mr. Chairman, just respond to that if I -- just very quickly.

SENATOR COLEMAN: Sure.

SENATOR FASANO: you know I think there's a lot of common ground on a lot of things that we have with various bills or judiciary and in this building. And I think what's unique I think is

000967

53  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

the ability to share these ideas across the board. We're one state. We have to deal with what we have. And the strength of our communities and in our cities is the strength that the state will have. And I think we are working together in various grounds to achieve those strengths and I think that's important and I think it's starting right here now in this committee.

SENATOR COLEMAN: Senator McLachlan and then Senator Boucher.

SENATOR McLACHLAN: Thank you.

SENATOR FASANO: Only republican questions, is that what's happening?

REP. TONG: I think the chair might ask a question.

SENATOR FASANO: Okay.

SENATOR COLEMAN: The republican members are just warming you up, Senator.

SENATOR McLACHLAN: Thank you, Mr. Chairman.

SENATOR COLEMAN: Senator McLachlan.

SENATOR McLACHLAN: I think my leader just told me to shut up is that what he was implying?

SENATOR FASANO: No. No. No.

SENATOR BOUCHER: He knows better.

SENATOR McLACHLAN: Thank you, Senator, for your testimony and -- and your hard work on what's transpired here the last several days on this topic. To the leadership of the committee too for their hard work. I'm very pleased to see some movement in what I consider to be the

000968

54

law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

right direction. But because this is a public venue I had a concern that I would like to get your opinion on and hat is victim notification.

It's an important part of the process and it does appear based upon a case last week in Connecticut that we dropped the ball in the notification process. Is there something that you believe we should address now in this process, in this legislation to firm up victim notification in the parole process?

SENATOR FASANO: Yes. I think there is. I know the case that you're referring to and I actually listened to the tape of that case. So I'm familiar with the testimony and I'm familiar with the questions and what happened.

You know for those of us lawyers who do planning and zoning one of the first things they do before they commence a planning and zoning case whether it's a zoning board of appeals or zoning commission is read the public notice that was put out there and then who was notified if there's a mandatory notice. And I think that's something that the parole board should institute as part of their process so that this never happens again.

SENATOR McLACHLAN: Thank you. Sounds like a simple yet effective fix.

Thank you, Mr. Chairman.

SENATOR COLEMAN: Senator Boucher.

SENATOR BOUCHER: Thank you, Mr. Chairman. And thank you, Senator Fasano. I was impressed by the tone and tenor or your remarks and I agree with you that we have to be extremely vigilant regarding this process particularly how it affects those in our inner cities very much

because there are issues there, no question that are valid and need to be addressed. But you heard some of the testimony just previously on the Supreme Court case, the timing of Connecticut's response, the concern over the last couple of years of the early release program. Some very valid concerns.

And the multitude of bills that have been put forward. And -- and quite frankly and how it would -- might affect whatever is done here. How it might affect cases in small towns like Cheshire, a very well publicized problem there perpetrated by those that are representative of the small town area.

And certainly Sandy Hook is another situation were that individual were to survive that incident and how that might be impacted by some of the initiatives that are being entertained right now and I was just wondering if you had any you know views on that.

SENATOR FASANO: Well I think the supreme court has spoken that based upon the age of a particular offense the maturity if the brain is the issue that they have brought up and that has been focused that science apparently for which they've taken full credit for says the brain doesn't mature after a particular point.

So a decision making process earlier than that particular age may be a factor in the person offending and therefore you want to review that age process, after that maturity level if you would review and see what you feel about it. And the Supreme Court has spoken and I -- and we have to follow what the Supreme Court said. And I think if we put in our supervision requirements you know if we -- if this Legislature embarks upon second chance that the Governor's puts out -- put out, I think it will

000970

56  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

result in a savings. But if we put that savings to our bottom line and not into our communities to make sure that we have the provisions necessary to keep these folks on the right track and the services needed then we're not doing justice to those people.

And that's something that we have to look at. And so but as far as the particular issue at hand I think that the Supreme Court has spoken. We need to follow it. That is the law of the land but we need to have safeguards to make sure that if we do let folks out that they get the proper treatment and have the right supervision. And in their life they have to make that determination.

SENATOR BOUCHER: Thank you very much for that testimony. And I couldn't let this moment pass without mentioning that a great deal of attention is being drawn to the maturity level and development of our young people and how laws regarding illicit drug use should be very cognizant of that when Connecticut moves into the arena of legalizing certain drugs that could impact that young brain. So I appreciate your testimony here today. And thank you, Mr. Chairman.

SENATOR FASANO: Thank you, Senator.

SENATOR COLEMAN: Thank you, Senator. Are there others with questions? Chairman Tong.

REP. TONG: Thank you, Mr. Chairman. Senator Fasano, thank you so much for taking time out of your day to come down here and provide your testimony in support. And thank you for putting forward Bill 6926. I know that Senator Coleman and I and the ranking members you know really appreciate your work and bringing that forward and we were happy to raise the bill. I

000971

57  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

do want to commend Senator Kissel for his leadership not just on this bill but on bringing the parties together and the sentencing commission and moving this down the field and trying to get us over the goal line and to see that this gets passed this year.

So I think he deserves a great deal of credit for bringing us to this point. And I want to thank you for your -- for your thoughtful comments about the risk reduction credit program, about the efforts we're making in this state to rehabilitate those who can be rehabilitated but to also keep violent offenders particularly the most dangerous among us away from our families. I was here when this committee wrote legislation I believe it was 2008 that we passed a bill that was largely a response to what happened in Cheshire.

And I took the laboring oar in writing the part of that legislation that created the criminal justice information system to address what was a very real problem in the Cheshire case which was information that presentence investigation report and information about what the judge thought about the two offenders in that case didn't make it to the parole board. What we learned was that information wasn't shared because people are still moving paper and they should be sending electronic notifications and -- and PDFs.

And leveraging technology. That as I'm sure you know continues to be a multimillion dollar effort to bring 13 plus or more criminal justice agencies together with municipal police and state police and victim's advocates. So that's one major piece that -- that we're working on. It's a long process to ensure that victim notification as you addressed and as Senator McLachlan addressed becomes something

000972

58  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

that's really reliable and timely. And I know that people on the board of partisan paroles do their best. And we need to help provide the tools to ensure that that notification occurs.

In that vein, you know, I know that you have been a big part of efforts as we all have to strengthen efforts to keep violent offenders behind bars and to strengthen the risk reduction program and early release programs. We did that in the bipartisan gun bill. Senator Boucher referenced Sandy Hook and in that bill we included provisions that require certain offenders to serve more than 85 percent of their sentence. And we removed certain violent offenders from the risk reduction credit program.

So again an effort on a bipartisan basis that everyone on this committee and this legislature to rehabilitate those who can be rehabilitated but to keep those who would do us harm and who can't be rehabilitated behind bars and away from our families. So I appreciate your -- your very thoughtful comments about the place that the risk reduction credit program has in our criminal justice system, the positive role that it has, your support for the program and the concept and the aims of the program but also appreciate and hear you very clearly that you're here to help improve the program.

And that to the extent that we can do that, find vehicles in legislation to improve accountability speaking for myself and I think others we share your concern and want to be part of that. So we'll continue that conversation on how to make the program better. I think as Senator Coleman said today it is a policy choice that we've made as a state that it's a program that we want to have, that we want to improve, that we want to strengthen.

And I appreciate you offering to be a part of that. So thanks for being here.

SENATOR FASANO: Thank you, Chairman Tong. And I want to thank you for allowing us to have these discussions. I think they are important. And as we know in this building we pass legislation, an awful lot of times we come back it and revisit it because it is huge. And it is a noble effort to do it for the rec reductions. And I'm sure a continued dialogue will get it and I thank the leadership.

I did not know that you wrote that portion of the bill you talked about. An exchange of information was critical on that Cheshire murder case and it is an important aspect that we keep mindful that we're not in silos in the criminal justice world. We are all together and we need to share that information. So that was a good job. Thank you.

SENATOR COLEMAN: Do others have questions? If not, I just wanted to also express my appreciation for your input not only on this subject but on others that have come before this committee. Your inadvertent reference to the citing council brought me back to our planning and development days.

SENATOR FASANO: Yes.

SENATOR COLEMAN: And the -- those were good days and I look at that opportunity as a chance to form a relationship with people like yourself and other members from that committee. But it's from that point that I've gotten used to work with you and I want to compliment and commend you for the leadership that you exercised in getting us past impasses that occur from time to time. You've been very effective in that regard and I certainly

000974

60  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

appreciate not only on the juvenile sentencing bills but on other bills that this committee has had oversight of. There was one question that did occur to me and I appreciate your view concerning the risk reduction earned credits program.

And I'm persuaded that nothing is necessarily perfect and it can from time to time stand suggestions from improvement. I hope that you're aware that at least my door, my ear is always available to you for whatever suggestions that you have in the way of making what I think is a useful program and I guess you agree. Making a useful program even better.

On the issue that you made reference to, the notification particularly from the parole board on parole board hearings as I understand that incident, I'm just learning about it, but as I understand it there were -- there's a process for registering victims who want to be notified concerning when an offender or an inmate comes up for a parole hearing.

And in the -- the case that you're referencing it was my understanding that the victims who had registered had passed away and so at the time that the parole board hearing was taking place there was no clear indication concerning whom if anyone to contact. As you consider that do you have suggestions, and I know you mentioned your experience with planning and zoning hearings. And so you may have covered this in your response to one of the senators. But if you don't mind repeating yourself if that's what -- what's required, what suggestions would you make in order to ensure that that kind of occurrence does not occur again.

000975

61  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

SENATOR FASANO: Thank you, Senator, for the question. Number one at that hearing it's also my understanding that the prosecutor's office was not even notified that the hearing took place and they were not even at the hearing. They found out after the fact. So it was clearly a gap in the notification.

Now when I say the prosecutor's office did not receive notification I cannot tell you whether it was sent and not delivered or what happened but -- but from a position as I understand it from a prosecutor's office they did not know the hearing was going forward. So nobody was there from the State to voice their concerns. And if you listen to the tape the inmate had described a scenario for which went to judgment and a factual scenario much different than the factual scenario for which was tried and for which was found guilty.

The biggest difference being the allegations as I understand it of the action was that the defendant stood over the police officer within three inches and shot the police officer. And his recounting of events to the parole office was that there was a distance and he was shooting while the officer was running to him. Almost completely different type of scenario. And there was nobody there from the State to say I've got the file, here are the facts.

Why they went into the facts is beyond my skill but nevertheless there was nobody there from the State. So that's item number one. So I would therefore say that it should be read into the record that we notify whoever the requirements are. Number two the wife in this instance the wife had passed away of natural causes. The wife of the police officer passed away of natural causes. There was a -- I believe it to be a niece but I'm still looking

000976

62  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

into this if I may. But I believe it to be a niece who asked to be notified.

SENATOR COLEMAN: That's my information as well. There was a -- a niece, a surviving niece.

SENATOR FASANO: Who asked to be notified of -- to act as the victim -- advocate for the victim if you would. I'm confused as to whether that acknowledgment was acknowledged by the parole board or whoever does this acknowledgment for -- for those types of things. So I have to look at that law to maybe figure out if there's a way and if it makes sense to say if you know parents are deceased nearest relative whether or not it is a niece or daughter or son can stand in the shoes if they wish to -- for the decedent to act as the decedent in those types of cases.

I don't know the law on notifications. I've never read it. So I'd have to look at that. But whatever is decided should be read into the record. Who were the people that were notified in the record so that we all know exactly who was and who wasn't. But as far as the actually who the parties are -- the parties of interest I don't know how that notice reads in the statutes. I've never read it.

SENATOR COLEMAN: My understanding is that the niece learned of the parole board decision after the fact and the parole board learned of the niece after they had already made their decision. But obviously we all agree that if there are surviving relatives that someone of that surviving relatives should be notified concerning that the parole board is about to have a hearing that they would be interested in.

So I guess as is oftentimes the case it's a matter of us again putting our heads together

to figure out what might be the best way to address such situations. But again, Senator, as always we appreciate you weighing in and we appreciate you assisting us and arriving at some of these very important decisions that we have to make concerning the juvenile sentencing bill as well of some of the many other issues that we deal with.

SENATOR FASANO: Thank you, Senator. Thank you very much. I appreciate it.

SENATOR COLEMAN: Thank you. I want to call James Dold next.

JAMES DOLD: Thank you much -- thank you very much, Mr. Chairman. My name is James Dold for the record. I am the advocacy director at the Campaign for the Fair Sentencing of Youth in Washington, D.C. and I'm here to provide testimony in support of Senate Bill 796 and House Bill 6926. I thought that -- there's a couple different ways to -- to view this issue.

There's sort of the moral lens and then there's the legal lenses and I thought I might focus a little bit on the legal lens and address some of the questions that some of the committee members asked previously regarding a trilogy of cases that have come down from the U.S. Supreme Court and then close with some of the moral aspects of -- of why these particular types of policies are so important for the State of Connecticut and provide some national landscape as well to this particular issue. I think it's important that when we're talking about the Supreme Court cases that they be read as a trilogy.

Justice Kennedy who's the author of both the Roper v. Simmons and the Graham v. Florida opinion highlights three important aspects in

000978

64

law/gbr JUDICIARY COMMITTEE

March 4, 2015

10:00 A.M.

the Roper decision that carry on to the Graham and to the Miller decision as well. First is the underlying brain and juvenile behavioral development science that was emerging at the time that wasn't available at the time that a lot of these sentences were imposed upon young people. And what that brain science shows us that the prefrontal cortex, the part of the brain that's responsible for decision making, essentially the CEO function isn't fully developed in young people.

And essentially they rely on the amygdala, a more primitive part of the brain to actually make decisions. This makes them more susceptible to peer pressure, makes them more impetuous. And for anybody that has a child or a teenager who's acted out certainly people can relate to that. And so that part of the -- the juvenile brain and behavioral developmental was essential to the court's holding. It also informed the courts -- this noting that kids are unique because they have a unique capacity to grow and change and develop over time.

And it takes away from the penological justifications for imposing the harshest possible punishments. And this was again in the Roper decision which struck down the death penalty for juveniles. The second thing that Justice Kennedy highlights is the international consensus against imposing the death penalty on juveniles, specifically it was cited in the Graham decision is the conviction on the rights of a child, article 37. President Ronald Reagan's administration played a very active role in the development of several of these provisions.

Unfortunately even though we had signed on as a party signatory we have failed to ratify it. We're one of only two nation states, United

000979

65  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

States and South Sudan who have not ratified that convention and one of the big reasons for that is Article 37 that prohibits the death penalty and life without parole sentences. So there's the international consensus that Justice Kennedy also pointed to that says look the death penalty is abhorrent.

It's a human rights violation for children everywhere in the world except here in the United States. So that was the second big component of the case that was highlighted. And the third thing and this became a recurring thing in *Graham v. Florida* and *Miller v. Alabama* which is that there is this great difficulty distinguishing between youth whose behavior is a result of developmental deficiencies associated with youth and the rare juvenile offender whose actions may represent a retrievable depravity.

And so based on that the court goes on and abolishes the death penalty. In *Graham v. Florida* they outlaw life without parole sentences for juveniles kind of along those same lines of -- of reasoning how difficult it is to distinguish between those kids who can be rehabilitated and those who can't. And then it also goes a step further and likens life without parole to the death penalty because in effect the juvenile will never have an opportunity to leave prison alive. They will leave in a box.

And so Justice Kennedy was very clear about the fact that imposing life without parole on a juvenile is akin to the death penalty. And then *Miller v. Alabama* of course not only struck down mandatory life without parole and I think this is an important distinction, it may help highlight I think where the Connecticut Supreme Court is coming from.

000980

66  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

Not only it strike down mandatory life without parole and invalidates statutes in 28 states but it also required -- Justice Kagan's opinion required that the sentence consider -- consider the mitigating factors of youth any time a child faces a potential life without parole sentence.

And this is important because we can look to state supreme courts and how they've interpreted this opinion. I'll highlight South Carolina which is a pretty conservative state. Recently they came out in a 3-2 decision finding that the Miller decision applies to South Carolina even though it has discretionary life without parole because of the fact that the individual is faced life without parole sentence and the mitigating factors of youth were not considered.

We can also look to neighbor, Ohio State v. Long. That's another state that has looked at these discretionary issues and held that in fact the Miller, Graham and Roper progeny of cases applies to these discretionary sentences. And so I think that helps to explain a little bit about how some of the courts are interpreting the language. I think it is important that they be read together.

And specifically the language about how difficult it is to distinguish between juveniles who commit serious offenses who can be rehabilitated and those that cannot be. So in light of these decisions several states have abolished life without parole wholesale. Some of the states, Ohio, Idaho, Texas, Kansas, Wyoming, Montana, Hawaii, Massachusetts and West Virginia. I mention those states because those are -- they represent pretty broad geographic and political diversity. We're

000981

67  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

seeing bipartisan support on these issues really across the country.

West Virginia has probably enacted what we would term probably the most significant legislative reform in terms of how juveniles are held accountable when they commit serious crimes there. There West Virginia legislature abolished life without parole for children and also required that they become eligible for parole eligibility no more -- no later than after they've served 15 years.

And so certainly when we look at the parameters of S.B. 796, House Bill 6926 those are definitely in line with how other courts -- how other states have responded and what we view to be in line with the -- the meaning, the letter and the spirit of the Roper, Graham and Miller decisions.

And finally I'll close. I know my time is up here. I'll close out just by saying, and I'll quote Newt Gingrich who we've worked with -- former speaker Newt Gingrich who we've worked with on legislation in California who supports these types of policies as well. He says -- you know he quotes scripture and he says Jesus tells us to do unto others as we would have done unto us and how would we want our kids treated if these happened to be our children who got caught up in the system.

We'd want to give them second chances. And so these policies are about mercy.

They're about the potential for second chances and the potential for redemption of our young people. And certainly if children aren't deserving of our mercy then who amongst us is. And so with that I'd close and be happy to answer any questions that you may have.

000982

68

law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

SENATOR COLEMAN: Are there questions for Mr. Dold?  
Seeing none, thank you very much for your  
information here.

JAMES DOLD: Thank you.

SENATOR COLEMAN: Natasha Pierre is next.

NATASHA PIERRE: Good afternoon, Senator Coleman and  
members of the committee. I'm Natasha Pierre,  
the state victim advocate. I am here for  
several bills today. I'm just going to quickly  
talk about the ones we support. We're here for  
Senate Bill 796, House Bill 6923, House Bill  
6926 and House Bill 6939. Regarding House Bill  
6923 we support the effort to provide  
protections for sexual -- victims of sexual  
assault by requiring that any evidence of the  
sexual conduct of a victim offered by the  
defendant be filed under seal and that there be  
an M camera hearing.

So we support that initiative. We support  
section two of House Bill 6923 which will  
establish deadlines for the transfer of sexual  
assault evidence collection kits to the state  
lab so that such kits are not sitting in police  
department evidence rooms. These deadlines  
will ensure the timely transfer analysis -- and  
analysis of evidence which will assist in the  
investigation and prosecution of cases  
involving sexual assault. We also support  
section 11 of House Bill 6926 which requires  
the state attorney to provide additional  
detailed information regarding a defendant's  
period of confinement after a plea agreement to  
-- directly to victims of crime.

This is really important to ensure that victims  
understands the nature of the sentence going  
on. Often we get calls where they just did not

understand there were opportunities for early release. And when they get that notice they -- it comes as a shock to them. So if we can improve that in any way we would support that. Section 12 of House Bill 6926 will add tow crimes, manslaughter first degree and manslaughter first degree with a firearm to the list of crimes that are ineligible to earn risk reduction credits.

Currently it limits six specific crimes including murder that are not eligible. However a defendant originally charged with murder may accept a plea agreement and be convicted of manslaughter thus becoming eligible to earn risk reduction credits. We want to make sure that murderers are not earning risk reduction credits as intended by pleaing down. So that -- if you add those that will address some of those issues. Those are the main ones we support.

And now I'm going to talk about the juvenile sentencing much of what you've been talking about recently. As Andrew Clark from the sentencing commission pointed out the vote for that issue went in September. I became the state victim advocate on December 26. I went to one sentencing commission where this concept was discussed generally and I probably should have abstained but I let the vote go. Our office agrees with some of the principles but we think it's gone way beyond what is needed to happen in the State.

SB796

So we realize that in some cases a juvenile defendant may be worthy of a second chance and be considered for the potential of early release. From the victim's perspective the age of the offender does not lessen the impact suffered by the victim. The OPA strongly believes that these cases -- there are cases

000984

70

law/gbr JUDICIARY COMMITTEE

March 4, 2015

10:00 A.M.

where juvenile offenders has clearly and consistently demonstrated their propensity for violence and are a continued threat to victim and public safety.

And it requires some deep analysis of these -- the proposals in the two bills. We had two crime victims here today. They had to leave. One came down from Vermont and had to go back. Both these victims were involved with the same defendant. The first victim the defendant killed his -- carjacked his son's car and killed him. And then three days later he went and tried to carjack Michael Clark's car and Michael survived. That's the one in Vermont that had to go back.

In those cases you can understand how a victim would be confused and upset by the whole proposal that just because they're a juvenile they should get multiple opportunity to seek release. We have no issue with a second chance look. We have concerns about the language that in the case there might be multiple opportunities to go before a board to be released. Each and every time those happen, you had a short conversation about that, a victim if they are engaged in the process they're going to be there each and every time to make their statement and live with the consequences since there is no appeal process. So though we want to change the system for juveniles and we do agree with many components of it, it needs to really be looked at and determined how is this going to impact the victims in the communities where the defendants are returning to those same communities where their victims are in some cases.

What are we doing about them? So in this national look in my -- my testimony is much more detailed and so you can read the ten

000985

71  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

pages. But that's our general principle on that issue. I did in my haste to try to get through a couple things I missed a couple of issues that we are -- we would like to go on record with noting. There's one provision in Senate Bill 63 -- 6939 which would allow a period of probation for certain sexual assaults and it would allow the court to consider probation and there's no prohibit -- prohibition against the court imposing a sentence of probation only.

We really want to clarify that language that if that is a movement that they should -- there should be some period of time where the person is incarcerated. You should not be allowed to sexually assault someone under a first degree offense and just get probation. And also there was also language in there requiring a ten year sentence which cannot be suspended or reduced by the court if a person commits sexual assault in the first degree against a minor.

However the way it is written it will not be a mandatory minimum. We've attached AG opinion that the office of victim advocate sought to address some of the mandatory minimum language. And the only way that would be a mandatory minimum is if the language is amended to say ten years of the sentence may be -- may not be suspended or reduced and the key is in any manner. Take a look at that AG opinion who goes through the different areas where it's really not a mandatory minimum sentence. And I think that's it. I have several pages. If you have any questions I'd be happy to answer them.

SENATOR COLEMAN: Thank you.

NATASHA PIERRE: And actually though the -- the victim I talked about they actually submitted testimony so you can read their story

HB 6926  
SB 796

000986

72  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

yourselves. That would be Jack Holden.

SENATOR COLEMAN: Are there questions for the state victim advocate? Senator McLachlan.

SENATOR McLACHLAN: Thank you, Mr. Chairman. Thank you, Attorney Pierre, for your testimony. I think you may have heard my questions earlier about notification. And could you easily identify -- two things, does a challenge exist in the notification process, number one? And number two is there an easy fix as Chairman, Senator Coleman asked of Senator Fasano is there something we can do to make that notification process better.

NATASHA PIERRE: There are challenges. We have gotten calls from people that have never got notice throughout the process and then once we get any contact the proper court they get notice. Now that could have been that they didn't connect with the right people when they went to court or they didn't go to court. So there are some challenges. There are also some timing issues.

Sometimes a case is coming up, they call, the victim will say he's coming, the victim can't get to court in the few hours it takes for them to do -- do that transaction so they have to move forward to protect defendant's rights. So I mean some of that can be tweaked. And the -- the one problem is if you don't know you have a victim -- when you have a victim and you know you need to provide notice that's different from not knowing that you have victim that you need to notify. So you talked about that -- the parole board issue just recently.

Unfortunately someone was notified, that person had passed away but the mail wasn't returned. So one way it's about resources. So you can do

different ways through contacting people through email or telephone and just not rely on mail. If for some reason something is returned do you do a google search to figure out where the family is now. I mean -- but it's going to take an extra step.

And it's going to take notice that the person didn't get that information you required of them. Right now most of the notice comes from OVS or DOC. And specifically it's not provided from judicial because there were some concerns about privacy and address and once you put the information into the case file you can no longer protect that information.

So I mean I'm pretty sure there's a way to do it we just have to figure out a way to work with what we already have and maybe add some more resources or some tweaks or another step in the process to make sure we don't miss anyone.

SENATOR McLACHLAN: Thank you. And -- and so in the process parole hearing begins. I assume you've attended one of those at some point.

NATASHA PIERRE: In the process -- I'm sorry. I didn't hear the first part of that.

SENATOR McLACHLAN: So we're in the process. A parole hearing begins and you as the victim advocate look around the room and you don't have a victim there, what happens? In other words my point is doesn't somebody sort of notice that when the hearing begins that someone's missing in the room?

NATASHA PIERRE: Well we're -- we are not at hearings unless we have a client we're representing. So of course if we were involved we would know our victim's not there but in

000988

74  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

some --

SENATOR McLACHLAN: Okay. I understand that.

NATASHA PIERRE: Yeah. Okay.

SENATOR McLACHLAN: But I'm using you as sort of the  
--

NATASHA PIERRE: But in some cases yes you can look around and say nobody's here but you'd have to look and see if the family had a history of participating. In that particular case that -- that family had participated in almost every hearing except maybe a couple. But they were a couple -- they were a recent couple of ones. So it wouldn't have been unusual for them not to notice. But yes, I mean at the time of plan -- planning the hearing that's when you should be talking about notifications.

And maybe it needs to be some confirmation from the victim that they got the information. So if you're relying on mail and you don't get any mail returned if you didn't get that follow up call from the victim saying yes I got this information then you know they didn't get it. But it's not unusual for victims not to be there all the time. So I don't know if you can really have that be a staff function if -- you know what I mean. I don't know that -- a victim is not always there so it's not always unusual and you'd have to have some indicators to show you that yes it's unusual that this family's not here because they've been involved throughout this whole process and so it would be on the file more.

SENATOR McLACHLAN: Thank you. Thank you for your testimony.

NATASHA PIERRE: You're welcome.

SENATOR COLEMAN: Are there others with questions?  
Seeing none, thank you very much.

NATASHA PIERRE: Thank you.

SENATOR COLEMAN: Leslie Aponte.

LESLIE APONTE: Good afternoon. Good evening. I kind of lost track of time. I don't know where we're at. I apologize. I'm still trying to gather my thoughts. I had no -- I had no clue that anyone other than myself would be giving a testimony on behalf of my son, Nick. So I'm still kind of emotional about it and so appreciative. I had no idea she was going to come up and speak. My name is Leslie Aponte. And I am here for the third year in support of Senate Bill 796.

I'm here on behalf of my son, Nicholas Aponte, inmate 240836 whom is currently serving a 38 year sentence at MacDougall CI. Although my son was not the shooter he was a codefendant and was charged with felony murder. My son was 17 years old at the time of the crime and is now 37. He is in his 20th year of incarceration. I have submitted to you an article written by Michelle Hackman. Here, this is my son, whom she wrote this article because she has seen in my son a perfect candidate for this bill if it were to be passed. I am so grateful for that.

I'm grateful that she took an interest in my son's situation. That is one of two articles that was written on my son here. I believe you -- I submitted this one here that was written back in 2013 by Associate Press, Susan High I think her name was. And I know having but a limited time here for this testimony. I will hope that if you haven't read that you would

000990

76  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

read the articles that were written on my son so you can see his growth since incarceration.

Once again I will say with all due respect to victims and their families but I am proud of the person that my son is and has grown to be. He has continued to educate himself with the college courses that both his brother and I paid for. He has his associate degree -- excuse me, his associate degree in psychology and is currently working on his bachelor.

He works as a nurse's aide in the infirmary at MacDougall. He also works with the hospice patients. All I can ask is that you please read his story and please pass the bill this year and let my son be or have a chance at being a productive member of society.

SENATOR COLEMAN: Thank you, Miss Aponte. Are there comments or questions for Miss Aponte?  
Chairman Tong.

REP. TONG: Thank you, Mr. Chairman. Thank you for being here.

LESLIE APONTE: Thank you for having me.

REP. TONG: And for waiting and for putting yourself out there as a face of this issue and helping us understand it on a human level.

The Miller case I think as Justice Kagan spends a good deal of time talking about the science, talking about young people and how they have different risk profile, risk tolerances than people who have more maturity. How they don't perceive risk in the same way, how their brains are less developed.

You know I just wanted to give you an opportunity to tell us how your son has

000991

77  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

changed, what -- what he was like when he was incarcerated, when he -- at the time that he you know was found guilty of this offense. And what's happened to him since then. And tell us, you know as a parent, you know how if at all you've seen him change and develop and mature. I think it would be helpful to hear how you've lived that.

LESLIE APONTE: Oh. Well I didn't think that I was going to have the time for all that and it's just --

REP. TONG: I'm giving it to you.

LESLIE APONTE: Okay. Awesome. I mean it's a lot. I mean it really is. This article is amazing. I am so grateful to her. You know she interviewed my son. She interviewed me. She interviewed my family. Basically this whole -- it's a little book here that tells his whole life but yes my son was -- as he was younger he was a sensitive person. When he -- when he -- when his friends would you know in school get hurt or get bullied he'd come home crying.

And I would be like oh my god, somebody what did they do to you. You know? And you know would come to find out that it wasn't him. It was one of his friends. And he was so hurt behind his friends being bullied or being picked on that was just the kind of sensitive person he was. It came to a point in my son's life where -- and you can read in the story too that we saw a change in him mainly because he had a very -- my ex-husband was very abusive. He was very jealous, very abusive towards him. And he isn't his real father but we never let him know that. He -- I couldn't -- you know I was young, I was 16.

I was married at 17 when I met his stepfather.

000992

78  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

His father was never in his life. His father was -- parents were doctors, didn't want anything to do with a child, sent him away, changed his name. We never found him. So his father's never been in his life. You know to make a long story short his stepfather upset with me you know for whatever reasons that he would be upset deliberately told him, you know kind of threw it in his face that you know I'm not your father without me. Without -- this was something we had planned.

For years I used to say well at what age can we let him know that you're truly not his father. I didn't -- you know I was young. No one was counseling me. I was like when do we tell him? And I think at that point was when Nicholas really kind of you know losing his identity. He started -- you know he became a follower. In school he just -- you know he just started to get a little bit out of hand with the whole -- you know he knows why now he was -- like he felt why now he was abused as a child and he was never really -- his father never truly loved him. Which wasn't entirely true.

Well the part of abuse is true but he did it to his own kids too. He had issues. So with my firstborn with him he was the same way, very abusive which was Miguel who was another codefendant in this particular case. And I -- you know his father threw him out at the age of 14. If you read in my story you know I was in a religion that wasn't -- I wasn't allowed to go against my husband at the time. I had to you know -- if he felt he needed to be thrown out of the house then he needed to be thrown out.

And at that point was when thing started falling apart in the house. I eventually left his stepfather and Nick came to live with me

000993

79  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

because I didn't want my son living in the streets. I left my religion and I (inaudible). I loved my son. I wanted him with me. At the time he was a follower. He followed his cousin and this is when the robbery occurred. It had no control over --- entirely over it.

His cousin was the one with the gun. He said he wasn't going to shoot anyone but he did. And you know we took it to trial and my son was charged. And he got 38 years. Now in the facility it was hard for him in the beginning. He was -- had gotten involved with the Latin Kings during the time that he was out on the streets. They tried to treat him like a family, come with us, we'll take care of you. You know.

With total regret I think within a year because when he had his son at 16 he was allowed to get out of it. They allow you if you have a kid to get -- I have no clue about their rules and regulations but this is what my son had told me.

But my son had gotten a different way. So he didn't take that opportunity. Once he committed this crime and you know they even caught him in prison. He was assaulted in prison. He has a metal plate that holds his jaw together that smashed him with a weightlifting pipe. I made they made him pay for not leaving the right way.

But it took him some time. He had to defend himself when he first went into prison and then I would say throughout the -- you know the first couple of years I mean if you read in here he started actually reading letters from the family written to him. And that point was when he just -- it just struck him you know. He's a father.

000994

80  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

He sympathized with the father of the -- Mr. Horan who you know -- who his son died. And he just became -- he started getting into just studying and really accepting the consequences of his sentence and he's matured ever since. I go to him for everything. I mean I was 16 when I had him. I never even finished high school. He knows so much more than me. I go to him with everything. He's a lot brighter and smarter than I am.

REP. TONG: Well I want to thank you again for being here and for sharing your story and -- and helping us understand this beyond the text of the legislation and what we read about. Thank you. Any further questions? Thank you again.

LESLIE APONTE: Thank you.

REP. TONG: Rachael Ortiz. Good afternoon.

SB796 RACHAEL ORTIZ: Good afternoon. I'm going to read a testimony on behalf of my husband Wilfredo Ortiz that's incarcerated now. Okay. So good afternoon. I would like to thank the committee members for allowing me to present my testimony and thank you to my amazing wife for making this all possible. I love you Rachael. My name is Wilfredo Ortiz. My inmate number is 267596.

I'm currently serving a 27 year sentence for felony murder. At the age of 17 I was involved in a robbery and the result of the death of Mr. Ahmed. The hurt and the suffering of so many years I am very sorry and I take full responsibility for all my actions. My ignorance and my stupidity changed a lot of people's lives forever. No matter how good I do I can never make up for my past. I think back on my thoughts into that horrible night

000995

81  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

when an innocent man lost his life for no reason. Whatsoever I cannot help but to feel pain and hurt.

I grew up on the streets and I joined a gang where violence was the normal thing to see and I became a product of my own environment. I found myself at the age of 17 in prison but since I have accomplished so many things. And I am so proud to say that I'm not that 17 year old kid anymore. I do not want that night to define who I am today. I have taken advantage about every program that the DOC offers and focused don every moment of my incarceration.

The number one thing was completing my GED. I remember receiving my diploma in my hand. That was a joy. And then came the hospice program or in the prison infirmary I have spent a lot of time with dying men from all walks of life. Sitting there by their death beds and watching these men fight over their lives has changed my life forever. And how valuable life -- and its experience has allowed me to reflect on so many things in my past and present. I'm looking forward to a future. Currently right now I am a certified nurse's assistant which is an amazing opportunity for me to give back to those in need.

I wake up every morning proud to go to work at Osborn Infirmary. I work with wheelchair bound patients, the mental patients and total care patients. I see firsthand how cancer destroys people's lives since working as a CNA and hospice caregiver. I've grown so much and I've learned to appreciate the little things in life from my dedication to the ABP program as well.

I'm also a coordinator of this program too at Osborn CI. Last but not least my loving wife and our son. After all these years my fiancée

000996

82  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

we were married on September 16 thanks to Minnie Gonzalez, the State Representative god blessed with me amazing wife -- I've only got like two sentences left. May I finish?

REP. TONG: Please proceed.

RACHAEL ORTIZ: Thank you. God has blessed me with -- I'm sorry. I took this awful situation and turned it into a positive one. I've learned my lesson. I'm not the 17 year old child anymore. I'm a mature 34 year old man and have been rehabilitated and have the -- have a life ahead of me. I forgave myself in order to change and to grow so that if I am given an opportunity to be released I will be a productive member of society, a law abiding citizen and I have job opportunities upon my release.

I sit here today with no opportunity to earn good behavior or eligible for parole. I believe a second chance in support of this legislation and juvenile reform. Please put politics away this year. I'm a human being who's made several mistakes but please look at who I am today. Thank you for allowing me to address the committee members allowing me to present my testimony today. Sincerely Alfredo Ortiz.

REP. TONG: Thank you very much.

RACHAEL ORTIZ: Okay.

REP. TONG: Great job.

RACHAEL ORTIZ: Thank you. I was so nervous.

REP. TONG: You represented your husband well. Any questions? Thanks for hanging in there.

RACHAEL ORTIZ: Thank you.

000997

83  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

REP. TONG: Larry Deutch. Good afternoon.

LARRY DEUTCH: Good afternoon and thank you to members of the panel and the persistent members of the audience here. My name is Dr. Larry Deutch. I'm on the city council right here in Hartford. And prior to getting into legislative business I was a high school teacher and a pediatrician so I'd just as soon speak on issues of young people judgment and living life as a young person and trying to address some of the questions before us today.

(SB 796)  
(HB 6926)

Besides having been a high school teacher and a pediatrician I'm also a parent of three and I would guess that many in this room are either parents, have been teachers and certainly have been the age of 15. Everyone has been that and the -- the case I have in mind coming to you is of a young person who had lived within walking distance of this very building and got caught up in a very messy incident as almost a bystander except swept in as many of you know can happen with a young person and others have testified.

We've heard all kinds of things about amygdalas and frontal cortexes in the brain and maturity and what the Supreme Court has looked at. We've heard about Graham and Miller. And we know by now not only medically but legally that times have changed and some of the laws that have been enacted and the fact is some people still in this assembly stick to are sort of old and need updating. I think that's what people are saying now.

So rather than having prepared remarks I guess I best stick to some personal experience whereby some years ago I was on a jury. Again within walking distance of this building and

000998

84  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

saw the case of a young man who at the age of under 16 was -- was swept up into a nasty street crime and was convicted on three counts and not on the fourth. And the three counts had to do with accessory to murder. He was not the person who pulled the trigger. He was not the person who engineered the whole situation or even knew that it was coming.

So we -- we find that were various charges and he was convicted on some of them on technicalities I must say. As a -- as a lay person not a lawyer you could say that when you hear a case and sometimes you have to judge it's the technicalities that can -- that can supervene in a -- in a jury room. In judging this and getting to our point that it's necessary and common sense to have the ability to have a hearing under certain circumstances even after a conviction on a very long sentence which is our subject today. Sentences of 30, 40, 50 years if not longer which are put in the legal context which may not fit the situation. I suggest that when we're looking at questions of changes in the term -- in the terms for parole or eligibility for parole or instead as I'd like to see it the eligibility even to a have a sentence modification hearing. That's what some of us have come to it.

A sentence review and not to have it dependent on the say so of the original prosecutor. As I understand it again not -- not being a lawyer and only being you know part time city council of course, we have to know these things and we find that a person can have a really good case, a good presentation and there's a young that I know right now in Cheshire for the past 16 years or so that he because of the charges at the age of 33 now still has no opportunity of release the way things stand now until he's 47. Forty seven.

As I understand the legislation now if a sentence is 50 years or less you have certain options 60 percent of the sentence or oh I don't know, 12 years, whatever's less. I read the legislation but you would all know it better than I do. If the sentence is greater than 50 years then the opportunity is less. I would suggest that this is a terrible waste not only of the State's money, this has been shown time and again how expensive it is to incarcerate a person year after year rather than educate him or her.

Well in this case we have I must say quite frankly a prosecutor's office that has not in my mind been sensitive to a careful review of this case, of this situation. A prosecutor who may have his or her own set of biases. Could be aged based, racially based, socially based. In this case this prosecutor she's already left. Maybe not to hear all of our testimony but has been (inaudible) in my mind a little dismissive of at least giving this young man a hearing. And so my suggestion is that rather than have the -- the opportunity for a sentence reduction or a hearing that there be an impartial panel or a judge, anyone other than -- than him or her that was originally involved in the prosecuting case because it's just common sense.

It's not republican. It's not democratic. It's not working families or any political issue. It's a matter of common sense as well as the science that you've all heard about from the Supreme Court and medical circles. It's not a case of -- it's not a situation only of case precedent, Graham and Miller and so on. And all these doctors and child developmentals will come before you and say as I'm sure you all know if you've had a 14, 15, 16, 17 year old or

001000

86  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

have been one your judgment is not always perfect second to second.

So I think I have -- I think that's it except we also need to maintain a good system of a public defender's office adequately funded for those who are unable to afford their own private lawyer at an exorbitant expense but obviously for some the family can afford it. We need a public defender who can be insistent and persistent and consistent.

The same one following a case through without let up, without -- without a gap in his or her coverage so that I wouldn't have to point to a case of a young person who's been in Cheshire now for what did I say 17 years or so and faces another what 15 -- whatever the legislation is you passed rather than at least having a review. It doesn't mean that he has to be let go. So the appeal that I make a little emotionally I must say knowing the situation is that there has -- at least has to be an opportunity, a second chance as some have said, an appeal, a hearing.

And then if it's felt that this is too much of a risk obviously there's a delay until the next opportunity to prove himself or herself in prison and how well some of them have done and what they could add to our own experience as some have said. Thank you. Any questions.

REP. TONG: Thank you, Mr. Deutch. Any questions?  
Thank you so much for being here today.

LARRY DEUTCH: Thank you.

REP. TONG: Thank you. Laura Herstovitch. Good afternoon.

LARA HERSTOVITCH: I think I get to be the first to

001001

87  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

say good evening.

REP. TONG: Yeah. Good -- yeah.

LARA HERSTOVITCH: It will be.

REP. TONG: Ten seconds past. Good evening.

LARA HERSTOVITCH: I don't want to spend ten seconds of my three minutes waiting for evening so good evening early. My name is Lara Herstovitch. I'm deputy director of the Connecticut Juvenile Justice Alliance. Thank you for the opportunity, Representative Tong, Senator Coleman, to testify this evening. We're a private not for profit organization that focuses on keeping children and youth out of the juvenile and criminal justice systems in the first place. We advocate and work on public policy for those young people who end up involved in the system that they be treated safely, fairly and effectively. There -- there's been already a rich, deep, detailed discussion about the issues around Senate Bill 796 which we are strongly in support of which is why I'm here today.

And so I don't want to belabor the points that have already been made but there are some that I really just want to emphasize in my time. So you know in short we believe that to lock up a child and throw away the key is wrong. We believe it's wrong ethically, morally, legally though I'm not a lawyer and fiscally. There are lots of people as you all have already heard who are serving long and life sentences for offenses that were committed before their eighteenth birthday and there's currently no mechanism to determine if that sentence remains appropriate 12 and 30 and 40 and 50 years later.

001002

88  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

So we are excited to hear from Senator Kissel and others that this -- the third time is a charm and that this hopefully will be the year that Connecticut moves this important piece of legislation and concept forward. So just to highlight again the points that you have heard before we're talking about adolescent brain development. We -- any of us remember back to then and certainly you know one little mistake would have landed me deep in the adult criminal justice system. And that certainly is something that does happen for our kids.

We -- we know that juveniles are -- are very different from adults and have a much deeper, greater capacity for change, for growth, for rehabilitation, for healing if we give them that chance. So this bill as you have already heard would do three things. It would end mandatory life without parole sentences for children and youth, it would require that judges consider the factors of youth when they're looking at sentences that could involve life in prison and it would provide parole eligibility rules for those same children and youth. And for that reason we believe that Senate Bill 796 would not at all jeopardize public safety.

And actually would protect it more than letting the courts decide -- decide these cases. So you've already heard leaving it to the courts is incredibly time consuming, expensive, could end up with arbitrary sentences depending on the certain factors in different -- in 200 different cases and running. Moving forward very important that -- to distinguish that in this case there would be supervision by the parole board.

And that would not be true in the -- in a case where the courts might decide to review a

sentence, someone who would then be released. So we believe strongly that this process would be much more respectful of the victims and help them understand in a very clear way what that process would entail and would provide accountability for any of those defenders who might be released, that they be supervised and given supports through the parole process to succeed when they go back to -- to the community.

So I think I actually will stop there except that I also want to add my thanks, the alliance's thanks to the sentencing commission for their painstaking work in carving out this consensus language. I understand -- I didn't hear where we live this morning on WNPR but I understand the Governor was a guest with John Dankosky and said that he would sign of hopefully will sign when this legislation gets to his desk. Thank you.

REP. TONG: Thank you, Lara. And thank you for all of your efforts with all the juvenile justice initiatives that we have before us and in the last few years. I'm struck by some of the testimony in particular Miss Aponte's testimony. I believe that the defendant in Miller or at least one of them was found guilty of felony murder and we have heard about others who were found guilty of felony murder.

And I certainly do not excuse, condone but certainly don't excuse that conduct. It's a very, very serious crime against both victim and against society. That being said felony murder is different than -- than murder in that it is a -- it is -- the crime is being involved in committing a felony during which someone is murdered. So you may be found guilty of felony murder even though you are not the shooter.

001004

90

law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

And I think that's -- again not to excuse the conduct but it's interesting some of what we were talking about are people who were found guilty of felony murder and being in the group of people -- and I don't mean to minimize by saying being at the wrong place at the wrong time but being there when somebody else perpetrates a murder and then -- and then facing the full weight of the criminal justice system and decades long sentences. So it's interesting to keep that context in mind.

LARA HERSTOVITCH: Yeah. And I'm glad you raise it actually. I mention it in my written testimony that I didn't want to read to you but right so this could be true for a young person. And we know that young people are susceptible to peer pressure.

In Connecticut children as young as 14 years old can be transferred to the adult system so we're talking about you know very young children who can be susceptible peer pressure of older siblings, older adults and so on or someone who serves as a lookout if you will in -- in a crime or someone who's sitting in a car that happens to be involved then in a shooting can then end up with -- with one of these sentences. The other clarification I guess -- and I think the individuals who raised those questions aren't here now unfortunately but hopefully they will -- I'll circle back to then anyway.

There have been a number of cases that have been mentioned as examples of the types of things that might be related to the so called second look bill and one was -- it was -- Representative Adinolfi talked about a 21 year old and someone else mentioned Adam Lanza and someone else mentioned Cheshire. None of those offenders would -- would come under if that

001005

91  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

were to happen now god forbid, none of those offenders -- this bill would not pertain to any of them.

This is for people who commit offenses when they are younger than 18 years old. So I just want to make sure that -- that folks understand that this really is for children 14 years old through 18.

REP. TONG: That's an excellent point. And I appreciate you underscoring that. The Miller and Graham decisions, three quarter of the discussion in each of those decisions which are both very long is about children.

LARA HERSTOVITCH: Yes.

REP. TONG: And how children are different from adults and when we say children we mean children. It's not really a term of art. And so I appreciate you underscoring that for us. Any other questions? Thank you.

LARA HERSTOVITCH: Thank you.

REP. TONG: Aurelia Price. Are you all Aurelia Price? Are any of you who are not Aurelia Price also signed up to testify or no, you are all joining Miss Price in her testimony.

AURELIA PRICE: Yes. I'm sorry. We're actually representing the school of social -- UConn School of Social Work. So I am Aurelia Price.

REP. TONG: Okay good.

AURELIA PRICE: But Aswad Thomas is going to speak.

REP. TONG: Excuse me for one second. Could we -- could you please each read your names into the record. I appreciate you all being here. We

001006

92

law/gbr JUDICIARY COMMITTEE

March 4, 2015

10:00 A.M.

are going to give you three minutes total. You won't each get three minutes but if you could give us your names and then -- and then we'll hear from you.

SANDRA LOMONICO: Sandy Lomonico.

LANDON OSBORN: Landon Osborn.

ASWAD THOMAS: Aswad Thomas.

AURELIA PRICE: Aurelia Price.

REP. TONG: Okay. Please proceed.

ASWAD THOMAS: Hello, Representative Tong, members of the judiciary committee. We'd like to thank you for hearing out testimony today. We submit this testimony in support of Senate Bill 796. As students at the school of social work we have been doing you know work around criminal justice issues, criminal justice reform, mass incarceration and juvenile justice. As social workers we feel that this particular policy should be supported and implemented because children and youth are more likely to reform than adults who commit crimes of the same offenses.

Therefore a line should be drawn between how we treat youth who commit crimes as opposed to adults. The bill fits in directly with the second chance society Governor Malloy proposed in recent weeks. If we are choosing to build our communities through creating alternatives for those who have made mistakes then youth should be a priority. As quoted in the Governor's speech to the Yale Law School, people, particularly young people make mistakes. This bill would make a major statement in our efforts to build our citizens through a second chance motto.

In addition citizens of Connecticut are paying close to three times the amount of money to incarcerate those eligible for Senate Bill 796 that is for community supervision. This bill would reduce unnecessary costs, the costs of dragging these cases through courts are also reduced as hearings would be upheld and sentenced to a more extensive and supervised manner by the parole board. Again we stand here to ask you to support Senate Bill 796. We thank you for hearing our testimony today on behalf of students at the University of Connecticut School of Social Work.

REP. TONG: Thank you. I wondered as you were testifying if in your studies or any clinical work that you do you come across work with young people in the criminal justice system or who have had run ins with the law. Is that part of your coursework and clinical experience?

AURELIA PRICE: Absolutely.

LANDON OSBORN: It is part of our coursework. What we've been doing this past school year is actually trying to push criminal justice and juvenile justice studies more so we've been meeting with faculty and we also meeting with the administration. Just last week we met with administrator to push further our studies within our criminal justice and juvenile justice seeing that many of the students at the school of social work intern with youth are families who have been affected by the criminal justice system or juvenile justice system.

AURELIA PRICE: We also have found in some of the research that when dealing with juvenile justice that restorative justice measures have shown more appropriate behavior in the future

001008

94  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

rather than punitive.

ASWAD THOMAS: And I think all of us have shared work experience working with youth that have been incarcerated. You know giving a youth a second chance is very important. You know a lot of -- a lot of hope you know are gone from the youth that have -- you know that are serving a life sentence. And therefore giving them that second chance look can you know maybe you know spark their mind, you know give them a little bit of hope, more hope to you know to further change their lives. So we believe you know this bill will help support youth and families in our communities.

REP. TONG: Thank you. And thank you for committing to this, to studying in this line of work. It's tremendously important as we talk about second chance and reentry and helping people you know rehabilitate when they've -- when they've found themselves on the wrong side of the law and being productive members of society. Any further questions? Thank you for being here.

LANDON OSBORN: Thank you.

ASWAD THOMAS: Thank you.

REP. TONG: Charlotte Finegold. We have more than one Charlotte Finegold. Is that right?

CHARLOTTE FINEGOLD: -- our testimonies.

REP. TONG: You may. Although I will note for the members of the public and for the committee that is not normally our practice and in the future we would ask that you -- when you sign up that you testify when your number's called. There are other people who have been here all day who have also been waiting for an

001009

95  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

opportunity to testify and it's not fair to them if you're able to go in front of them. So -- but I -- this time yes. So please. Thank you very much for being here today.

JOSHUA FEINZIG: Thank you.

CHARLOTTE FINEGOLD: Thanks. And we will keep ourselves to three minutes. So my name is Charlotte Finegold and on behalf of the more than 175 members of the Yale undergraduate prison project I urge this committee to pass Senate Bill 796. A lot of my points have already been stated but I'm here to bring the perspective that my organization offers. And also as a teenager I am perhaps more likely than others to be repulsed by the idea that a youth's decision likely influenced by peer pressure could determine the rest of their life. But I'm not alone.

Neurologists agree with me as do the 929 Yale and UConn students who signed letters in support of this bill which will be presented to you later in this hearing by a member of the Yale college democrats. The stakes are extremely high for approving this proposal in this legislative session in part because of the Connecticut Supreme Court ruling on Friday but more importantly because the futures of dozens of men and women depend on this assembly's decision like Nick Aponte. Our organization is based on the humanistic presence that people are capable of self improvement and should be recognized for turning their lives around.

We work with more than 60 students at Mason Youth Correctional Institution, the New Haven community correctional center and York Correctional Institution who like Mr. Aponte are devoting themselves to their education and deserve a second look. The men I have tutored

001010

96  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

at New Haven's jail have been convicted of everything from minor drug offenses to murder. For a few months I worked with a man who was convicted of homicide at age 17. At age 14 he had dropped out of the classroom and into a gang and the night he that was arrested he had no idea what he was doing.

I learned all of this after I had led him through sheets of word problems and after he failed his GED twice and then passed it on the third try. We always seem surprised to find smart and hardworking individuals in jails and prisons for some reason. But he is not an exceptional case. He like all our students and many others is channeling his remorse into his education and starting over. I may not know all the details of the cases of the men with whom I work but I am not naïve in thinking that they deserve to be given a second look. Their stories conform to evidence that shows that those who enter the criminal justice system as juveniles are more likely to better themselves. If the committee fails to pass this proposal it would ignore this evidence and the resilience shown -- the resilience shown by those like Nick Aponte and the prison project students who are committed to contributing rather than burdening society.

JOSHUA FEINZIG: And my name is Josh Feinzig. Like Charlotte I stand in favor of Senate Bill 796. I'm also a Yale University student and I cofounded a 501(c)(3) nonprofit organization called Project Youth Court a few alongside the New Haven Family Alliance. Our program is centered in New Haven and we work to establish alternative diversionary juvenile courts rounded in the principles of balanced and restorative justice.

We're currently on track to create the first

youth court in Connecticut's history. And it will try the majority of second time misdemeanor cases in New Haven come next year. I wanted to speak specifically on the superfluous question or why is it the Legislature's responsibility to take up this piece of legislation. It's important that this reform is instantiated by the Legislature and is animated by collective representative voice.

The concept of life without parole in juvenile sentencing is by definition absolutely incompatible with the vision of juvenile justice that countenances restoration. Life without parole implies that the crime can never be forgiven. It implies that communities can never be able to fully repair harm done and that the absolute suppression of a convicted person's freedom for his or her entire life is the only way to come close to sufficient retribution.

The criminal justice reform led by this Legislature can inspire other forms of progressive initiatives at all levels of Connecticut's criminal justice system and can symbolically lead a statewide effort to repudiate the deeply violent and aimlessly retributive criminal justice policies of the nineties. Thank you for having us and for understanding.

REP. TONG: Thank you. And thank you for your testimony. You're both undergraduates. Is that right?

JOSHUA FEINZIG: Yes.

REP. TONG: You said a lot in your testimony and I wonder -- I'm interested to hear your thought from your perspective. Do you think that it's possible that somebody is beyond

001012

98  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

rehabilitation?

JOSHUA FEINZIG: I think to -- I would say simply no. And I think to -- to instantiate that -- that idea in -- in a policy is dangerous because it means that -- that our criminal justice system is closed to the possibility of being balanced and restorative. So to set off from the beginning to decide as a sort of presupposition that X person is closed to the possibility of reform seems to be an odd assumption to start with and seems to be one that is incompatible with -- with this notion of criminal justice as having the capacity to -  
- to reform people so I would answer no to that.

CHARLOTTE FINEGOLD: And in taking that as the morale premise of our criminal justice system and continuing to put people in boxes for years on end instead of offering them services which might possibly lead to rehabilitation even if it doesn't we're leading our country into complete disarray.

REP. TONG: You used an important word there, might, though. I mean I did raise the issue before of seeing a recurring fact pattern where there are people who are incarcerated for felony and murder where they're not necessarily the shooter but there's a shooter. And unfortunately in Connecticut, other parts of the country there are crimes that are committed by relatively young people that evidence and extreme indifference to the value of human life.

In that case I assume that you understand that the second look is -- is an effort to do just that, a second look. It's not a promise of anything. But do you think that if the person upon their second look is found not to have

001013

99  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

rehabilitated and not to have made meaningful strides in their lives that -- that they should be set free or should they remain incarcerated?

JOSHUA FEINZIG: Oh, surely they should remain. And -- and so it's an odd starting point to say that someone is beyond reform built into the idea of -- of this parole board option and this second look is the -- the fact that if someone has indeed not reformed that they would remain incarcerated. That's -- you know that doesn't seem to be a grave concern. And you know I don't think any of are expecting that -- that the parole you know and the second looks will -- will effectively function as just letting people out of -- of prison.

REP TONG: The final thought I have for you is you mentioned I think in your last comment about the aimless retributive or retributionist. I'm not sure which is the appropriate -- grammatically appropriate word but the aimless policy of retribution and I realize that you're undergraduates and not in law school but I think it's important to keep in mind that -- that sentences are imposed for a variety of reasons to serve a variety of social priorities including deterrents, rehabilitation and retribution, punishment.

So I don't know that I agree that it's aimless. That is a value that we take very seriously in society. It's part of the criminal sentence. It's not the whole thing but it's part of it.

JOSHUA FEINZIG: Sure. And I completely agree and recognize that the place for -- for retributive justice. I think the point I was making and this was echoed by you know some -- some testimonies prior is that when you have life without parole sentencing that is affectively analogous to -- to the death penalty in many

001014

100  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

ways that that -- there's a sort of aimlessness in seeing that punishment as a form of retribution.

CHARLOTTE FINEGOLD: And also the reason that this bill is such a safe and necessary addition to our criminal justice system is that it not only takes into account how flexible a sentence needs to be by considering the neurological context of a youth and by considering what -- what their background is but it also agrees that the -- a human is as flexible and has that capacity to improve. So as was already brought up the cases of who -- cases of people who don't show rehabilitation aren't relevant to who this legislation is supposed to be benefiting.

REP. TONG: Thank you. Any further questions?  
Representative Rebimbas.

REP. REBIMBAS: Thank you, Mr. Chairman. And good afternoon. Thank you for your testimony. I was actually interested; you had mentioned a youth court. Is that something that you guys are doing administratively? If you could just tell me a little bit about it.

JOSHUA FEINZIG: Right. That's something that I've been working on for the past few years. And so it looks much like an adult court but a youth actually constitute and comprise the jury. So it amps up the level of seriousness for first and second time misdemeanor responses -- or responses to first and second time misdemeanor offenses. And it -- it mirrors what a real court experience would be like.

But the idea is that the youth who are serving as juries from the community can -- can -- can create a sort of -- a conversation and an opportunity for -- for the respondent to be

able to make sense of how this has negatively affected and afflicted people into the community. So it's very much a model that is concerned with repairing harm done. And -- and making sure that harm is reconciled and is less concerned with locating harm in the wrongdoer and then saying let's punish the wrongdoer because somehow punishment is -- is -- is -- negates harm which is what you have in a very traditional retributive paradigm.

So this model sort of repudiates that paradigm and says no it's more about finding a way to actually address the harm done and in the process there's supposed to be a sort of restoration element that comes about.

REP. REBIMBAS: Understood. So it's something you're working on. It's not something that been established and it sounds very similar to the sort of disciplinary and behavioral issues that arise may be in -- in the school system where opposed to being referred to the you know criminal courts that they have a board -- separate boards that addresses those issues. Understood. I just wanted some clarification whether or not there was something out there in existence.

JOSHUA FEINZIG: Just to clarify it is virtually out in existence and within the next month actual cases will begin to go through the system. And we expect come next year that the majority of second time misdemeanor offenses in New Haven will be going through this -- this youth court model.

REP. REBIMBAS: Wonderful. The only thing -- suggestion I would say is good luck with that certainly and then keep some statistics because if it's something that you know it's a model that then could be implemented statewide or

001016

102  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

something along those lines I think it's  
certainly something worth looking at.

JOSHUA FEINZIG: Sure.

REP. REBIMBAS: Thank you.

JOSHUA FEINZIG: Thank you.

SENATOR COLEMAN: Do other members have questions or  
comments? If not thank you both very much.

JOSHUA FEINZIG: Thank you.

SENATOR COLEMAN: Denise Krall is next with Jamie  
McDermott.

SB796

DENISE KRALL: Good evening. Senator Coleman,  
Representative Tong and members of the  
judiciary committee. And thank you for taking  
the time to hear some of with you've already  
heard and some of the points that will  
hopefully be new. My name is Denise Krall.  
I'm a third year law student at Quinnipiac  
School of Law. I currently work with the  
juvenile sentencing project at the law school's  
legal clinic. The clinic also supports a  
second look for children sentenced to lengthy  
prison terms in Connecticut.

SENATOR KRALL: Denise, was it your intention to  
have Jaime testify with you?

DENISE KRALL: Actually she would potentially have  
come up but I would be the only person  
testifying.

SENATOR COLEMAN: Okay.

DENISE KRALL: So thank you for asking. We believe  
that the proposed legislation appropriately  
responds to recent U.S. Supreme Court cases.

limiting the application of adult sentencing rules to children. We also believe the bill ensures that Connecticut's juvenile sentencing structure is constitutional. We believe that a legislative response to these decisions is desirable because it avoids protractive litigation in the State's courts and helps to prevent unpredictable and unbalanced results.

Under Connecticut's transfer law passed in the mid-nineties children as young as 14 who are charged with certain crimes are automatically transferred to adult court and treated as adults throughout the criminal process as you've all heard. They are subject to adult penalties including mandatory minimum sentences and parole ineligibly.

Children are also at a serious disadvantage when navigating the criminal justice system. As our written testimony discusses research into juvenile decision making whether in and outside the context of court proceedings confirms that while adolescents often properly identify the existence of risk they underestimate long term bad outcomes and overestimate good outcomes.

Adolescents have difficulty weighing multiple factors and are more likely than adults to let emotions, stress or peers affect decisions making. Many children don't understand what it means to waive their Miranda rights and don't understand the complexity of accomplice liability under the criminal law. They often lack family support when facing charges. Children often also mistrust or have difficulty communicating with their attorney especially when English is not the child's first language or when that child has a learning disability.

A child may accept a plea agreement without

001018

104  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

fully understating the consequences or a child charged with a crime may not understand that refusing a plea offer of 15 years can lead to a 50 or 60 year sentence after trial. The U.S. Supreme Court has recognized that the disadvantages -- disadvantages that youth face in navigating the criminal justice system designed for adults weigh in favor of taking youth into account at the time of sentencing and allowing for a second look at these cases after a portion of the sentence is served.

In 2013 our clinic at Quinnipiac together with Yale Law School's Lowenstein Clinic prepared a report which details the rehabilitative possibilities for incarcerated youth. We have copies of this report available if anyone would like one. The report is based on interviews with individuals who are currently serving lengthy sentences or crimes they committed as children.

The report demonstrates the great feelings of remorse that many of these individuals have as well as their desire to positively impact their communities one day. In the meantime and as you've all heard from prior testimony -- can I briefly conclude? Thank you.

REP. TONG: Yes please.

DENISE KRALL: As you've heard that many have also already begun these efforts while incarcerated earning their GEDs, enrolling in college courses and working as hospice volunteers, peer mentors, and certified nursing assistants. They have a lot to offer the world outside of their prison walls and we believe that they should have the opportunity provided by the bill to show that they are not incorrigible. And so thank you again for your time.

001019

105  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

SENATOR COLEMAN: Thank you. Are there questions for Denise? No questions. Thank you very much.

DENISE KRALL: Thank you.

SENATOR COLEMAN: Marco Torres. Elisa Villa.

ELISA VILLA: Good afternoon, Senator Coleman, Representative Tong and members of the judiciary committee. My name is Elisa Villa. I am the president of the Connecticut Criminal Defense Lawyers Association. Sitting next to me with your permission is Tejas Bhatt who's a member of the Connecticut Criminal Defense Lawyers Association executive board. He's not here to testify. He's just here to field any questions you might have that I'm unable to answer. So with that I'd like to just highlight a couple of items that are in my written testimony.

First thing that CCDLA, the Connecticut Criminal Defense Lawyers Association strongly supports Senate Bill 796. We support this bill for the following reasons. First this bill recognizes and codifies the fact that children and adults are different and the children can develop and be rehabilitated unlike some adults.

Secondly section one complies with Graham versus Florida and the notion that children under the age of 18 can grow, mature, be rehabilitated and it allows them the opportunity to demonstrate that. This bill does not guarantee release for anyone. It just allows children the opportunity to prove that they have been rehabilitated.

Section three -- or rather section two complies with Miller versus Alabama and State Versus

001020

106  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

Reilly by assuring that judges take into account the individual juvenile, his age and characteristics before imposing any sentence. Historically we have cast aside adolescents with serious felony convictions with the view that these young people are permanently damaged and in need of warehousing. Senate Bill 796 reflects society's current understanding that adolescents change dramatically as they mature into adulthood and that it is appropriate to review the lengthy sentences of teenage offenders. Thank you.

SENATOR COLEMAN: Thank you. Are there questions for Elisa? Seeing none, thanks for your testimony.

ELISA VILLA: Thank you.

SENATOR COLEMAN: Roberto Vergara.

ROBERTO VERGARA: Good afternoon.

SENATOR COLEMAN: How are you?

ROBERTO VERGARA: My name is Roberto Vergara. I want to thank you all for this opportunity. I'm here for the juvenile law, 796. And me personally I'm -- I come to represent the people in jail right now because I went through that. At the age of 16 I got arrested for a home invasion. I got found guilty of being an accessory for being the driver. At that young age I got sentenced to 33 years in prison. The judge told me the only reason he would give me that sentence was because he believed I was never going to change.

And I'm here because I believe -- I believe that I proved him wrong. I did 18 years in jail. Came home. I've been home over six years. Ever since I came home I came to the --

001021

107  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

I came home to the new day program. From there I got a job and I've been working ever since. I got my own place. Left that place.

And I keep at least two jobs most of the time and today I work for the State of Connecticut. and I believe I'm -- I'm proof of rehabilitation and I'm proof that a lot of those people in there right now they got sent there when they were juveniles could change their life for the better if given the opportunity. So I'm hoping this bill will go through and some of those guys will get the opportunity that they deserve.

SENATOR COLEMAN: Thank you very much. Are there questions for Roberto? Seeing none, thank you for being here. Susan Kelley.

SUSAN KELLEY: Good evening. Senator Coleman, Representative Tong, members of the judiciary committee. My name is Susan Kelly and I am the child and adolescent public policy manager at the National Alliance on Mental Illness of Connecticut. We represent individuals who live with mental illness and parents and family member of individuals living with mental illness.

I am here today, this evening on behalf of NAMI Connecticut in support of Senate Bill 796. SO you've heard today a lot about the established scientific evidence demonstrating that adolescents have underdeveloped brains making them more impulsive and susceptible to peer pressure than adults.

And you've heard about the supreme at length about the court decisions in Graham and Miller. And other people talking about the implications of this evidence as it concerns juvenile's level of culpability and likelihood of

001022

108  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

successful rehabilitation. My perspective is one of the mental health of many youth who are incarcerated.

We know that many of the behaviors that lead youth to commit crimes are often -- or all too often the result of unmet behavioral and mental health needs. Sixty four percent of youth involved in the juvenile justice system in Connecticut have a diagnosable mental health disorder. Nationally substance abuse is linked to 78 percent of cases where juveniles are taken into custody.

As a result long prison sentences and mandatory life without parole sentences unfairly punish youth with untreated mental health and behavioral disorders. Giving youth offenders a second chance is critically important when viewed from this mental health perspective particularly when research shows that 70 to 80 percent of all children and youth nationwide with a diagnosable -- diagnosable mental illness fail to receive mental health services.

And a disproportionate number of children of color are being unfairly punished in this way as minority youth are often over represented in the juvenile justice system and under representative in the behavioral health system.

So I encourage you and I'm very encouraged that you all are very positive about Senate Bill 796 and the chances that the third time would be a charm because this would be a significant step forward in juvenile justice while Connecticut continues to undertake the difficult task of improving access to quality mental health services for all children in Connecticut both in and out of the juvenile justice system. So in conclusion NAMI supports Senate Bill 796 and I thank you for the opportunity this evening to

001023

109  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

address you. If you have any questions I'd be happy to answer.

SENATOR COLEMAN: Are there questions? Seeing none, thank you for your testimony. Subira Gordon. Christi Staples.

CHRISTI STAPLES: Good evening. Senator Coleman, Representative Tong and other members of the judiciary committee my name is Christi Staples and I am a member of the National Association of Social Workers, the Connecticut chapter. So over 2,800 members the National Association of Social Workers Connecticut chapter support Senate Bill 796 as a means to recognize that the actions of a youth may not fairly reflect on the nature of a now adult inmate. Many of the arguments you already heard today.

The UConn School of Social Workers came up and testified. I sat with them. Also just wanted to highlight that social workers are employed in and throughout the justice system in courts, correctional facilities and the Office of the Public Defender. We note here that amongst those social workers we have consulted there is strong support for this bill and what our members tell us is that brain development in an adolescent makes them more impulsive, more likely to be influenced by peers and lacking in insight as to how one's actions will affect themselves and others.

Our members also know about the history of inmates and the childhood tragedies that played a cause in their being incarcerated. Social workers daily -- work daily with individuals toward rehabilitation so we know of the capacity for an adult to overcome their past. All of these factors out to come into fair play by allowing this incarcerated population a chance for parole. As mentioned previously

001024

110  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

further concern we have regarding adolescents who have been sentenced in adult court with mandatory lengthy sentences is a disproportionate impact on African Americans and Latinos.

Of the approximately 275 people serving sentences of more than ten years for crimes committed when they were younger than 18 years of age, 88 percent are African American or Latino. One cannot ignore the continued racial discrepancy that now denies these individuals having a chance at consideration for parole. S.B. 796 sets stringent criteria for parole in order to best assure the public that the individual is capable of being safely released into the community.

This is not a guarantee of release as you know but it is giving the individual a fair second chance. This bill has been thoroughly vetted and has had the strongest of bipartisan support in the House in 2013 and 2014 as you know but regrettably not called in the Senate. This is the year to pass this humane and sensible legislation into law. Thank you all for your time this evening.

SENATOR COLEMAN: Are there questions? Seeing no questions, thank you for your testimony.

CHRISTI STAPLES: Thank you, Senator.

SENATOR COLEMAN: Subira Gordon.

SUBIRA GORDON: Hello. Good evening. Good afternoon, Senator Coleman, Representative Tong, Senator Kissel, Representative Rebimbas and other honorable members of the judiciary committee. My name is Subira Gordon and I am the legislative analyst for the African American Affairs Commission. The mission of

001025

111  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

the African American Affairs Commission is to improve and promote the economic development, education, health and political wellbeing of the African American community in the State of Connecticut.

I am here today to support S.B. 796. Currently a 100 percent of juveniles serving a life sentence without parole in Connecticut are African American, 68 percent of juveniles serving over 50 years are African American and 62 percent of juveniles serving over 12 years are African American.

These statistics are alarming considering the entire African American population for the State is approximately ten percent. There needs to be a complete overhaul of the justice system in the State and I do commend the Legislature for making the strides in the juvenile justice policy area however more needs to be done and this bill will help with that process.

This bill would let minors serve 60 percent or 12 years of their sentence whichever is longer -- excuse me, having them be eligible for parole, to have a parole hearing and those who are sentenced to more than 50 years would be eligible for a parole hearing after serving 30.

In some developed nations a life sentence constitutes 30 years as there is the belief that after 30 years in prison is enough for any adult. Only a handful of countries allow juveniles to be handed down life sentences and of the countries that allow these the United States is the only country that actually has minors serving these sentences. It is interesting to note once again and highlight that Connecticut has only African American youth serving life sentences. I urge you to

001026

112  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

pass this bill this year and I thank you for the opportunity to testify. Thank you.

SENATOR COLEMAN: Thank you, Miss Gordon. Are there questions? Thank you. Kathy Taylor. Dae McKnight.

DAEE MCKNIGHT: In the name of God, the magnificent and merciful I greet you all in the greeting words of peace be unto you. My name is Dae Muhammad McKnight. And I'm here to support Senate Bill 796 and also in support of Floyd Simms, Tino Negron, Tyrone Whitaker, Christian Ordonez and all those men and women who will be affected by the passing of this bill. I currently work for a company called Family Reentry that is contracted with the Department of Corrections supervisory reentry services. And my present position is I'm the prerelease coordinator reentry coordinator.

So I go in like five facilities in the State and one of them is Mansfield Youth Institution. And I facilitate reentry groups, conducts assessments, build generic treatment plans and prepare the guys in our groups for successful reintegration into society. This is a subject that is all too dear to myself because I myself although I go in facilities I was incarcerated myself. I was charged with the crime of murder at the age of 19 years old and was sentenced to 25 years.

I served 17 and a half years off of that sentence. And by the grace of god I've had a successful reintegration into society and I'm also in the position where I'm -- in a position where I can also assist others with facilitating successful reentry. Even though I say that I want the committee and those present to know that even that I have a successful reentry my heart and prayers go out to the

001027

113  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

victims of all crimes. So you know this is nothing that we come up here, we testify, make it look like this is just some -- some act and we say these words but we don't have the sensitivities towards people who were victims are crime. Because in my community where I grew up at in Bridgeport, Connecticut half of the guys that are committing the crimes are victims of crimes themselves of gun violence.

There's a couple of things I want to say in regards to the risk is minimal to the public safety by passing this bill. I know this may be some concerns and somewhat. The risk is really minimal if the supports that are in place are utilized properly. And one of those supports is the criminal risk assessment tool that they use in the Department of Corrections is already being implemented upon incarceration.

This criminal risk assessment tool is used to determine the criminogenic needs and based off of that there's a treatment plan built that should not be enacted upon release but enacted upon incarceration. And this would ensure that this person begins to meet those needs. If I just may finish very briefly. Thank you. And then the second component is community supervision. When the person is released in the community they're not just going to be released. They have to report to parole. Sometimes it can be real intensive.

Also there's electronic monitoring bracelets and I just want to say these things that it might perhaps ease some people's fears who might have a little trepidation in the passing of this bill. And also I want to say this that I thank you guys for giving me the opportunity. And even though it took three years I'm glad that it did take three years because I came up

001028

114  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

here every year and if it takes ten years I'll come up here ten years and every year I come I'll continue not to have reoffended and not to have participated in the activities that put me in the first place for being incarcerated. So if it takes 20 more years I'll be up here every year and I'll still be a productive tax paying citizen. Thank you.

SENATOR COLEMAN: Thank you, sir. Questions?  
Representatives Stafstrom.

REP. STAFSTROM: Just real quick, MR. Chair. I just want to thank you.

DAEE McKNIGHT: Yes, sir.

REP. STAFSTROM: Thank you for being here and thank you for personally for the services that Family Reentry provides to us in Bridgeport and we know how vital it is to our communities. So thank you so much for taking the time to be here today.

DAEE McKNIGHT: Yes, sir. Thank you.

SENATOR COLEMAN: Are there others with questions or comments? Seeing none, thank you for your testimony.

DAEE McKNIGHT: Yes, sir. Thank you, Mr. Coleman.

SENATOR COLEMAN: Miss Beinfield. Did I say your name right? Beinfield or Beinfield? Julia Rosenheim.

JULIA ROSENHEIM: Good evening, Chairman Coleman and members of the committee. My name is Julia Rosenheim and on behalf of the Yale College Democrats I urge the committee to pass Senate Bill 796. This proposal is a necessary reform of Connecticut's juvenile justice laws and it

001029

115  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

takes into account public safety since a release would only be granted after thorough review by parole boards. Last Friday the State Supreme Court ruled that it is the Legislature's job to decide whether juveniles convicted of life sentences should be granted parole hearings.

This session the committee has the opportunity to recognize the importance of acting now on this proposal. You've heard today that scientific evidence shows that juveniles are much more likely to reform their ways than adults and that significant brain development occurs during and after adolescence. In addition many juveniles serving time come from backgrounds of poverty, violence and external pressures and passing this bill would finally allow for successful rehabilitation. It is unfounded and unjust to sentence a juvenile to life without parole considering such circumstances.

In this session the public has expressed again that under current law Connecticut does not act in compliance with the Supreme Court's 2012 Miller v. Alabama decision. You've heard again about the importance of this bill from those who have personal connections to the prison system. I tutor an inmate at Manson Youth Prison once a week and I have gotten to know him well. Every Saturday he uses his free time to sit with me and improve his analytical reasoning and math skills. We are both passionate -- we both passionate about history and we like to discuss constitutional law together.

I know that there are many individuals currently serving time who have spent years in educational and rehabilitative programs and who are different people than they were when they

001030

116  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

were convicted. I am not here to offer a statement about whether any individual should be released or not but I do know that they deserve the opportunity for a parole hearing. Passing this bill is not only the right thing to do considering all the expert advice about prison reform, the abundance of scientific evidence on brain development or even the 2012 Miller v. Alabama ruling. Passing this bill is also the right thing to do for all those individuals who would be assets to their community given the opportunity for parole. This session however you might notice the increased passion with which we come here and explain how Connecticut can become an example to the nation by improving its juvenile justice laws.

Last session the Yale College Democrats came to Hartford with 451 signed letters from young people in Connecticut who wanted to see reform in these ways. This year young people have shown even more support for this bill and even more enthusiasm. Today we prove again how important this issue is to young people. I have here 929 letters all signed by individuals in Connecticut both republicans and democrats who understand the gravity of this opportunity and want to express to the committee that the time is now for this bill to pass.

As a citizen of Connecticut who wants to see more justice in our justice system I strongly urge the committee to pass Senate Bill 796 as soon as possible. Thank you for your time.

SENATOR COLEMAN: Thank you for your testimony. Are there questions? There are no questions. Thank you.

JULIA ROSENHEIM: Thank you.

001031

117  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

SENATOR COLEMAN: Ann Smith.

ANN SMITH: good evening, Senator Coleman,  
Representative Tong and members of the  
judiciary committee. My name is Ann Smith and  
I'm the executive director of African Caribbean  
American Parents of Children with Disabilities.  
And I'm also here before you this evening  
speaking as cochair of the Children's Committee  
of the Keep the Promise Coalition.

SB 796

We're here to speak in support of this  
legislation to provide review of long mandatory  
prison sentences imposed on children and to  
allow courts to consider whether youth related  
factors have contributed to the -- to the  
crimes that were committed. Here we advocate  
for this important reform in juvenile justice  
in Connecticut because there's a high  
documented rate of confluence between children  
with juvenile justice contacts and children who  
have various mental, emotional and behavioral  
health needs that have gone unmet.

As acknowledged by the Connecticut behavioral  
Health services for young adults taskforce  
there are a very high number of crimes that are  
committed all too often because they have not  
been able to receive the behavioral and mental  
health services that they need. There's an  
opportunity here for the committee, for the  
Legislature to implement a change that can give  
more opportunities to a greater number of  
individuals who have been incarcerated as  
juveniles to have an opportunity to demonstrate  
that they have been able to be rehabilitated  
because they have received the necessary  
services and because they have matured just by  
virtue of their age.

We've heard this evening from two gentlemen in  
particular who demonstrate that signing off and

001032

118  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

writing off our youth at an early age gives too many a loss to society, to family, doesn't give them an opportunity at all. What we're asking for in support of 796 is to give a second look -- a second look that will give more individuals an opportunity to demonstrate that they can be contributing member to society, that they can recover from the deficits of mental illness.

And you've heard also this evening that there have been disproportionate impacts on segments of the population in particular African Americans and Latinos. Questions have to be raised about the extreme disproportionate number of minority juveniles serving long sentences. We would ask that you would favorably consider this Bill 796 and give the youth an opportunity to be redeemed. Thank you.

SENATOR COLEMAN: Thank you, Miss Smith. Are there questions? Seeing none, we appreciate your testimony. Holly Miller. Frederick Hodges.

FREDERICK HODGES: Good evening, Senator Coleman, Representative Tong and the rest of the judicial committee. I want to thank you very much for having this hearing again. This is my third time here. And I am saying the same sentiments as Senator Kissel and hopefully the third time is a charm. Myself as well as Dae McKnight also work for Family Reentry Program and I am the manager of Fresh Start Programs and I work on the back end of it. I -- he goes in the prison on the front end and prerelease and I work on the post release side when guys come home.

We serve over 400 and something individuals that come into our community. And I was also incarcerated and doing a 30 year sentence. I

001033

119  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

did 17 and a half years and I got three years modified on my sentence because the Victim's family forgave me for the crime that I committed. While I was incarcerated I sent myself through a course of study and I went back to school and this is my passion. I've seen a lot of individuals that

I met when I was inside that were 17 years old such as Tyrone Whitaker, Floyd Simms, Tito Negrón and others. I also went to the modification hearing for Tino Negrón in Stamford, Connecticut where the same judge that sentenced him seen that there was a change in his life and gave him a modification.

I'm here to talk about -- in support of Bill 796 and talk about the -- what we already have in place as far as the State of Connecticut and Department of Corrections and just about implementing that I think it would be not that much of a risk.

And -- and being home now and seeing the supervision that goes on inside parole as far as GPS, as far as the electronic monitoring and as far as how the DOC is changing from punitive to treatment I think if we give these individuals a chance they'll come home on parole or at least here with the second chance, I think we have the things in place or the mechanism in place to help them along with their transition.

Coming out of Bridgeport, Connecticut and seeing some of the guys who come home that have actually changed their life and have a better quality of life from coming through our program and from seeing the changes from being implemented with parole and some of the systems that they have in place now. I believe that the individuals that are up for parole -- that

001034

120  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

would be up for parole I think they can make that transition as well as I made that transition. I just want to talk about myself and -- and the victim's family forgiving me, coming home it was in my transient I was in the family reentry program.

When I came home coming to the youth mentoring that they had there and it helped me along the way. So there is programs out there. There is mechanisms in place. And I think the public will feel safe that we have them things in place if the State just utilized them in the manner that they've been set up. It's cost effective. It's almost really crime proof.

SENATOR COLEMAN: I'm sorry, Mr. Hodges, are you concluded?

FREDERICK HODGES: Yes.

SENATOR COLEMAN: Are there questions for Mr. Hodges? Seeing none, thank you for your testimony, sir.

FREDERICK HODGES: Thank you, sir.

SENATOR COLEMAN: Greta Blanchard.

GRETA BLANCHARD: Good evening. My name is Greta Blanchard and I am a resident of Unionville and in support of S.B. 796. I've been here three different times and spoken about the same individual that I'd like to share with you today. I have a letter that is included in materials you receive; a letter written by Michael Spyke, a 32 year old who was incarcerated at 16 and tried as an adult at 17. He states in his letter that he flunked seventh grade and was passed on to the next grade until he eventually dropped out of school.

001035

121  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

He had no advocate or positive direction in his life at that time and I believe you will find his letter compelling when you read his story. I became aware of Michael because I was an alternate juror at his hearing. I was not part of the deliberation therefore was not called upon -- not called upon to give my opinion concerning the case. This is the same individual that Larry Deutch was talking about who happens to be at Cheshire Correctional Center.

When I found out that Michael was convicted on three of four counts I was shocked. I called the courthouse to get his sentencing date and I went to his sentencing and was deeply troubled when learning the length of his sentence, 50 years with no chance of parole. It was then that I decided to see if I could write him to encourage him. We've been writing ever since and my husband and I routinely visit him as well as keep in contact with his mother. Michael has seen positive personal developments during his incarceration however he wouldn't wish being a teenager in a prison with older men on anyone.

He makes that clear in his letter. He has been incarcerated for more than 16 years and he has changed. And I have seen that change from an angry teenager to a very mature adult. While in prison he worked very hard to get his GED. He's received multiple certificates for skilled services and is presently finishing up his certification as a personal trainer. As I've gotten to know him over the years I see so much potential, desire to do better and to do right.

I feel that the length of his incarceration is disproportionate to what he did as someone not fully emotionally and cognitively developed as a teenager. I am a mother, a teacher and a

001036

122  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

private citizen who though not a family member is an impassioned advocate for Michael Spyke and others like him who have so much to give if allowed to take this next positive step in their lifelong rehabilitation. I strongly encourage you to read his letter as you consider this bill. And I will let Michael's last state in his letter say it best which is one thing I will keep on doing is having faith and applying myself every day to be a better man. And he has. Thank you.

SENATOR COLEMAN: Thank you, Greta. Are there questions? There are apparently no questions or comments. Thank you for your testimony.

GRETA BLANCHARD: Thank you.

SENATOR COLEMAN: Joshua FEINZIG. I hope I'm saying the name right. No response. Sarah Raskin. Laura Cordes.

LAURA CORDES: Good evening. Senator Coleman, Representative Tong, Senator Kissel, Representative Reimbass and members of the judiciary committee. My name is Laura Cordes. I'm the executive director of the Connecticut Sexual Assault Crisis Services, the coalition of nine community based rape crisis programs or sexual assault crisis programs throughout our State.

Thank you for the opportunity to come before you this evening to offer testimony regarding three important bills, House Bill 6186, 6939 and 6923. We've filed testimony -- written testimony and I'll work to limit my comments this evening. When a child experiences abuse or neglect we want the adults that they interact with to accept the responsibility to report, to understand how to make that report and to support the child at the time of the

001039

125  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

process is incredibly invasive.

Our current statute stipulates that all but those kits in which a victim does not use a name should be sent to the lab but the statute is silent on the timing of the transfer of kits from the police to the lab in Meriden. And then the time in which the lab should test the kits. Evidence found on the kits can establish if a sexual assault occurred, can eliminate or identify a suspect, identify someone who may have prior convictions and link cases based on evidence.

Unfortunately guidelines have been unclear for police on whether or when to bring the kit to the lab and sexual assault victims have reported that their kits have been held at police stations. The ten day timeframe in the bill allows enough time for the police even the most remote to get them to the lab. And we want to adopt a specific timeline for -- timeline for kits to be tested once they arrive at the lab. This bill sets forth a 60 day timeframe. Thank you for your consideration. I'd be happy to answer any questions you may have.

SENATOR COLEMAN: Are there questions? Chairman Tong.

REP. TONG: Thank you, Mr. Chairman. I just wanted to thank you and CONNSACS for being an invaluable resource on 6196, the child abuse bill that we're talking about today. You know it's really important to have such matter experts available to all of us here and to help us craft legislation. And I really appreciate your being here today.

(HB 6186)

LAURA CORDES: Pleasure. Thank you.

001040

126  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

REP. TONG: And being a part of that. Thanks so much.

SENATOR COLEMAN: Do other members have questions or comments? Seeing none, thank you.

LAURA CORDES: Thank you.

SENATOR COLEMAN: Anthony Luther. David McGuire. Douglas Hood.

SB 796

DOUGLAS HOOD: Senator Coleman, Representative Tong and the rest of the committee I thank you for staying late and listening to us. I -- my name is Douglas Hood. I work at Yale New Haven Hospital but I've been volunteering, we have a group -- a writing group at York at the women's prison and I've gotten to know one particular girl there that I want to talk about. I'll tell you this story. In 1996 she and another boy decided to -- they needed some money and so they were going to rob a cab and they took a knife with him. She was basically homeless. Her mother was an addict and died of AIDS and her father was a career criminal.

So when they got in the cab the -- the cab driver ended up being stabbed and died. She was treated as an adult and she and the boy got sentenced as felony murder for 50 years. She was 14 years old. Prison has been brutal for her. She attempted suicide three times. But she's rehabbed herself. She dropped out of school in the seventh grade and now she has her GED and has completed courses at Wesleyan College -- Wesleyan University.

Her father has rehabbed himself. He now lives in Massachusetts and he rescues the homeless and the addicts and does reentry and he's been doing this for ten or 12 years. He drives down every Friday to see her all the way from

001041

127  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

Pittsfield, Mass. I think it's important that this bill be passed for first her and others like her. She has good family support. Her grandmother is sitting in the back of the auditorium. And I thank you for listening to me.

SENATOR COLEMAN: Thank you very much, Mr. Hood. Are there questions? Seeing no questions. We appreciate your comments. Lynn Suzio. Michelle Cruz. Willie Ledbetter. Good evening. Mr. Ledbetter, there's a button on the desk that you're sitting at. If you push that button it will activate your microphone.

WILLIE LEDBETTER: can you hear me now?

SENATOR COLEMAN: We can hear you. There should be a red light that comes on.

WILLIE LEDBETTER: It's on.

SENATOR COLEMAN: Okay.

WILLIE LEDBETTER: What I wanted to say is I spoke here two years ago and I was bitter and I was frustrated. It wasn't directed towards the panel you keno what I'm saying. It was just a lot because my daughter was on her nineteenth year and I'm listening to the two gentlemen that spoke and she done done time more than them. She got sentenced to 50 year flat and that's 85 percent. You know what I'm saying and -- and Mr. Hood just got up here, just got finished speaking.

SB 796

I'm the criminal he was talking about and I want to say that because I've been sober since 95 and this happened when I got sober my daughter got involved with this fellow named murder. You know what I'm saying because I was an addict and her mother was an addict and I

001042

128  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

really wasn't around you know what I'm saying.

So I carry that burden and frustration because my daughter really is doing my time. You know what I'm saying. But she's -- she really has excelled in the prison. You know education wise, classes, books. She's doing great.

One of the things is that really bothered me and I'm just going to say this because I'm a fanatic chess player. And I do a chess club in Pittsfield. And my daughter can't play chess but we've never had a chance to play chess. You know what I'm saying. And those are the kind of things that really affect us. You know I love my daughter.

You know what I'm saying. Her mother died in her addiction. You know that I'm saying. And me and her mother separated when I was doing a five year sentence because she got impregnated by someone else. And when I got out of prison we separated and after I had relapsed I was always in and out of my daughter's life.

You know what I'm saying. So that's something I have to deal with. So I do a lot of groups that do -- I work for the veterans -- soldier and veteran program. I've got everything prepared for my daughter whenever she's released. You know what I'm saying. But just listening to the panel and people giving their statements you know what I'm saying I feel very hopeful that the bill will be passed this year. You know what I'm saying.

That's what I'm asking for to move the bill forward because I have my mother sitting in back, her grandmother. You know what I'm saying.

And I'm just hoping we're still going to be around when that day comes. You know what I'm

**JOINT  
STANDING  
COMMITTEE  
HEARINGS**

**JUDICIARY  
PART 2  
730 – 1386**

**2015**

001043

129  
law/gbr JUDICIARY COMMITTEE

March 4, 2015  
10:00 A.M.

saying. But everything is prepared for her in Massachusetts. I don't know what the circumstances -- how -- if she get released in Connecticut or halfway I don't know but everything is set; job, transportation. You know what I'm saying. So that's all I wanted to say. And I thank you all. You know what I'm saying. But it's tough. It's very tough but I have faith.

SENATOR COLEMAN: Thank you very much. We appreciate your testimony. Are there questions? Chairman Tong.

REP. TONG: I just wanted to thank you for coming here and having the courage to tell your story and to advocate for your daughter and your family and being part of this process. Thank you.

WILLIE LEDBETTER: Thank you.

SENATOR COLEMAN: Others with questions or comments? Seeing none, thank you, Mr. Ledbetter.

WILLIE LEDBETTER: You too. Have a good evening.

SENATOR COLEMAN: You too. Ruby Legette. I'll call the name again. Ruby Legette. That is actually the last name that is on our list of people to address the committee today. Are there any in the audience who have not signed the list but wish to address the committee? If there's anyone who hasn't had an opportunity to address the committee but would like to address the committee now would be your opportunity to come forward. Seeing no response, I will declare this public hearing closed.

001044

**SEIFERT & HOGAN**

ATTORNEYS AT LAW

HALLS ROAD, P.O. BOX 576  
OLD LYME, CONNECTICUT 06371  
TELEPHONE (860) 434-2097  
TELECOPIER (860) 434-3657

CONRAD OST SEIFERT  
BETH A. HOGAN\*  
\*ALSO ADMITTED IN NEW YORK  
March 4, 2015

TO: The Honorable Co-Chairs of the Judiciary Committee  
Senator Eric D. Coleman  
Representative William Tong and Members of the Judiciary Committee

RE: **Raised Bill No. 796 An Act Concerning Lengthy Sentences for Crimes Committed  
by a Child or Youth convicted of Certain Felony Offenses**

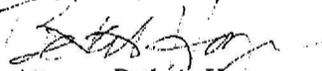
**Judiciary Committee Public Hearing March 4, 2015**

My name is Attorney Beth A. Hogan and I am here today to support Raised Bill No. 796.

The Sentencing Commission was successful in its efforts and presented legislative language under Raised Bill NO. 6581. In 2013 and in 2014 in HB 5221 the bill was successfully voted out of Judicial Committee and the House each year but it died in Senate due to time constraints in both sessions. Maybe, this year the Senate will act. Testimony from the previously year is hereby attached as exhibit A.

Now, here we are again. Please let this be the year.

Respectfully Submitted,

  
Attorney Beth A. Hogan

Testimony of Harriet Hendel and Stanley Hendel in Support of SB 796

March 4, 2015

Judiciary Committee

Dear Members of the Judiciary Committee:

In 2009, my husband and I began to build a close and deep relationship with Robin Ledbetter (#254512). This connection came about because of Wally Lamb's excellent creative writing program at York which produced *I'll Fly Away*. That year, I was volunteering at Green Haven C.F. (Stormville, NY) working with 120 men on improving their writing skills in order to help them pass the essay portion of the G.E.D. I came across Lamb's book and decided to read stories and poems from the book to my students. They were very touched by one author in particular: Robin Ledbetter and her story called "The Gift". One of the men encouraged me to reach out to Robin by letter. It took quite a while for Robin to respond because, as she later explained, she was very depressed at that time. Ultimately, we were cleared to visit. We made the 5 hour round trip to Niantic but never imagined how taken we would be by this sensitive, intelligent, forthcoming young woman.

Over these nearly 6 years, we have observed many things about Robin:

- ~Her strong motivation to learn. {She is now taking her 9<sup>th</sup> and 10<sup>th</sup> college class through Wesleyan University. She hopes to earn her degree.
- ~She completed a correspondence class certifying her as an alcohol and drug counselor.
- ~She earned her CNA (Certified Nurse Assistant)
- ~She has won prizes for her creative writing, the most prestigious one awarded by PEN America. Robin was chosen from a nationwide pool of writers who are incarcerated.
- ~She leads support groups at York.
- ~She has participated in the Judy Dworin Dance Group for several years.

Even though we are legal residents of Florida, we support the premise behind this bill for juveniles serving Life Without Parole and for those serving sentences like Robin's. {Robin was given a 50 year sentence without the possibility of parole when she was just 14 years old}. Scientific research, done after Robin went to prison, tells us teenagers are not just little adults. Their immature behavior is directly a result of their immature (and incomplete) brain development.

Giving a second chance to people like Robin sends a clear message of the possibility of redemption. We believe Robin has even more to give to society beyond York's prison

001046

walls. If she were to be released, we are committed to making a home for her in either one of our homes (NY and FL). By giving Robin her freedom long before she turns 64, the state of Connecticut offers her the opportunity to pay back her debt to society.

We are retired teachers with a combined total of 63 years in the public schools of NY and NJ. We have visited Robin nearly 40 times since 2009. On one of those visits about a year ago, we invited a man who was head of Guidance for the Monroe-Woodbury School System (Orange County, NY) and also the head of Special Services to visit Robin with us. {He was my immediate supervisor for 15 years}. Rudy Lantelme was so impressed with Robin that he has continued to correspond with her. He has said that Robin could offer so much more on the outside and that her full potential is not being fulfilled.

We hope this bill will be carefully thought out and ultimately be able to give those serving time a second opportunity to establish themselves as productive members of society.

Thank you for allowing us to express our thoughts in this manner in lieu of speaking at the public hearing given we are now in Florida for the winter.

Sincerely,

Harriet Hendel  
Member of the Board of Directors of The Innocence Project of Florida

and

Stanley Hendel

*Center for Children's Advocacy*

---

**TESTIMONY OF THE CENTER FOR CHILDREN'S ADVOCACY  
In Support Of  
S.B. 796, AN ACT CONCERNING LENGTHY SENTENCES FOR CRIMES  
COMMITTED BY A CHILD OR YOUTH AND THE SENTENCING OF A  
CHILD OR YOUTH CONVICTED OF CERTAIN FELONY OFFENSES**

Judiciary Committee

March 4, 2015

Senator Coleman, Representative Tong, Senator Doyle, Representative Fox and esteemed members of the Judiciary Committee

This testimony is submitted on behalf of the Center for Children's Advocacy, a non-profit organization affiliated with University of Connecticut School of Law in support of S.B. 796, An Act Concerning Lengthy Sentences For Crimes Committed By A Child Or Youth And The Sentencing Of A Child Or Youth Convicted Of Certain Felony Offenses. The Center supports this important piece of legislation as it will ensure that Connecticut is compliance with the United States Supreme Court 2012 decision, *Miller v. Alabama*, which holds that **no juvenile may receive a mandatory life without parole sentence**. *Miller v. Alabama*, 132 S. Ct 2455 (2012). More importantly, this legislation requires that the courts engage in an **individual, fact specific inquiry** into the maturity, development and capacity for rehabilitation of any juvenile facing the possibility of a life sentence for a serious felony. **Only after such an inquiry**, if life without parole is deemed necessary, may the court award such a sentence. This legislation is essential to ensure that Connecticut is protecting the rights of juveniles based on their status as youth.

**Board of Directors**  
Douglas Colosky, Chair  
Claudia Connor, Vice Chair  
Jill J. Hutensky, Treasurer  
Natalia Xiomara-Chieffo,  
Secretary  
Mario Borelli  
Rudolph Brooks  
David Cooney  
Timothy Diemand  
Kathryn Emmett (ex officio)  
Robin Keller  
Nichelle A. Mullins  
Paul Sarkis  
Martha Stone (ex officio)  
Antonia Thompson

**Advisory Board**  
Miriam Berkman  
John Brittain  
Brett Dignam  
L. Phillip Guzman  
Wesley Horton  
Elizabeth Morgan  
Eileen Silverstein  
Preston Tisdale  
Stanley A. Twardy, Jr.  
Stephen Wizner

**Executive Director**  
Martha Stone, JD  
65 Elizabeth Street  
Hartford, CT 06105  
Phone 860-570-5327  
Fax 860-570-5256  
[www.kidscounsel.org](http://www.kidscounsel.org)

The Center provides holistic legal services for Connecticut's poorest and most vulnerable children through both individual representation and systemic advocacy. Through our TeamChild Juvenile Justice Project, the Center collaborates with the Juvenile Probation Offices in Hartford and Bridgeport to improve our clients' juvenile justice outcomes by securing needed services through community agencies or the school system. We also run Disproportionate Minority Contact (DMC) Reduction Projects in Hartford, Bridgeport, New Haven and Waterbury, where we work with local stakeholders to develop strategies to reduce the disproportionate representation of youth of color in our juvenile justice system. One of our key areas of focus has been the reduction of school-based arrests occurring in the state's most needy urban communities, like Bridgeport.

**Youth Are Less Culpable Than Adults & Have a Greater Capacity to Rehabilitate**

The United States Supreme Court based its decision in *Miller v. Alabama* on extensive research on the development of the brain and used this information in arriving at its conclusion against life without parole for juveniles. It reasoned:

"a child's character is not as 'well formed as an adult's; his traits are 'less fixed 'and his actions less likely to be 'evidence of irretrievabl[e] deprav[ity]. Our decisions rested not only on common sense – on what any parent knows – but on science and social science as well. In *Roper*, we cited studies showing that "[o]nly a relatively small proportion of

adolescents” who engage in illegal activity “develop entrenched patterns of problem behavior.” (quoting Steinberg & Scott, *Less Guilty by Reasons of Adolescence: Developmental immaturity, Diminished Responsibility and the Juvenile Death Penalty*, 58 *Am. Psychologist* 1009, 1014 (2003)). And in *Graham*, we noted that ‘developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds’ . . . We reasoned that those findings – of transient rashness, proclivity for risk and inability to assess consequences – both lessened a child’s “moral culpability” and enhanced the prospect that, as the years go by and neurological development occurs, his “deficiencies will be reformed.” *Miller*, 132 S. Ct. 2464-65 (internal citations omitted).

In other words, the underdevelopment of the brains of juveniles make them more impulsive, more susceptible to peer pressure, less able to understand risk and fathom consequences. Research shows their brains continue to mature until the age 24 and possibly beyond, and therefore youth under the age of 18, are still developing their own personal character. Given that fact, children are more readily able to rehabilitate than are adults.

**Current Sentencing Practices Disproportionately Impact Connecticut’s Youth of Color**

Even though Black and Latino youth comprise only 16% of Connecticut’s total population, they represent 88 % of all juvenile offenders serving sentences of more than 10 years and 92% of youth sentenced to more than 50 years.<sup>1</sup> Additionally, Black and Latino youth serve longer sentences than when convicted of the same crime as their white counterparts. In Connecticut, a Black youth convicted of felony murder will serve 38 years, a Latino youth will serve 40 years and a white juvenile will serve 32 years.<sup>2</sup>

**S.B. 796 Will Serve to Limit Litigation and to Increase Supervision of Parolees**

Connecticut is in need of a clear legislative rule for the sentencing of juveniles for serious crimes. **S.B. 796 will achieve the clarity needed.** Currently, over 150 cases on this issue have been raised in the Connecticut courts using the Supreme Court’s reasoning in *Miller*. This litigation is bogging down the courts and could result in significantly different outcomes, fostering further litigation. **S.B. 796 will establish a clear rule from the beginning about a juveniles sentencing, ensuring that these youth are granted an appropriate sentence from the get go, and then subsequently subject to parole supervision.**

In closing, the Center for Children’s Advocacy urges the Committee to pass **S.B. 796** so that these important changes may become law.

Thank you for your time and consideration.

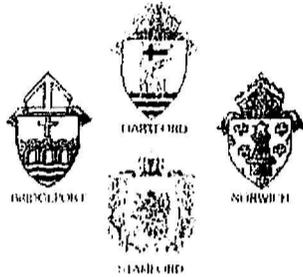
Respectfully submitted,

/ s /  
Marisa Mascolo Halm, Esq.  
Director, TeamChild Juvenile Justice Project

<sup>1</sup> Data compiled from the U.S. Census (2010) and the Connecticut Department of Corrections (population data 7/11/11; juvenile data 9/28/11).

<sup>2</sup> *Id.*

001049



CONNECTICUT CATHOLIC PUBLIC AFFAIRS CONFERENCE, INC.  
134 FARMINGTON AVENUE  
HARTFORD, CONNECTICUT 06105-3784

MICHAEL C. CULHANE  
EXECUTIVE DIRECTOR

DEACON DAVID W. REYNOLDS  
LEGISLATIVE LIAISON

Testimony of Michael C. Culhane  
Executive Director  
Connecticut Catholic Public Affairs Conference

Judiciary Committee  
March 4, 2015  
Legislative Office Building, Room 2E

*SB 796, An Act Concerning Lengthy Sentences For Crimes Committed By A Child or Youth and  
The Sentencing Of A Child Or Youth Convicted Of Certain Felony Offenses*

Senator Coleman, Representative Tong and Members of the Judiciary Committee:

My name is Michael C. Culhane and I am the Executive Director of the Connecticut Catholic Public Affairs Conference. The CCPAC is the public policy office of the Catholic Bishops of Connecticut and the Archbishop of Hartford, the Most Reverend Leonard P. Blair, is the Chairman of the Conference's Board of Directors. I am submitting this testimony in support of SB 796 which provides a "second look" at long sentences imposed on youth.

On behalf of the Conference, I urge the Connecticut General Assembly to enact legislation allowing a person sentenced to a lengthy term of imprisonment for a crime committed under the age of eighteen to seek release under parole supervision after serving a portion of the sentence. Such legislation will help ensure that all youth are held accountable for their actions in an age-appropriate manner.

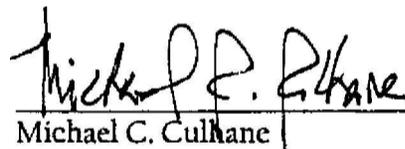
As the Judiciary Committee considers the proposed bills, I urge members to consider the well-established scientific evidence that proves the fundamental differences between youth and adults. Recent research shows that children do not have adult levels of judgment, impulse control, or ability to assess risks, and we know that they are more susceptible than adults to negative influences and outside pressures, including peer pressure. This scientific evidence illustrates the fact that "juveniles have lessened culpability," which, according to the Supreme Court, means that "they are less deserving of the most severe punishments." In fact, the Supreme Court has determined - three

times in the last seven years – that youth must be treated differently than adults because they have a unique potential for change and rehabilitation. These decisions underscore the importance of providing youth convicted of serious crimes meaningful and frequent sentencing reviews after a portion of their time is served.

SB 796 recognizes this capacity in youth, eliminating life without parole sentences for juveniles and allowing judges to consider youth-related factors in sentencing juveniles transferred to adult court. This legislation would not guarantee release, but rather would give juvenile offenders serving lengthy sentences the opportunity to show they have grown, matured, worked diligently to change their ways, and made amends for their mistakes.

The Connecticut Catholic Public Affairs Conference supports sound public policy that promotes accountability and keeps communities safe through the recognition of fundamental differences between youth and adults. Meaningful “second look” provisions do not allow for the premature release of inmates serving time in prison for serious offenses. Instead, they ensure that youth convicted of serious crimes have the chance to work towards release if they can prove, later in life, that they have been rehabilitated.

I appreciate the Committee's attention to this important issue and urge their support of SB 796.



---

Michael C. Culhane  
Executive Director

001051

DOUGLAS HOOD

To: Committee Members

For SB 796

I'll tell you a story.

In 1996 two kids were at a party. A boy 16 and a girl 14. She was homeless, her mom had died of AIDS and her dad was in and out of jail. They needed money, decided to rob a cab. One got a knife. When they got in the cab a scuffle ensued and the driver was dead from a stab wound.

The police report never gave the details. No matter.

The girl's father told her to tell the cops everything—that she would fall under the juvenile system. But she was treated as an adult, with no lawyer signed a confession. We never knew who was the major participant. Both teens were convicted of a felony murder and got 50 years. Even a jury member said they had no idea that would be the sentence. In her Presentence Investigation they said she was likely to be end up in jail anyway.

This didn't happen in Somalia. No, here in the US. In fact, right here in Hartford.

Has the system brutalized her? Of course.

Three times she attempted suicide and many more times landed in solitary.

Despite being a seventh grade dropout she has taken courses at Wesleyan University. She has written poems and stories and been published and won awards. She has emerged as a strong woman that looks to a future even though she has none.

Her dad, once the most wanted man in CT, a career criminal, an addict, has turned his life around. He says she is the reason she's in jail. For ten years he's worked for a volunteer Veterans group rescuing the homeless and addicts and puts them on the right track. Every week he drives down from Pittsfield, Mass to see his daughter. Every week. His only mission is to be standing at the gate when she gets out.

That's not likely. He's 62. And she's got more than 30 years to go. No matter what she does she cannot change that fact. Think of it. Her first chance in life—when she's not doomed by a missing criminal family with no home or behind bars—will be when she's 64.

Please pass SB 796.

Douglas Hood



**Trinity College**  
HARTFORD CONNECTICUT

Testimony of Sarah A. Raskin, Ph.D., ABBP/ABCN  
Professor  
Department of Psychology and Neuroscience Program  
Trinity College

Judiciary Committee

March 4, 2015

S.B. 796

An Act Concerning Lengthy Sentences for Crimes Committed by a Child or Youth and  
the Sentencing of a Child Convicted of Certain Felony Offenses

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

Thank you for allowing me to submit written testimony in support of S.B. 796.

I am a Professor of Psychology and Neuroscience at Trinity College and a Board-Certified Neuropsychologist. My work is focused on the interaction of the brain and behavior, and especially on changes in the brain or brain plasticity.

One of the remarkable aspects of brain plasticity is the dramatic change that occurs in the adolescent brain. In particular a very important part of the brain, the prefrontal cortex, does not finish developing until at least age 18, with tremendous change occurring particularly between 15 and 18 years of age.

This part of the brain is involved in planning, problem-solving, impulse control and emotional regulation. This area has been dubbed "the area of sober second thought." Because it is not fully formed, it is not fully functional in adolescents.

As a result, there are significant differences between adolescent brain functioning and adult brain functioning. For one thing, adolescents differ from adults in processing of emotions. When shown a picture of a person who is frightened, adults correctly identify the emotion as fear; adolescents respond that the person is surprised or angry. Moreover, while the adults are using their prefrontal cortex when making this judgment, because this region is not yet fully developed, adolescents are using a part of the brain, the amygdala, that is used for more instinctual or "gut" reactions. Impulsive reactions come from the amygdala; rational thought requires the prefrontal cortex.

001053



**Trinity College**  
HARTFORD CONNECTICUT

This finding alone can explain increased risk-taking and thrill seeking in teens. However, additional studies have also shown that these behaviors are increased when peers are present. Adults do not increase the activity in reward and pleasure centers when others are watching them. Teens, on the other hand, showed increased activity in the parts of the brain associated with reward when another teen was watching them take risks.

These data suggest that the decisions and judgments of a teen are very different than those that would be made by the same person as an adult. This alone would suggest passage of legislation for a "second look."

Sarah A. Raskin, Ph.D., ABBP/ABCN  
Professor  
Department of Psychology and Neuroscience Program

Written Testimony of Susan Budlong Cole  
York C.I. Volunteer, Wally Lamb Inmate Writers

Testimony Before the Judiciary Committee, March 4, 2015

In support of

**SB 796: AN ACT CONCERNING LENGTHY SENTENCES FOR CRIMES  
COMMITTED BY A CHILD OR YOUTH AND THE SENTENCING OF A CHILD OR  
YOUTH CONVICTED OF CERTAIN FELONY OFFENSES**

Dear Members of the Judiciary Committee:

I speak today in support of an enlightened approach to juvenile justice and correction and urge the legislature to create a procedure to provide “a second look” at long sentences imposed on juvenile offenders after a portion of the sentence has been served. Eight years ago I retired from a career in substance abuse treatment to become a volunteer along with Wally Lamb in the inmate writers’ program at York CI.

This experience opened my eyes to the injustice of lifelong sentences for children. I urge the Committee to consider current scientific studies of adolescent brains and development, the practical experience of children and those who have observed them in adult prisons as well as the potential for taxpayer savings if long-term sentences are appropriately modified.

Others will more effectively make the case on the supporting scientific evidence. I’ve read the data and, over eight years at York C.I., I’ve seen it in action.

A number of women in our class have already served more than half their lives in prison, having been tried as adults for crimes committed as children. These were adolescents whose immaturity led them into risk taking, gangs and making the poor choices that would one day involve them in a violent act. Most had no prior violent record – most were not direct instruments of the violence for which they were convicted. Today these women – now approaching middle age – are taking on responsible roles in the prison community, developing caring relationships with others, serving in the prison hospice unit and, and perhaps most telling for rehabilitation, fearlessly reconstructing their lives through their writings. Every week they open up their past for discussion and

critique. I marvel at the insight; not only by the one reading her story but the others who listen and comment without passing judgment. They don't write about their crimes. They share the stories of their families and youth before prison – some tragic, some funny – and even those who experienced abuse and abandonment don't whine or blame others for the paths they later chose. I wonder how they got so wise.

Juveniles Sentenced to Life Without Parole (JLWOP) has become a national discussion – rightly so. The United States, once a world leader in the enlightened treatment of juvenile offenders, is now the only country in the world that sentences youngsters to life without hope of parole. In addition to JLWOP we also need to consider those sentenced to forty, or fifty years or more. Though these long sentences sound less Draconian than life without parole; it is a distinction without a difference. Fifty years in a state that doesn't allow those convicted of violent crimes to earn time off for good behavior and requires 85 to 100 per cent of the sentence be served before release -- is a life sentence.

There are consequences for violent acts – even for children. There needs to be more than a slap on the wrist from juvenile courts designed to address truancy, teenage rebellion and petty crimes. But “more than a slap on the wrist” needn't be shoving a fourteen year old into adult corrections for the rest of her life. A just system needs to recognize the now well-documented ability of youth to mature and change; to develop empathy and the critical thinking necessary to make sound adult decisions. We don't need to keep most children in prison for 25 years or more at a cost to taxpayers of many millions of dollars.

At thirty-five or forty years old having spent twenty or twenty-five years -- most of her life -- in prison, a mature, rehabilitated and educated adult would likely contribute much more to society than a fragile, likely ailing, 64 year old with nothing to look forward to and nothing to contribute to a world -- outside of prison -- that she barely remembers.

I applaud the Judiciary Committee for considering a better alternative.

**Written Testimony: SB 796****Elizabeth Beinfield****11 Pennoyer Street. Rowayton, CT 06853****March 4, 2015****Written Testimony from Liz Beinfield for Edward Turnage Inmate # 255942:**

I have known Eddie Turnage for 26 years—since he was seven-years-old. He was in the same first grade class as my daughter, Jenny. Unlike Jenny, he lost his mother at the age of five and had little parental guidance from that day forward. Eddie was and is a good person who as a child did a terribly bad thing.

I was present at his arraignment. My heart broke for the family of the victim. I cannot imagine the despair that was caused by Eddie's act but what I do know is that he feels intense and utter remorse. I believe the crime was a split second incredibly tragic, rash singular event. Nothing excuses this capital offense, but there is a context for it. Eddie had never been in trouble with the law. The day of this event was Mother's Day—the hardest day of the year for him. He had been without his mother for ten years—twice as many years as he had lived within her embrace. On that day he was particularly sad, mad, and bad—he was at an apartment with a lot of people. A two-year-old reached into a backpack and pulled out a gun. Eddie took it from him and put it in his pocket. Eddie should not have had a gun and he absolutely should not have used it. He never should have caused such unbearable loss. He received 32 years, of which he must serve 28 years—he has already done 17. I was told to tell him to take this plea bargain—in retrospect, I do not know that I should have done so.

I conjecture that Eddie might have grown to be a better person in jail than he otherwise would have done. He has matured with grace and integrity within the confines of a high security upbringing. He has willingly served his time for the crime committed without harboring ill will. He is one of the most thoughtful and caring individuals that I have ever met. He has become a Muslim and that spirituality has contributed to his capacity to self-reflect.

He has spent so much time thinking about his future. He will make his life as positive as possible and will contribute what he can towards making a brighter future to all of those that will have the gift of befriending him in their lives. I can see Eddie becoming a mentor and counselor for troubled teens. He has a sense of clarity rare in a person of his age. He recognizes that he has accrued knowledge and wisdom as a result of his years in prison. He talks about wanting to spend time with his nephews and teach them what was never taught to him as a child. When he speaks to his siblings he is always trying to steer them toward a better life path. Looking back at himself as the young man who committed his crime, he sees himself as having been thwarted by anger, confusion, and peer pressure. He no longer feels this as the more mature person he has become. Now he experiences his life as a blessing.

001057

My family origins and life circumstances dramatically differ from Eddie's—I have had privilege and opportunity. Despite our differences, or because of them, my relationship to Eddie and his siblings has been important to me and to them—I have tried to fulfill the role of being a constant source of support. Eddie and I have spoken between one and three times a week for the last sixteen years. I am also in close touch with his sister Special and her children. Were Eddie to be released from prison, I would offer him maternal and emotional support, help him to find a job, and attempt to ease his transition back into the community. I do not believe that this would be difficult—Eddie is so sure about making another set of choices than those he made as a fifteen-year-old committing this thoughtless, terrible act eighteen years ago. As a thirty-four-year-old, he is a responsible, thoughtful man who seeks to be in the cradle of his family and contribute to their welfare and that of his larger community. I would like to thank you for taking the time to read this letter and hope that you see that Eddie has changed and, based on that, you can see your way clear to offer him a second chance at being a free citizen.

Respectfully,  
Liz Beinfield

001058

SENATOR MARTIN M. LOONEY  
PRESIDENT PRO TEMPORE

Eleventh District  
New Haven, Hamden & North Haven



State of Connecticut  
SENATE

State Capitol  
Hartford, Connecticut 06106-1591  
132 Fort Hale Road  
New Haven, Connecticut 06512  
Home: 203-468-8829  
Capitol: 6-  
Toll-free: 1-800-842-1420  
[www.SenatorLooney.cga.ct.gov](http://www.SenatorLooney.cga.ct.gov)

March 4, 2015

Good morning Senator Coleman, Representative Tong and members of the Judiciary Committee. I am here to testify in support of SB 796, AN ACT CONCERNING LENGTHY SENTENCES FOR CRIMES COMMITTED BY A CHILD OR YOUTH AND THE SENTENCING OF A CHILD OR YOUTH CONVICTED OF CERTAIN FELONY OFFENSES.

In 2010, the U.S. Supreme Court ruled that the Eighth Amendment prohibits imposing a sentence of life without the possibility of release on a defendant under age 18 who commits a non-homicide crime. The Court ruled that juveniles convicted of these crimes must have a "meaningful opportunity" for release after sentencing based on demonstrated maturity and rehabilitation (*Graham v. Florida*, 560 U.S. 48). In 2012, the Court ruled that the Eighth Amendment prohibits automatically imposing a sentence of life without parole on offenders who committed homicides while under age 18. While the Court did not prohibit the sentence of life without parole in all circumstances, it did require lower courts to consider how juveniles are different from adults and how that counsels against a life sentence without parole (*Miller v. Alabama*, 132 S.Ct. 2455). Currently, in Connecticut, those convicted of murder with special circumstances (formerly capital felony) must automatically serve a life sentence and are ineligible for parole. This sentence is applied to both adults and minors who are convicted.

A number of Connecticut inmates, convicted of crimes committed when they were under age 18 and given lengthy sentences, are back in our court system right now, challenging the constitutional validity of their sentences under these two Supreme Court rulings. In light of these numerous, pressing challenges, and in order to conform our law with the dictates of the United States Supreme Court, the Connecticut Sentencing Commission has made recommendations for the past two years to the legislature about compliance with the rulings. In 2013 and in 2014, bills with these recommendations passed the House with overwhelming majorities.

SB 796 is substantially similar to 2014's HB 5221, which passed the House in an overwhelming, bipartisan 129-15 vote.

Among other changes, SB 796 would both prospectively and retroactively eliminate automatic life sentences without the possibility of parole for minors who committed a capital felony, murder with special circumstances, or arson murder. Additionally, a criminal court would have to consider enumerated youth-development related factors when sentencing a juvenile (age 14-17) for certain serious felonies. The proposal also establishes alternative parole eligibility rules or a "second look" at lengthy sentences that have been given to individuals who committed their crimes when under the age of 18. The "second look" required by the bill is in the form of a parole hearing with extremely stringent requirements and burdens of proof, along with ample notice to all potentially affected parties and relevant state agencies. It creates an opportunity - but far from a guarantee or even likelihood -- of a second chance for an offender who was under the age of 18 when his or her crime was committed.

As noted, SB 796 and the two substantially similar bills which passed the House overwhelmingly in both 2013 and 2014 are based not only on the dictates of sound public policy, but also on the guidance, reasoning and requirements set forth by the United States Supreme Court. As the Supreme Court stated in the seminal case of Graham v. Florida:

[B]ecause juveniles have lessened culpability they are less deserving of the most severe punishments.<sup>1</sup> [...] As compared to adults, juveniles have a "lack of maturity and an underdeveloped sense of responsibility"; they "are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure"; and their characters are "not as well formed."<sup>2</sup> [...] These salient characteristics mean that "[i]t is difficult even for expert psychologists to differentiate between the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption."<sup>3</sup> [...] Accordingly, "juvenile offenders cannot with reliability be classified among the worst offenders."<sup>4</sup> [...] A juvenile is not absolved of responsibility for his actions, but his transgression "is not as morally reprehensible as that of an adult."<sup>5</sup> [...] No recent data provide reason to reconsider the Court's observations in *Roper* about the nature of juveniles. As petitioner's *amici* point out, developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds. For example, parts of the brain involved in behavior control continue to mature through late adolescence. See Brief for American Medical Association et al. as *Amici Curiae* 16-24; Brief for American Psychological Association et al. as *Amici Curiae* 22-27. Juveniles are more capable of change than are adults, and their actions are less likely to be evidence of "irretrievably depraved character" than are the actions of adults.<sup>6</sup> [...] It remains true that "[f]rom a moral standpoint it would be misguided to equate the failings of a minor with those of an adult, for a greater possibility exists that a minor's character deficiencies will be reformed."<sup>7</sup>

Graham v. Florida, 560 U.S. at 68.

SB 796 is a response to this reasoning of the Supreme Court, and to its holdings in Graham v. Florida, Miller v. Alabama, and several other cases regarding the criminal culpability of juveniles under the age of 18, and the need to potentially give them a second chance at release after they have served a lengthy sentence. I urge you to support SB 796. Thank you.

<sup>1</sup> *Roper v. Simmons*, 543 U.S. 551, 569 (2005).

<sup>2</sup> *Roper* at 569-570.

<sup>3</sup> *Roper* at 573.

<sup>4</sup> *Roper* at 569.

<sup>5</sup> *Thompson v. Oklahoma*, 487 U.S. 815, 835 (1988).

<sup>6</sup> *Roper* at 570.

<sup>7</sup> *Roper* at 570.

001061

STATE OF CONNECTICUT  
OFFICE OF THE CHILD ADVOCATE  
999 ASYLUM AVENUE, HARTFORD, CONNECTICUT 06105



Sarah Healy Eagan  
Child Advocate

**Testimony of Sarah Eagan, Child Advocate  
In Support of**

**Senate Bill 796, *An Act Concerning Lengthy Sentences for Crimes Committed by a Child or Youth  
and the Sentencing of a Child or Youth Convicted of Certain Felony Offenses.***

**Judiciary Committee  
March 4, 2015**

Senator Coleman, Representative Tong, Senator Doyle, Representative Fox, Senator Kissel, Representative Rebimbas, and distinguished members of the Judiciary Committee: I appreciate the opportunity to offer this testimony today **in support of SB 796**.

*The mandate of the Office of the Child Advocate (OCA) includes evaluating the delivery of state funded services to children and advocating for policies and practices that promote their well-being and protect their special rights.*

**Background**

Children ages 14 to 17 charged with certain crimes are automatically tried in adult court and subject to mandatory lengthy no-parole prison terms, including life without the possibility of parole.

In 2013, legislation reflecting the consensus recommendations of the Connecticut Sentencing Commissions overwhelmingly passed the House (HB 6581) but unfortunately was not called for a vote in the Senate.

**Senate Bill 796 provides parole eligibility rules tailored for juveniles serving lengthy prison sentences.**

Release would not be guaranteed but would be possible only if a review allows the parole board to determine that a person had truly rehabilitated and can be safely released.

**Senate Bill 796 eliminates mandatory life-without-parole sentences for children and requires judges to consider youth-related factors in sentencing juveniles transferred to adult court.**

**Senate Bill 796 reflects the science of adolescent brain development.**

Science confirms that the adolescent brain is not fully developed until far into the twenties, and that the last features of the brain to develop are those that control judgment, decision-making and proper understanding of the consequences of actions.

**Brain science has already dramatically influenced many of our public policies in Connecticut that affect child welfare, educational, mental health, correctional and juvenile justice services.**

Phone (860) 566-2106 • Toll Free (800) 994-0939 • Fax (860) 566-2251

Web Site: [www.ct.gov/oca](http://www.ct.gov/oca)

*An Affirmative Action/Equal Opportunity Employer*

The OCA, through its unique authority, works closely with all state agencies having responsibility for children and youth to ensure that policies, procedures and practices reflect awareness of this knowledge and serve children and youth in a *developmentally appropriate way*. Collaborative advocacy efforts have resulted in:

- The Department of Children and Families is currently working to incorporate the neuroscience of child development into all of its practices and policies involving children zero to three through adolescents aging out of foster care.
- Court Support Services Division has received national acclaim for changes in juvenile justice policies and practices that have resulted in fewer numbers of children involved with the court system and decreased delinquency commitments.
- Department of Correction, at both the Manson Youth and York Correctional Institutions, is currently engaged in a multi-agency and multidisciplinary review to ensure the unique needs of adolescents in facilities are understood and met.
- OCA, due to our unique access to children and youth living in state-funded facilities, has witnessed firsthand the harsh realities of incarceration for young people, as well as their *potential for positive development* through maturation, education, and access to developmentally appropriate rehabilitative programming and health services.
- Department of Mental Health and Addiction Services has multiple initiatives to reform the conditions of care and treatment for young adults living in hospitals, and the agency is developing a statewide continuum of developmentally appropriate services and supports for young people transitioning from DCF.
- The State Department of Education is reviewing and supporting development of local practices and policies regarding Positive Behavioral Supports, graduated discipline, and reduction of harsh and ineffective school discipline practices.

**Despite new understanding of the adolescent brain and implications for public policy, in Connecticut approximately 275 people are serving sentences of more than 10 years for crimes committed when they were under the age of 18.**

- 88% of these individuals are African American or Hispanic.
- Approximately 50 people are serving sentence of 50 years or more for crimes committed under age 18, most without the chance of parole.
- 4 individuals are serving mandatory life-without-parole sentences. Under current law, they have no right to a second look after growing up in prison.

The OCA supports legislative changes entitling juvenile offenders serving lengthy sentences to meaningful review after a portion of their sentence is served, and release for those individuals who can demonstrate that they have matured and rehabilitated. The OCA similarly supports eliminating mandatory life-without-parole sentences for juveniles and allowing judges to consider youth-related factors in sentencing juveniles transferred to adult court.

Thank you for this opportunity to testify, and we look forward to working with you to institute these humane, evidenced-based and forward-thinking reforms for the benefit of Connecticut's young people and the state.

Sincerely,  
Sarah Healy Eagan, J.D.  
Acting Child Advocate, State of Connecticut

Phone (860) 566-2106 • Toll Free (800) 994-0939 • Fax (860) 566-2251

Web Site: [www.ct.gov/oca](http://www.ct.gov/oca)

*An Affirmative Action/Equal Opportunity Employer*

001063



**Testimony of Josh Rovner**

State Advocacy Associate  
The Sentencing Project

**In support of SB 796**

Before the Connecticut Joint  
Committee on the Judiciary

March 4, 2015

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,<sup>1</sup> often in response to the U.S. Supreme Court's decisions in *Graham v. Florida* (2010)<sup>2</sup> and *Miller v. Alabama* (2012)<sup>3</sup> 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;

---

<sup>1</sup> 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.

<sup>2</sup> *Graham v. Florida*, 130 S. Ct. 2011 (2010).

<sup>3</sup> *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.<sup>4</sup> 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."<sup>5</sup>

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.<sup>6</sup> 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

---

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

<sup>5</sup> *JDB v. North Carolina*, 131 S. Ct. 2394 at 2403.

<sup>6</sup> 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](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.<sup>7</sup> 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."<sup>8</sup> 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.<sup>9</sup>

In 2012, The Sentencing Project surveyed people sentenced to life in prison as juveniles<sup>10</sup> and found the defendants in the above cases were not atypical.

<sup>7</sup> See: H.B. 4210 (2014), West Virginia.

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

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

<sup>10</sup> Nellis, A. (2012). "The Lives of Juvenile Lifers: Findings from a National Survey." Available at [http://sentencingproject.org/docs/publications/jj\\_The\\_Lives\\_of\\_Juvenile\\_Lifers.pdf](http://sentencingproject.org/docs/publications/jj_The_Lives_of_Juvenile_Lifers.pdf)

001067

- 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.

001068

SB-796

My name is Dara Young, and I am currently the Program Manager for the Wesleyan University Center for Prison Education. The Center for Prison Education offers Wesleyan University classes — as rigorous as those taught on our main campus — inside the Cheshire and York Correctional Institutions.

About 10% of the students who have studied with the Center are serving long sentences for crimes they committed while juveniles. This disproportionately high number speaks not just to the ability of those incarcerated as juveniles to change, but the determination of many such individuals to do so. A bill like the one we are discussing today would have a dramatic impact on the lives of those who, during their years of incarceration, have taken advantage of programs like ours, to better themselves — demonstrating maturity, dedication and hard work.

I do not suggest that everyone in prison transforms. But I know for a fact some student. When I speak with the students who would be affected directly by this bill, they are forthright and remorseful in discussing their pasts. The majority describe themselves as arrogant, impulsive and impressionable teenagers, at the time of their arrests. Most had already dropped out of school, many while in junior high. But the people I work with are no longer arrogant and unpredictable children. They speak with deep understanding and remorse about their crimes. They are dedicated learners, inside and outside the classroom. They work ceaselessly to better themselves, to become the responsible, resilient, sensitive individuals, they were not as children.

These students are accessing postsecondary academic education for the first time in their lives and are often the first members of their family to do so. In our society, postsecondary education has come to mean opportunity, the opportunity to learn, the opportunity to better oneself, the opportunity to change one's path. But for these students education is most importantly an opportunity to better the lives of others and improve the communities to which they one day hope to return. When imagining a possible future after prison, what they might do if released, every student articulates a desire to work with juveniles - to help kids at risk of making the same mistakes they did. They cannot stand to see more young lives thrown away. I hope our legislators feel the same.



March 1, 2015

Senator Coleman, Representative Tong and Members of the Judiciary Committee:

The Connecticut Psychological Association is writing in support of **SB 796 An Act Concerning Lengthy Sentences For Crimes Committed By A Child Or Youth And The Sentencing Of A Child Or Youth Convicted Of Certain Felony Offenses, and HB 6926 An Act Concerning Lengthy Sentences for Crimes Committed by a Child or Youth.**

This legislation will provide review of lengthy adult sentences imposed on juveniles. There is a well-established body of research that supports review of such sentences. In addition, the American Psychological Association joined with other national organizations of providers and researchers of adolescent mental health and development to support sentencing reviews by filing amicus briefs in the U.S. Supreme Court in both *Miller v. Alabama* in 2012 and *Graham v. Florida* in 2010.

#### **Psychological and Physiological Differences between Children and Adults**

In three recent cases about the constitutional limits of punishment of children, the U.S. Supreme Court has emphasized that children are both less culpable than adults,<sup>i</sup> and more capable of change than adults. In reaching these conclusions, the Court has relied heavily on an ever-growing body of research in developmental psychology and neuroscience. This research establishes critical differences between adults and children. In particular, compared to adults, adolescents are:

- less able to control their impulses;
- less capable of considering alternative courses of action and avoiding risky behaviors;
- less able to envision the future and appreciate the long-term consequences of their actions; and
- more susceptible to outside influences, including peer pressure.<sup>ii</sup>

Thus, adolescents are less capable of making mature judgments and decisions than adults, especially in social situations in which they are most likely to be exposed to criminal activity. Because adolescents are still maturing and changing, their crimes often reflect qualities of youth, rather than permanently bad characters. Indeed, as the Supreme Court has recognized, "[i]t is difficult even for expert psychologists to differentiate between the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption."<sup>iii</sup>



Page 2

Recent advances in neuroscience suggest a physiologic basis for the behavior of adolescents. Adolescent brains are not fully formed: the brain regions that govern impulse control, risk avoidance, planning ahead, and regulation of emotion continue to mature throughout adolescence. Significantly, different areas of the brain develop at different times. The prefrontal cortex—the part of the brain that exercises executive functions and impulse control—is one of the last regions of the brain to fully mature. However, adolescence is a period marked by rapid development in the “incentive processing system” of the brain, involving neurotransmitters such as dopamine. These brain structures are related to reward-seeking and risk-taking behavior and activities. Thus, the rapid-pubertal changes outpace the slower developing changes to the areas relating to executive function and self-control. This disjunction between these developmental processes helps explain the familiar features of observed adolescent behavior including risk-taking activities, lack of impulse control, and poor judgment.

## II. The Need for Review of Long Sentences Imposed on Children

In 2011, the American Psychiatric Association published an official Position Statement on juveniles and long-term sentences.<sup>iv</sup> The statement affirmed the “undesirability of long-term mandatory sentences without possibility of parole for offenders who were younger than 18 at the time of the offense” on the ground that “[s]uch sentences fail to take account of the significant prospects of maturation and rehabilitation for most youthful offenders, even those convicted of serious offenses.” States are urged to “require reviews for all juvenile offenders who are sentenced to lengthy mandatory terms of imprisonment.” The review should:

- take place within a reasonable period of time after sentencing and periodically thereafter;
- include evaluations by qualified mental health professionals when an offender’s current developmental maturity or mental health status are relevant to the reviews;
- be conducted by mental health professionals trained to evaluate children and adolescents for offenders still under age 18; and
- include a thorough review of the offender’s developmental, educational, legal, social, medical, mental health, and substance abuse histories; and interviews with knowledgeable informants, including family members; and additional testing when needed.

Reviewing long sentences imposed on children is necessary because children change as they mature and grow. Because adolescent conduct is related to lack of development, it is simply not possible to determine at the time of sentencing that a juvenile is incapable of change. On the contrary, adolescents are especially likely to reform and rehabilitate because they will inevitably mature as they age. Personality traits change significantly during the developmental transition



Page 3

from adolescence to adulthood, leaving the process of identity-formation incomplete until at least the early twenties. The result is that adolescents' criminal conduct often results from experimentation, not from a deep-seated moral deficiency reflective of bad character. This remains true even in the most serious of crimes, with recent studies verifying that there is no correlation between a youthful homicide offense and the basic psychological measures of persistent antisocial personality, such as cruelty to people and callous-unemotional behavior.<sup>v</sup>

Consequently, there is simply no reliable way to determine that a juvenile's offenses are the result of an irredeemably corrupt character. This means that there is no reliable way to conclude at the time of sentencing that a juvenile—even one convicted of homicide—should be sent to prison with no chance to demonstrate rehabilitation. We cannot predict at the time of sentencing what kind of adults these children will become. For these reasons, we strongly support a “second look” at these cases after a portion of the sentence is served.

The Connecticut Psychological Association urges your support of **SB 796 An Act Concerning Lengthy Sentences For Crimes Committed By A Child Or Youth And The Sentencing Of A Child Or Youth Convicted Of Certain Felony Offenses.**

<sup>i</sup> See *Roper v. Simmons*, 543 U.S. 551 (2005); *Graham v. Florida*, 130 S. Ct. 2011 (2010); *Miller v. Alabama*, 132 S. Ct. 2455 (2012).

<sup>ii</sup> See Laurence Steinberg, *Adolescent Development and Juvenile Justice*, 5 Ann. Rev. Clinical Psychol. 47, 55–56 (2008) (adolescents are less capable to control their impulses and less able to envision the future and apprehend the consequences of their actions); Margo Gardner & Laurence Steinberg, *Peer Influence on Risk Taking, Risk Preference, and Risky Decision Making in Adolescence and Adulthood*, 41 Developmental Psychol. 625, 626–634 (2005) (exposure to peer pressure can double the amount of risky behavior engaged in by adolescents).

<sup>iii</sup> *Roper*, 543 U.S. at 570.

<sup>iv</sup> American Psychiatric Association, Official Action: Position Statement on Review of Sentences for Juveniles Serving Lengthy Mandatory Terms of Imprisonment. <http://www.psychiatry.org/File%20Library/Learn/Archives/Position-2011-Juveniles-Mandatory-Sentences.pdf> (Last accessed 3/1/15)

<sup>v</sup> Rolf Loeber & David Farrington, *Young Homicide Offenders and Victims: Risk Factors, Prediction, and Prevention from Childhood* 158 (2011).



**State of Connecticut**  
DIVISION OF PUBLIC DEFENDER SERVICES

OFFICE OF CHIEF PUBLIC DEFENDER  
30 TRINITY STREET - 4<sup>th</sup> Floor  
HARTFORD, CONNECTICUT 06106

DEBORAH DEL PRETE SULLIVAN  
LEGAL COUNSEL, DIRECTOR  
(860) 509-6405 Telephone  
(860) 509-6495 Fax  
[deborah.d.sullivan@jud.ct.gov](mailto:deborah.d.sullivan@jud.ct.gov)

**Testimony of**  
**Deborah Del Prete Sullivan, Legal Counsel, Director**  
**Office of Chief Public Defender**

**Raised Bill No. 796**  
**An Act Concerning**  
**Lengthy Sentences for Crimes Committed by a Child or Youth And the**  
**Sentencing of a Child or Youth Convicted of Certain Felony Offenses**

**Judiciary Committee Public Hearing**  
**March 4, 2014**

The Office of Chief Public Defender strongly supports Raised Bill No. 796, An Act Concerning Lengthy Sentences for Crimes Committed by a Child or Youth Convicted of Certain Felony Offenses. In light of the U.S. Supreme Court decision in Graham v. Florida, 560 U. S. 48 (2010), passage of this bill is necessary in order for Connecticut to be in compliance with Graham constitutionally which held that there must be a meaningful opportunity for release of a child so sentenced in a non-homicide case. Chief Public Defender Susan O. Storey is a member of the Connecticut Sentencing Commission. The Office of Chief Public Defender was very involved in the detailed discussions that took place in its Legislative Sub-committee which designated a smaller working group. This group was comprised of Attorney Robert Farr; Chief State's Attorney Kevin Kane of the Division of Criminal Justice; Erica Tindall, former Chairman of the Board of Pardons and Paroles, now Superior Court Judge; Attorney Thomas Ullmann representing the Connecticut Criminal Defense Lawyers; initially Attorney Michelle Cruz, the former Victim Advocate and the current Victim Advocate, Garvin Ambrose; and, myself on behalf of the Office of Chief Public Defender.

Page 2 of 4    Judiciary Committee Public Hearing - March 4, 2015  
R.B. 796    An Act Concerning Lengthy Sentences for Crimes Committed by a Child or Youth  
              Convicted Of Certain Felony Offenses  
Testimony    Deborah Del Prete Sullivan, Legal Counsel, Director, Office of Chief Public  
              Defender

In 2013 and 2014, House Bills 6581 and 5221 respectively passed the House overwhelmingly with bipartisan support. Unfortunately, neither bill was called in the Senate prior to the close of the respective sessions. The language 6581 and 5221 which passed in the House previously is essentially the same as what is proposed in this Raised Bill 796.

Since the Supreme Court decisions, more than 70 filings have been made statewide by persons impacted by the Graham decision. These filings have been in the form of a Motion to Correct an Illegal Sentence or a habeas corpus petition, all of which have been filed in an effort to have the sentences reviewed in light of Graham.

Section 1 of this bill would provide for a meaningful review of the sentence imposed upon a person who committed an offense and was under the age of 18 years and subsequently convicted of the crime in adult court and sentenced as an adult to a lengthy term of incarceration. The bill is totally inapplicable to any offenses for which a person was 18 years of age or older when committed. Youth and children are different from adults, biologically and mentally. As such, they should not be treated as adults for purposes of sentencing. Youth and children make bad decisions, are more impulsive and do not appreciate the ramifications of their actions. The wealth of science pertaining to brain development of youth and children is overwhelming and significant and supportive of why they are different from adults.

Passage of this legislation would make a person convicted of an offense committed when under the age of 18 years but convicted and sentenced in adult court *eligible* for parole. The fact that a person is eligible does not mean that the person is to be automatically released on parole. It is the Board of Pardons and Paroles that would determine whether the person was suitable for release on parole after consideration of a number of factors including those articulated in the Graham decision. The bill would provide that such a person would be *eligible* for parole release after being incarcerated for a specific amount of time. A person serving a sentence of fifty years or less, would be eligible to be released on parole after serving twelve years or 60% of the sentenced imposed, whichever is greater. A person serving a sentence of more than fifty years would be eligible for parole after serving thirty years of the sentence imposed. Therefore, a person who committed an offense at the age of 15 who is sentenced to sixty years of incarceration would not be eligible for parole until he was at least 45 years of age having served at least ½ of his sentence or 30 years.

The bill creates a procedure by which the Board of Pardons and Paroles would provide notice to the Office of Chief Public Defender and the state's attorney that a person has become eligible for parole release. Counsel would be assigned by the Office of Chief Public Defender if the

Page 3 of 4    Judiciary Committee Public Hearing - March 4, 2015  
R.B. 796        An Act Concerning Lengthy Sentences for Crimes Committed by a Child or Youth  
                  Convicted Of Certain Felony Offenses  
Testimony     Deborah Del Prete Sullivan, Legal Counsel, Director, Office of Chief Public  
                  Defender

person is indigent. Once the person reaches the threshold for parole eligibility, the person would be permitted to appear at a hearing before the Board of Pardons and Paroles for a determination of whether he/she should actually be released on parole. The hearing is not adversarial in nature.

The person would be provided the opportunity to demonstrate his/her suitability for parole release based upon information and reports from any source including the Department of Correction that the Board obtains which demonstrate that:

“(A) there is a reasonable probability that such person will live and remain at liberty without violating the law;

(B) the benefits to such person and society that would result from such person's release to community supervision substantially outweigh the benefits to such person and society that would result from such person's continued incarceration; and

(C) such person has demonstrated substantial rehabilitation since the date such crime or crimes were committed considering such person's character, background and history, as demonstrated by factors including, but not limited to, such person's correctional record, the age and circumstances of such person as of the date of the crime or crimes, whether such person has demonstrated remorse and increased maturity since the date of the crime or crimes, such person's contributions to the welfare of other persons through service, such person's efforts to overcome substance abuse, addiction, trauma, lack of education or obstacles that such person may have faced as a child or youth in the adult correctional system, the opportunities for rehabilitation in the adult correctional system and the overall degree of such person's rehabilitation in light of the nature of the crime or crimes.”

Subsection (C) articulates the criteria as articulated by the U.S. Supreme Court in Graham. As a result, the parties would have a reasonable opportunity to present testimony through written or oral testimony and the parties are not precluded from presenting information by way of a report or affidavit. Subsections (A) and (B) track the requirements in place for suitability. The inclusion of the language in subsection (C) is crucial in order to comply with the holding in the Graham case as this specific pool of individuals are unique in that they are convicted of offenses which they committed when under the age of 18 years and for which they received lengthy sentences in excess of ten years.

Page 4 of 4    Judiciary Committee Public Hearing - March 4, 2015  
R.B. 796    An Act Concerning Lengthy Sentences for Crimes Committed by a Child or Youth  
              Convicted Of Certain Felony Offenses  
Testimony    Deborah Del Prete Sullivan, Legal Counsel, Director, Office of Chief Public  
              Defender

The Board of Pardons and Paroles would determine whether to release the person on Parole. If the Board determined that continued incarceration was warranted, the bill requires the Board to articulate its reasons and reassess the person's suitability for Paroles release at a later date to be determined by the Board. The bill provides that the Board's determination is final and not appealable.

Lastly, this office supports the provision of providing notice of the parole hearing to the victim through the state victim advocacy agencies.

Passage of **Section 2** of this bill which is new, is necessary in order to comply with the recent U.S. Supreme Court decision in Miller v. Alabama, 132 S. Ct. 2455 (2012) which prohibited the imposition of a life sentence without the possibility of parole, the harshest of sentences, for a child who was under the age of 18 when he/she committed the offense for which he/she was prosecuted in adult court, without having first considered mitigating evidence and other factors. Currently, children as young as 14 years of age are sentenced in this state to mandatory sentences in excess of 50 years without ever having an opportunity to seek parole. These mandatory life sentences have been imposed without the benefit of consideration by the court of brain development science and certain mitigating factors which are relevant to children and which distinguish their thought process and conduct from that of an adult. Basically, in Connecticut, these current mandatory sentences have resulted in children as young as 14 being sentenced to incarceration for the rest of their lives.

In conclusion, the Office of Chief Public Defender urges this Committee to vote favorably on Raised Bill 796.

001076

Written testimony of Careen Jennings in support of

S.B. 796

An Act Concerning Lengthy Sentences for Crimes Committed by a Child or Youth and  
the Sentencing of a Child Convicted of Certain Felony Offenses

Committee on the Judiciary

March 4, 2015

Dear Judiciary Committee Members:

I am Careen Jennings, retired from high school teaching after 37 years and a volunteer co-facilitator with the writers' group at York Correctional Institution since 2005. I submit this testimony in support of S.B. 796. I urge the legislature to create a procedure to take a second look at long sentences that were imposed on juveniles after they have served a portion of that sentence.

We don't allow 15-year-olds to vote. We limit 16-year-old drivers. Seventeen-year-olds cannot sign contracts, and 18-year-olds, who can do all of these things, cannot legally drink. But when a 14, 15, 16, or 17 year old commits a crime, we can sentence that child as a legal adult. Why do we do this when it is inconsistent with all other laws relating to minors?

It's even inconsistent with our own personal experiences of having been teenagers.

I ask you to remember something that you did before you were 18 than now makes you cringe and wonder, "What was I thinking?" Maybe you were college age, well past that 18<sup>th</sup> birthday, when you exercised horrible judgment, used no impulse control, and did something incredibly stupid. And probably you were lucky because your action which could have resulted in life-changing consequences did not.

Developed countries do not sentence children to long prison terms. Children can and do commit crimes, but we must not give up on our kids before they are old enough to drive, to vote, or to sign a contract. Young brains are malleable. I saw this daily in my 37 years in the high school classroom, and I have seen the difference maturity brings in my ten years at York. All other developed countries have chosen to try to save their kids, not throw them away. It's cheaper. It's safer. And it works.

**Testimony of Tollie Miller in Support of SB 796  
Judiciary Committee  
March 4, 2015**

I come to speak in favor of the Juvenile Sentencing Bill (SB796). There are many experts here to speak to the scientific brain research and the ethical, judicial and economic reasons to pass this legislation. I bow to their expertise, and wish to make a personal statement about the experience I have that leads me to push hard for this bill. For three years, I have co-led a weekly meditation class at MacDougall Correctional Institution in Suffield. It has been a powerful experience to come to know many inmates. One of the members of the class, who has come faithfully for all three years, is Nicholas Aponte. Nick committed his crime at the age of 17 and was sentenced to an adult term of 38 years in prison. He, along with several other teenagers, held up a store, and a clerk was shot and killed during the robbery. It was established in court that Nick neither carried nor fired a gun during the crime. Even so, he was sentenced to a term of 38 years.

In the 18 years he has spent in prison, Nick has matured into a responsible, caring and skilled adult. He has completed CNA (Certified Nursing Assistant) training and works daily in MacDougall's medical unit, often caring for hospice patients. His work there is valued highly by the medical staff and his fellow inmates. Having completed an Associate's degree, he is now pursuing a Bachelor's, and hopes to one day attain a nursing degree. Despite the years of incarceration, he has maintained a close relationship with his mother and, through weekly visits, developed a strong relationship with his son.

Nick speaks often in group of his deep remorse for his crime. He has spent his time in prison coming to grips with the consequences of his actions and is deeply aware of the suffering he caused by his involvement in a robbery and needless death. Nick already had a committed meditation practice of many years before attending our class. Becoming mindful, pausing before reacting, and choosing actions wisely are some of the skills we teach and practice in meditation class. Nick has become an exemplar of these to the men in the group. Nick is someone I would be proud to have as a neighbor and friend. He is a fine example of someone who has truly matured in prison, and become an adult who would be a credit to any community.

Nick is among 200 inmates who would be impacted by a change in the law. Such a law would not be a 'get out of jail free card'. It would simply give inmates in his position a chance for consideration by the parole board for early release. He received an adult sentence for a crime committed when he was a juvenile, and he has certainly earned his right to such consideration.

More than 15 states have passed such 'second look' laws. It is the right thing to do. Please support the passage of this bill in THIS legislative session.

Tollie Miller, Bloomfield, CT. [tolliem@comcast.net](mailto:tolliem@comcast.net)

001078

TESTIMONY OF BLANCA RIVERA IN SUPPORT OF SB 796  
Judiciary Committee  
March 4, 2015

Dear Judiciary Committee Members,

I am sharing this letter from my son, who is currently incarcerated:

To Whom It May Concern,

My name is Makee Rivera, I'm currently incarcerated for eight years serving a 15 year sentence. I was charged with a crime at the age of 16, and was sentenced at the age of 18 to a total sentence of 25 years, suspended after 15 years with 25 years of probation. For the past 2 years I have received letters from the Juvenile Review Board, concerning recommendation for all juvenile charged and convicted as an adult. Legislation has been meeting to try to pass the bill or come to a common ground, to resolve this injustice. As you know the U.S. Supreme Court address this issue stating in short that all juveniles should be giving a meaningful opportunity at early release due to the fact people under the age of 18 their brain is not fully developed like an adult to make the right decisions. I am 16 years old and have matured a lot since that age. I am able to think before I act. Since I have been incarcerated I have been able to accept that my actions as a kid were wrong and now I see how it affected other people including myself. I have stride to become a better person, stronger, wiser, but most important a positive thinking man. I believe that everybody deserves a second chance in life; most juveniles which are first time offenders like myself, deserve a second chance to contribute to society in a positive and uplifting way. You, as a representative of the State, I'm respectfully asking to take in consideration on this ongoing situation, juveniles getting convicted as adults, to come to a common ground to resolve this issue. I will highly appreciate you time. All I am asking you is a chance. I am one voice among many. Thank you.

Respectfully yours,

Makee Rivera

TESTIMONY OF ALAN BRUCE IN SUPPORT OF SB 796

March 4, 2015, Judiciary Committee

My name is Alan Bruce. I am a professor of sociology and director of the criminal justice program at Quinnipiac University in Hamden, CT, and a resident of West Hartford, CT. I write in strong support of SB 796 and urge that it be passed into law.

Connecticut has made significant progress in its treatment of juvenile offenders in recent years, perhaps most significantly through 2007 legislation to raise the age at which individuals are eligible to be processed through the juvenile justice system from 16 to 18 years. Passage of SB 796 is consistent with rationale implicit in the decision to raise the age in the juvenile justice system.

SB 796 calls for creation of the opportunity to review lengthy sentences given to individuals for crimes committed when they were juveniles. Widely accepted empirical evidence indicates brain maturity does not occur until early adulthood and juveniles are highly susceptible to peer influence; engage in impulsive behavior; and are unable to fully understand the implications of their actions. As brain development occurs, individuals gain greater control over their behavior; are less susceptible to peer pressure; and more capable of understanding the implications of their behavior. SB 796 asks that the accepted scientific evidence on brain development be translated into responsible legislation by creating the opportunity for individuals who committed crimes as juveniles, and so before full brain development, to be given the opportunity to have their sentences reviewed with the *possibility* of parole for those judged suitable. Given that we recognize individuals are less responsible for their behavior prior to age 18 we should not sentence these individuals as if they are fully developed adults.

Passage of SB 796 would also be consistent with US Supreme Court rationale in *Miller v. Alabama* (2012), in which the court established that mandatory life without parole sentences for juveniles are unconstitutional, in part, because juveniles are less responsible for their behavior than adults. Similarly in *Roper v. Simmons* (2005) capital punishment for juveniles was ruled unconstitutional again in part due to recognition that juveniles have not yet reached full cognitive development and that this is a mitigating factor in dealing with juveniles.

It is time for Connecticut to further demonstrate its recognition of the "mitigating qualities of youth" evident in the decision to raise the age of jurisdiction in the juvenile justice system by passing SB 796 and give the opportunity for individuals serving lengthy sentences for crimes committed when they were juveniles to have their sentences reviewed. Passing SB 796 will allow Connecticut to continue as one of the leading states in juvenile justice reform.

March 4, 2015

**Testimony of Connecticut Professors in support of SB 796: "An Act Concerning Lengthy Sentences for Crimes Committed by a Child or Youth and the Sentencing of a Child or Youth Convicted of Certain Felony Offenses."**

Members of the Judiciary Committee:

We are professors in Connecticut who have taught or researched in the areas of criminal law, juvenile law, child development, international human rights, or constitutional law, or who have been involved in teaching in or analyzing the prison system. **For the last three years, we have written to support legislation that would allow a parole board to take a "second look" at long adult sentences imposed on those convicted for crimes they committed as children, after a significant portion of the sentence is served.**

The United States Supreme Court, in *Graham v. Florida* (2010), recognized that children under 18 are categorically less culpable than adults and more capable of rehabilitation. As a result, the Court struck down life-without-parole sentences for children convicted of non-homicide crimes as unconstitutional "cruel and unusual" punishment. Locking a child away for life without a "meaningful chance of release," the Court said, was unjustified, because at the time of sentencing, the child's brain and character were still maturing. Relying on its earlier decision in *Roper v. Simmons*, the Court said: "[i]t is difficult even for expert psychologists to differentiate between the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption."

In 2012, the Supreme Court in *Miller v. Alabama* (2012) held that mandatory life-without-parole sentences are unconstitutional, even for children convicted of homicide crimes. Instead, courts must take into account the "distinctive character of youth:"

"[N]one of what Graham said about children—about their distinctive (and transitory) mental traits and environmental vulnerabilities—is crime-specific. Those features are evident in the same way, and to the same degree, when (as in both cases here) a botched robbery turns into a killing. So Graham's reasoning implicates any life-without-parole sentence imposed on a juvenile, even as its categorical bar relates only to non-homicide offenses. . . . Most fundamentally, *Graham* insists that youth matters in determining the appropriateness of a lifetime of incarceration without the possibility of parole. . . . By removing youth from the balance—by subjecting a juvenile to the same life-without-parole sentence applicable to an adult—these laws prohibit a sentencing authority from assessing whether the law's harshest

term of imprisonment proportionately punishes a juvenile offender. That contravenes Graham's (and also Roper's) foundational principle: that imposition of a State's most severe penalties on juvenile offenders cannot proceed as though they were not children."

On Friday, February 27, 2015 the Connecticut Supreme Court had its first opportunity to evaluate the effect of *Miller* on Connecticut sentencing practice. It struck down the 100-year sentence of Ackeem Riley, and remanded the case for resentencing in light of *Miller*. The Court did not yet reach Riley's specific sentencing claims, or define precisely if and when he might be eligible for parole, noting that because the question was pending before the legislative body, "staying our hand in deference to a coordinate branch of government is particularly appropriate in this case....There is every reason to believe that the legislature will take definitive action regarding these issues with all deliberate speed." The Court did note that the factors that the court should consider on remand "are consistent with those proposed by each chamber of our legislature in bills drafted to conform our sentencing law to the dictates of *Miller*." (Citing HB 5221 (2014) and HB 6581 (2013).

More cases are likely to follow. Connecticut currently has 250-300 people serving sentences of more than 10 years for crimes they committed as children. About 50 people are serving sentences of 50 years or more for crimes they committed as children, most without the opportunity for parole. A few are serving mandatory life without parole – a sentence that is, after *Miller*, clearly unconstitutional. The over-representation of African-American and Latino prisoners in these populations is greater than in the prison system as a whole, and increases by length of sentence. 92% of those serving sentences of 50 years or more are African-American or Hispanic.

Most of these sentences are the result of policy choices made in the late 1990s, when academics predicted a juvenile crime wave and legislatures responded by treating kids as adults. Despite the demographic "teen boom," however, the juvenile crime rate fell, and it fell at roughly the same rate both in jurisdictions that adopted tougher sentencing policies and those that did not. In short, the predictions were wrong, and as a result, many children grew up behind bars, often hopeless and suicidal. Now we have the advantage of hindsight and better brain science, and we know that juvenile impulsivity, peer-sensitivity, and lack of judgment can disappear with maturity. We should take a second look at those sentences, just as we are taking a second look at the science that generated them.

Allowing a very limited opportunity for someone with a long sentence for a juvenile crime to make the case to a parole board that she has matured and reformed is a fair and sensible approach. Under that proposal, there is no guarantee that an offender will receive any reduction in her sentence, and there is no endless appeal process. There is, however, a "meaningful opportunity" at a second chance. While some of us would advocate for an earlier opportunity for parole than allowed

under the judiciary committee's proposal, the current bill reflects a compromise that will likely satisfy the courts and more accurately reflect the current "best practices" of penal policy and brain science, rather than the discredited ones of twenty years ago.

We sign as individuals, and institutional affiliation is provided only for identification purposes. We do not represent the views or interests of our respective institutions.

Associate Professor Sarah Russell, Quinnipiac University School of Law\*

Professor Linda Meyer, Quinnipiac University School of Law\*

Associate Professor and Director of Clinical Programs, Carolyn Kaas, Quinnipiac University School of Law\*

Associate Professor Jennifer Herbst, Quinnipiac University School of Law\*

Professor Kevin Barry, Quinnipiac University School of Law\*

Professor Robert Farrell, Quinnipiac University School of Law\*

Professor Alan Bruce, Sociology, Quinnipiac University\*

Professor Marilyn Ford, Quinnipiac University School of Law\*

Professor Melanie Abbott, Quinnipiac University School of Law\*

Professor Lori Sudderth, Criminal Justice, Quinnipiac University\*

Professor Neal Feigenson, Quinnipiac University School of Law\*

Professor and Dean Emeritus Brad Saxton, Quinnipiac University School of Law\*

Laura Mutrie, LCSW, Director of Field Education, Quinnipiac University, Social Work Department\*

Assistant Professor Amber Kelly, Quinnipiac University, Social Work Department\*

Professor Anne Dailey, University of Connecticut, Law\*

Professor Judy Dworin, Trinity College Department of Theater and Dance\*

Professor Sheila Fisher, Trinity College Department of English\*

001083

Catherine Lechowicz, Center for Prison Education, Wesleyan University\*

Professor Judith Resnik, Arthur Liman Professor of Law, Yale Law School\*

Professor Dennis Curtis, Clinical Professor Emeritus of Law and Professorial Lecturer in Law, Yale Law School\*

Hope R. Metcalf, Executive Director, Schell Center for International Human Rights, and Lecturer, Yale Law School\*

Associate Professor Nicholas L. Parsons, Department of Sociology, Anthropology, & Social Work, Eastern Connecticut State University\*

Professor Theresa Severance, Sociology, Department of Sociology, Anthropology, and Social Work, Eastern Connecticut State University\*

Johanna Kalb, Visiting Associate Professor of Law and Director, Arthur Liman Public Interest Program, Yale Law School\*

Professor James Stark, Professor of Law and Director of Mediation Clinic, University of Connecticut, Law\*

\*Information concerning institutional affiliation is provided for identification purposes only. We sign as individuals and we do not purport to represent the views, if any, of our respective institutions.

001084



University of Connecticut  
Health Center

*Department of Psychiatry MC1410, 263 Farmington Ave., Farmington, CT 06030*

My name is Julian Ford. I am a professor of psychiatry at the University of Connecticut School of Medicine. I am the Director of the Center for Trauma Recovery and Juvenile Justice within the National Child Traumatic Stress Network, and a senior academic fellow with the Child Health and Development Institute. I have led or co-authored a series of research and policy studies concerning mental health and traumatic stress services for youths in the juvenile justice system.

I would like to express my strong support for SB 796, the so-called Second Look Bill, which would address lengthy sentences for crimes committed by minors.

Adolescents differ from adults in many ways. They tend to be more impulsive, more influenced by peers and more likely to take risks. The pre-frontal cortex, the part of the brain that helps us exercise judgment and weigh the consequences of our actions, is not fully developed until well into our twenties, whereas areas in the "emotional brain" that trigger stress reactions are fully developed by adolescence. Thus youth are developmentally susceptible to having their brains in effect hijacked by stress reactions that interfere with the most basic requirement of proactive decision making and self-control: the ability to stop and think.

From this biological fact, we can conclude two things:



University of Connecticut  
Health Center

*Department of Psychiatry MC1410, 263 Farmington Ave., Farmington, CT 06030*

1. Young people are not as culpable for their actions when they are under stress or experiencing a sense of threat as adults are.
2. The behaviors and ways of thinking of an adolescent are not necessarily predictive of how the same person will act and think in adulthood.

Connecticut has recognized these realities as it reformed its juvenile justice system. For example, in raising the age of adult jurisdiction to 18 for most crimes, the legislature was guided by brain development research. Yet, our state has still failed to pass legislation to comply with the U.S. Supreme Court's Miller decision, banning mandatory life without parole sentences for juveniles. – even though the bill has garnered bipartisan supporters and is the product of a recommendation developed by a commission that included a prosecutor and a victim advocate. Although these sentences are based on extremely serious crimes and actions that cannot be justified or excused, they also fail to take into account the potential role of lapses in judgment and responsibility that in many cases are not inevitably repeated and that can be addressed through rehabilitation but may become chronic with incarceration .

I would refer you to the amicus brief that the American Psychological Association submitted to the court when it heard the Miller case:

Nor does the scientific literature provide any reason to distinguish between homicide and non-homicide convictions in this regard. In either case, the signature qualities of adolescence reduce juvenile's culpability and increase their capacity for change. Condemning an immature, vulnerable, and not-yet-



University of Connecticut  
Health Center

*Department of Psychiatry MC1410, 263 Farmington Ave., Farmington, CT 06030*

fully-formed adolescent to live every remaining day of his life in prison – whatever his crime – is thus a constitutionally disproportionate punishment.

Indeed, even adolescents who pose a significant risk to the community cannot be reliably predicted to pose a risk as adults. In an often-cited study, researchers followed young adolescents who scored in the top quintile on a juvenile psychopathy measure. Only 16 were assessed as psychopathic at age 24.<sup>1</sup> Another study found no association between juvenile murder convictions and persistent anti-social personality.<sup>2</sup>

The bill before you does not – and should not – simply assume that young people who commit serious crimes will outgrow their behavior. It requires them to meet a high standard of proof before a parole board, an even higher standard than the state imposes on those who committed crimes as adults. It also provides a path for meaningful rehabilitation rather than fostering a sense of hopelessness that can lead to a deepening of antisocial beliefs and behavior patterns.

Nor do I submit that because of adolescents' diminished culpability they should not be held accountable for their behavior. Second Look requires young people to serve the majority of their sentence before there will be any parole eligibility.

---

<sup>1</sup> Donald Lynam et al., *Longitudinal Evidence That Psychopathy Scores in Early Adolescence Predict Adult Psychopathy*, 116 *J. Abnormal Psychol.* 155, 160 (2007).

<sup>2</sup> Rolf Loeber & David Farrington, *Young Homicide Offenders and Victims: Risk Factors, Prediction, and Prevention from Childhood* (2011)

001087



University of Connecticut  
Health Center

*Department of Psychiatry MC1410, 263 Farmington Ave., Farmington, CT 06030*

My point is simply this: Reform and rehabilitation are possible for adolescents, even those who have committed serious crimes. It is not only possible; it is highly likely. Thus among the hundreds of prisoners who would be affected by this bill, the science suggests that many could be safely released into the community. To deny someone even the chance to demonstrate rehabilitation after being convicted as adolescent flies in the face of a strong body of knowledge about human development.

Thank you for the opportunity to comment on this legislation.

001088

Testimony of Greta Blanchard

In support of SB 796

Judiciary Committee

March 4, 2015

Hello, my name is Greta Blanchard. I am a resident of Unionville and I am here in support of SB 796.

I have with me today, a letter written by Michael Spyke, a 32 year old who was incarcerated (at 16) and tried as an adult (at 17). He states in his letter that he flunked 7<sup>th</sup> grade and was passed on to the next grade until he eventually dropped out of school. He had no advocate or positive direction in his life at that time. I believe you will find his letter compelling as you read his story.

I became aware of Michael because I was an alternate juror at his hearing. I was not part of the deliberation therefore was not called upon to give my opinion concerning his case. When I found out that he was convicted on 3 of 4 counts, I was shocked. I called the courthouse to get his sentencing date. I went to his sentencing and was deeply troubled when learning of the length of his sentence—50 years with *no chance of parole*. It was then that I decided to see if I could write him to encourage him. We have been writing ever since – and my husband and I routinely visit him as well as keep in contact with his mother. Michael has seen positive personal developments during his incarceration, however he wouldn't wish being a teenager in a prison with older men on anyone...he makes that clear in his letter. He has been incarcerated for more than 16 years. He has changed, for instance while in prison he got his GED, multiple certificates for skilled services and is presently finishing up his certification as a personal trainer. As I've gotten to know him over the years I see so much potential, desire to do better and do right. I feel that the length of his incarceration is disproportionate to what he did as someone not fully emotionally and cognitively developed as a teenager.

I am a mother, a teacher, and a private citizen who though not a family member is an impassioned advocate for Michael Spyke and others like him who have so much to give if allowed to take this next positive step in their lifelong rehabilitation. I strongly encourage you to read his letter as you consider this bill and will let Michael's last statement in his letter say it best, "One thing I will keep on doing is having faith and applying myself every day to be a better man."

Thank you,

Greta Blanchard

Unionville, CT

March, 2015

To Whom it May Concern,

Since the age of 16 I've been incarcerated, for over half of my life. From the beginning, I was not put around juveniles my own age. I was placed around grown adult men, old enough to be my father or grandfather. A juvenile placed in a situation like that wasn't unusual back then. The prison authorities were both uninterested and unable to help me. It wasn't pretty.

So, when reality hit and I realized this is where I'm gonna be, I realized that no one could save me but myself. In order to do that I needed to find out who I am and what I wanted to be, what type of man I should be and what I could do to become the best of which I was capable of being. I also understood that what had happened to me had also happened to countless other minority kids and it would happen to many more until a change occurred.

I read somewhere that it is easier to do bad than it is to do good. That's one of the truest statements I have ever read. My next statement I would never think I would say, but I think coming to jail saved my life in more ways than one. The potential I discovered I have, I don't think I would have ever discovered if I had been home. Now don't get me wrong, there hasn't been one night since I've been in here that I haven't prayed for Malik's mother to get through the loss of her child, even my mother to get through the loss of her child either. Because even though she could come visit, it still is not the same for her.

Coming in here at a young age was the hardest, most painful experience I ever have been through. But, I felt I was strong enough to get through it. I would never want to see any kid go through or see what I've seen behind these walls. I've learned that applying yourself and having the determination and patience is the key in accomplishing anything you want to do.

The first year incarcerated, I obtained my GED on the second try. The first try I failed by 4 points, the second try I passed by over 5 or 6 points. I studied real hard the second time, focused on my weak points and accomplished what I set out to do. Obtaining my GED was a big accomplishment in my eyes. Since back when I can remember from elementary through middle school, I didn't have to try hard to get passed through the next grade, because they always passed you by exception back then. I even remember failing the 7<sup>th</sup> grade and thinking, *wow, I messed up big, how am I gonna fix that.* But, it just so happened that when the first day of school came around, I was put back in class with my old classmates and was told if I could maintain a C- average I could graduate with my class. I don't even remember working hard that year. I was just happy to be around my old classmates and they still let me graduate – by exception.

The hardest I ever fought to apply myself to be somebody is when I came to be behind these walls. It's sad that I had to come into this type of environment to learn for myself that I had the potential to do something with my life. I've learned a lot and accomplished a lot in here. I've taken some vocational educational courses such as Bicycle/Wheelchair Repair,

001090

Commercial Cleaning, Time Life Management and a Business Education Class that consisted of 11 courses you needed to take in order to pass. The educational classes in the prisons are very limited and with long waiting lists. There have been other studies that I have been interested in that have not been available in here. I have ordered books from a bookstore and been self taught. Some of the books I've studied are mainly business books, dealing with import/export, real estate investing, and starting your own personal training business. I've taken online courses to obtain my certificate as a personal trainer and workout to keep in shape in prison.

Sometimes it gets frustrating because I'm dealing with a lot of negativity in here. So, it gets hard to stay focused and stay out of trouble. Then I ask myself sometimes, *what am I doing all this studying for when I will never be able to use it? I don't have parole and my discharge date is when I'm in my 60's.* But then I brush it off and put it in God's hands and have faith that something will give. I have been blessed with some new friends turned family that God has brought into my life, such as Larry, Greta and Mike. Plus, my mother, who stood by me through all of this when I knew it was harder for her than it has been for me being in here. I just hope I get the opportunity to show her that I'm so much better than this and give her something to be proud of.

Thank you just for reading this. One thing I will keep on doing is having faith and applying myself every day to be a better man.

Thank you for your time,

Michael Spyke

Submitted by Greta Blanchard on behalf of Michael Spyke (who has given his permission)



60-B Weston Street, Hartford, CT 06120

**TESTIMONY OF AFRICAN CARIBBEAN AMERICAN PARENTS  
OF CHILDREN WITH DISABILITIES, INC. (AFCAMP)  
BEFORE THE JUDICIARY COMMITTEE  
IN SUPPORT OF COMMITTEE BILL NO. 796 AN ACT CONCERNING LENGTHY SENTENCES FOR  
CRIMES COMMITTED BY A CHILD OR YOUTH CONVICTED OF CERTAIN FELONY OFFENSES**

**MARCH 4, 2015**

Submitted by: Ann R. Smith, JD, MBA, Executive Director

Senator Coleman, Representative Fox and members of the Judiciary Committee, thank you for the opportunity to present testimony on behalf of African Caribbean American Parents of Children with Disabilities, Inc. (AFCAMP) in support of legislation to provide review of long adult prison sentences imposed on children and to allow courts to consider youth-related factors in sentencing children transferred to adult court. AFCAMP is a parent-driven nonprofit organization with a mission to educate, empower and engage parents and community to improve quality of life for children with special needs and others at risk of education inequity or system involvement. I am also speaking as co-chair of the Children's Committee of the Keep the Promise Coalition. We are testifying in support of this legislation as we did last year when a similar bill passed the House by a vote of 137-4, but was not called for a vote in the Senate.

AFCAMP endeavors to advocate for important reform in the juvenile justice system in Connecticut. We strongly urge enactment of legislation that would allow juvenile offenders serving lengthy sentences a meaningful opportunity, after service of a portion of the sentence, to obtain release before the end of that term by demonstrating increased maturity and rehabilitation.

There is a documented high rate of confluence between children with juvenile justice contact and children who have various physical, mental, and emotional needs. We also know that many of the behaviors that lead youth to commit crimes are all too often the result of unmet behavioral and mental health needs. 64 percent of children involved in the juvenile justice system in Connecticut have a mental

health condition.<sup>1</sup>Nationally, substance abuse is linked to 78 percent of cases in which juveniles are taken into custody.<sup>2</sup> The proposed changes to parole eligibility rules will allow the justice system to consider whether youth have had an opportunity to access rehabilitation and treatment services. That adolescents have underdeveloped brains making them more impulsive than adults, susceptible to peer pressure, and lacking in foresight has been well-established scientifically and recognized by the U.S. Supreme Court in *Graham v. Florida*, 130 S. Ct. 2011 (2010) and *Miller v. Alabama*, 132 S. Ct. 2455 (2012). The implications of this evidence as it concerns juveniles' level of culpability and likelihood of successful rehabilitation has been reviewed by the U.S. Supreme Court.

It is distressing that the burden of serving long sentences has fallen disproportionately on minorities: more than 80% of individuals serving sentences of 10 years or more for crimes committed under age 18 are African American or Latino. Questions must be raised about the extreme disproportionate number of minority juveniles serving long sentences.

Lastly, we wish to point out that the cost of providing juvenile offenders serving long sentences a meaningful opportunity for release would not be significant. There are less than 300 people serving sentences of more than 10 years for crimes committed under the age of 18. Review would occur after the individual has served a significant period of his or her sentence. Because each person is serving a different sentence, hearings would be staggered. Public safety would not be jeopardized because a second look would in no way guarantee release.

AFCAMP urges you to act favorably on Committee Bill No. 796.

Respectfully submitted,

Ann R. Smith

---

<sup>1</sup> Connecticut Behavioral Health Services for Young Adults Task Force Report, 2014

<sup>2</sup> CASA Columbia (2004). Accessed: <http://www.casacolumbia.org/addiction-research/reports/substance-abuse-juvenile-justice-children-left-behind>

001095

PAGE 11  
LINE 10

- YALE COLLEGE -  
**DEMOCRATS**

March 4, 2015

Testimony of Julia Rosenheim  
Juvenile Justice Legislative Captain  
Yale College Democrats

206 Elm Street, B21  
New Haven, CT 06511

In favor: S.B. No. 796  
An Act Concerning Lengthy Sentences For Crimes Committed By A Child Or Youth  
And The Sentencing Of A Child Or Youth Convicted Of Certain Felony Offenses

My name is Julia Rosenheim and on behalf of the Yale College Democrats, I urge the committee to pass Senate Bill 796. This proposal is a necessary reform of Connecticut's juvenile justice laws, and it does not compromise public safety since a release would only be granted after thorough review by parole boards.

Last Friday, the state Supreme Court ruled that it is the legislature's job to decide whether juveniles convicted of life sentences should be granted parole hearings. This session, the committee has the opportunity to recognize the importance of acting now on this proposal. Scientific evidence shows that juveniles are much more likely to reform their ways than adults and that significant brain development occurs during and after adolescence. In addition, many juveniles serving time come from backgrounds of poverty, violence, and external pressures and passing this bill would finally allow for successful rehabilitation. It is unfounded and unjust to sentence a juvenile to life without parole considering such circumstances. And this session, the public will express again that under current law, Connecticut acts unconstitutionally considering the Supreme Court's 2012 *Miller v. Alabama* decision.

You will again hear about the importance of this bill from those who have personal connections to the prison system. I tutor an inmate at Manson Youth Prison once a week, and I have gotten to know him well. Every Saturday he uses his free time to sit with me and improve his analytical reasoning and math skills. He is bright and is interested in constitutional law, and he has taught me many things; it is clear that he is motivated to work hard to better himself. I know that there are many individuals currently serving time who have spent years in educational and rehabilitative programs and who are different people than they were when they were convicted. I am not here to offer a statement about whether any individual should be released or not, but I do know that they deserve the opportunity for a parole hearing. Passing this bill is not only the right thing to do considering all the expert advice about prison reform, the abundance of scientific evidence on brain development, or even the 2012 *Miller v. Alabama* ruling. Passing this bill is also the right thing to do for all the individuals who would be assets to their communities given the opportunity for parole.

This session, however, you might notice the increased passion with which we stand here and explain how Connecticut can become an example to the nation by improving its juvenile justice laws. Last session, the Yale College Democrats came to Hartford with 451 signed

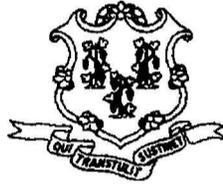
001096

letters from young people in Connecticut who wanted to see reform in these ways. This year, young people have shown even more support for this bill and even more enthusiasm. Today, we prove again how important this issue is to young people. I have here 929 letters, all signed by individuals in Connecticut, both Republicans and Democrats, who understand the gravity of this opportunity and want to express to the committee that the time is now for this bill to pass.

As a citizen of Connecticut who wants to see more justice in our justice system, I strongly urge the committee to pass Senate Bill 796 as soon as possible.

Thank you for your time.

001097



**State of Connecticut**  
**African-American Affairs Commission**  
**State Capitol**  
**210 Capitol Avenue – Room 509**  
**Hartford, CT 06106**  
**860-240-8555**

Good Afternoon Senator Coleman, Representative Tong, Senator Kissel, Representative Rebimbas, Honorable members of the Judiciary Committee.

My name is Subira Gordon and I am the legislative Analyst for the African American Affairs Commission. The mission of the African-American Affairs Commission (AAAC) is to improve and promote the economic development, education, health and political well-being of the African-American community in the State of Connecticut. I am writing today to support S.B. No. 796 AAC Lengthy sentences for crime committed by a child or youth and the sentencing of a child or youth of certain felony offences.

Currently 100% of juveniles' serving a life sentence without parole are African Americans, 68% of juveniles serving over 50 years are African-American and 62% of Juveniles serving over 12 years are African-American. These statistics are alarming considering the entire African American population for the state is only approximately 10%. There needs to be a complete overhaul of the justice system in the state and I do commend the legislature for making strides in the juvenile justice policy area however more needs to be done and this bill will help with that process.

By passing this legislation Connecticut will be in compliance with the US supreme-court rulings in Miller v. Alabama. The bill would let minors serve 60% or 12 years of their sentence

*Our Mission*

*To improve and promote the economic development, education, health and political well-being of the African-American community in the State of Connecticut*

001098

whichever is longer beefier being eligible to have a parole hearing and those who are sentenced to more than 50 years be eligible for a parole hearing after serving 30 years. In some developed nations a life sentence constitutes as 30 years as there is the belief that after 30 years in prison is enough for any individual. Only a handful of countries allow juveniles to be handed down life sentences and of the countries that allow these the United States is the only country that actually has minors serving these sentences. It is also interesting to once again highlight that in Connecticut only African American youth are serving life sentences.

I urge you to pass this bill and I thank you for the opportunity to testify.

Subira Gordon  
Legislative Analyst  
African American Affairs Commission

001099



National Association of Social Workers / Connecticut Chapter

2139 Silas Deane Highway  
Suite 205  
Rocky Hill, CT 06067  
(860) 257-8066

Amy Di Mauro, LCSW, President  
Stephen A Karp, MSW, Executive Director  
[naswct@naswct.net](mailto:naswct@naswct.net)

Senate Bill 796: An Act Concerning Lengthy Sentences for Crimes Committed by a Child or Youth and the Sentencing of a Child or Youth Convicted of Certain Felony Offenses.

Judiciary Committee

Christi Staples, Member, NASW CT Chapter

Senator Coleman, Representative Tong and members of the committee, my name is Christi Staples and I am a member of The National Association of Social Workers, CT Chapter. With over 2800 members, the National Association of Social Workers, CT Chapter supports SB 796 as a means to recognize that the actions of a youth may not fairly reflect on the nature of a now adult inmate.

Social workers are employed in and throughout the justice system; in the courts, correctional facilities and Office of Public Defender. We note here that amongst those social workers we have consulted there is strong support for SB 796. What our members tell us is that brain development in an adolescent makes them more impulsive, more likely to be influenced by peers, and lacking in insight as to how one's actions will affect themselves and others. Our members also know about the history of inmates and the childhood tragedies that played a cause in their being incarcerated. Social workers work daily with individuals toward rehabilitation so we know of the capacity for an adult to overcome their past. All of these factors ought to come into fair play by allowing this incarcerated population the chance for parole.

A study from the National Institute of Justice found that abused and neglected children were 11 times more likely to be arrested for criminal behaviors in their juvenile years (Federal Advisory Committee on Juvenile Justice, 2010). As social workers we know that the sooner we can provide mental health services to an individual the better the opportunity to treat the effects of childhood trauma and abuse. We also know that with active treatment individuals can recover from past trauma. However, adolescents who have been sentenced in adult court with mandatory lengthy sentences are being denied the opportunity to demonstrate they have been rehabilitated even if they have had successful treatment and rehabilitation. This penalizing of an adult for actions taken as an adolescent, without consideration of mitigating circumstances is simply wrong, serving neither the interests of the individual or society.

Further concern we have regarding adolescents who have been sentenced in adult court with mandatory lengthy sentences is the disproportionate impact on African Americans and Latinos. Of the approximately 275 people serving sentences of more than 10 years for crimes committed when they were younger than 18 years of age; 88% are African American or Latino. One cannot ignore the continued racial discrepancy that now denies these individuals having a chance at consideration for parole.

SB 796 sets stringent criteria for parole in order to best assure the public that the individual is capable of being safely released into the community. This is not a guarantee of release, but it is giving the individual a fair, second chance. This bill has been thoroughly vetted and had the strongest of bi-partisan support in the House in 2013 and 2014, but regrettably not called in the Senate. This is the year to pass this humane and sensible legislation into law.



**Testimony of the National Alliance on Mental Illness (NAMI) of  
Connecticut before the Judiciary Committee**

March 4, 2015

**IN SUPPORT OF**

**Proposed Senate Bill 796: AN ACT CONCERNING LENGTHY SENTENCES FOR CRIMES  
COMMITTED BY A CHILD OR YOUTH AND THE SENTENCING OF A CHILD OR YOUTH  
CONVICTED OF CERTAIN FELONY OFFENSES.**

Senator Coleman, Representative Fox and members of the Judiciary Committee, my name is Susan Kelley and I am *the Child and Adolescent Public Policy Manager* at the National Alliance on Mental Illness (NAMI) of Connecticut. In addition to providing educational programs and support groups, NAMI Connecticut advocates at the state level for improved mental health and related services and supports, and an end to stigma and discrimination. We represent individuals who live with mental illness and parents and family members of individuals living with mental illness. I am testifying today on behalf of NAMI Connecticut in support of SB 796.

SB 796 provides parole eligibility rules tailored for juveniles. Individuals serving sentences of more than 12 years for crimes that occurred before they turned 18 would have an opportunity to be heard by a parole board after serving a substantial portion of their sentences. Release would not be guaranteed but would be possible only if, after thorough review, the parole board determined that a person had truly rehabilitated and could be safely released. SB 796 also eliminates mandatory life-without-parole sentences for juveniles and allows judges to consider youth-related factors in sentencing juveniles transferred to adult court.

Well-established scientific evidence demonstrates that adolescents have underdeveloped brains, making them more impulsive and susceptible to peer pressure than adults, and lacking in foresight. This evidence has been recognized by the U.S. Supreme Court in *Graham v. Florida*, 130 S. Ct. 2011 (2010) and *Miller v. Alabama*, 132 S. Ct. 2455 (2012). The U.S. Supreme Court has also reviewed the implications of this evidence as it concerns juveniles' level of culpability and likelihood of successful rehabilitation.

We also know that many of the behaviors that lead youth to commit crimes are all too often the result of unmet behavioral and mental health needs. 64 percent of youth involved in the juvenile justice system in Connecticut have a diagnosable mental health disorder.<sup>1</sup> Nationally, substance abuse is

---

<sup>1</sup> Behavioral Health Services for Young Adults Task Force Report (2014)

linked to 78 percent of cases where juveniles are taken into custody.<sup>2</sup> As a result, long prison sentences and mandatory life without parole sentences unfairly punish youth with untreated mental health and behavioral disorders. Giving youth offenders a second chance is critically important when viewed from this mental health perspective, particularly when research shows 70 to 80 percent of all children and youth nationwide with a diagnosable mental illness fail to receive mental health services.<sup>3</sup> And, a disproportionate number of children of color are being unfairly punished in this way, as minority youth are over-represented in the juvenile justice system and under-represented in the behavioral health system. Enacting SB 796 would be a significant step forward in juvenile justice while Connecticut continues to undertake the difficult task of improving access to quality mental health services for all children in Connecticut, under the Children's Behavioral Health Plan of PA-12-178 and related work.

Implementing parole eligibility rules and eliminating mandatory life-without-parole sentences for juveniles will allow the justice system to take into account, as it should, the mental health status of juvenile offenders, and consider whether those offenders with mental health conditions have had an opportunity to seek rehabilitation and treatment while serving a portion of their sentences.

NAMI Connecticut supports SB 796.

Thank you for the opportunity to address the Judiciary Committee.

Respectfully submitted,

Susan Kelley  
Child and Adolescent Public Policy Manager  
NAMI Connecticut; staff to Keep the Promise Coalition

---

<sup>2</sup> CASA Columbia (2004). Accessed:

<http://www.casacolumbia.org/addiction-research/reports/substance-abuse-jvenile-justice-children-left-behind>

<sup>3</sup> Mental Health: A Report of the Surgeon General, Rockville, MD; US Dept. of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Mental Health Services, National Institutes of Health, National Institute of Mental Health, 1999.



**STATE OF CONNECTICUT  
DEPARTMENT OF CHILDREN AND FAMILIES**

**Public Hearing Testimony**

**Judiciary Committee**

**March 4, 2015**



---

**S.B. No. 796 AN ACT CONCERNING LENGTHY SENTENCES FOR CRIMES COMMITTED BY A  
CHILD OR YOUTH AND THE SENTENCING OF A CHILD OR YOUTH CONVICTED OF CERTAIN  
FELONY OFFENSES.**

The Department of Children and Families **supports** S.B. No. 796, An Act Concerning Lengthy Sentences for Crimes Committed by a Child or Youth and the Sentencing of a Child or Youth Convicted of Certain Felony Offenses.

As the state agency responsible for child welfare, behavioral health and juvenile justice for children, youth and families, DCF is well aware that adolescent brain development continues for young adults well into their mid-20's. Many of the individuals who have received lengthy sentences for crimes committed as a youth were involved with DCF at a young age through one or more of our service mandates. Many experienced trauma at a very young age. They are certainly capable of rehabilitation and have the ability to live productive lives.

Written Testimony of Wally Lamb  
 Judiciary Committee  
 March 4, 2015  
 Testimony in Support of S.B. #796

Dear Distinguished Members of the Judiciary Committee:

I'm from brick buildings and concrete parks  
 From a place where government cheese and Oodles of Noodles make a meal.  
 I'm from weed smoke, crack smoke, coke heads and dope heads  
 From swim lessons in an open fire hydrant and street games like red light, zum-zum, and the ones  
 grown-ups want to play called  
 "Can you keep a secret?"  
 I'm from secrets.  
 From a daddy who's missing, and a mommy whose love is a memory.  
 I'm from a place called longing

That's a brief excerpt from a longer poem called "Where I'm From," written by a York Prison writing student of mine I'll call Keesha. She has been incarcerated at York since she was 15 and is now 33 years old. She is not scheduled to be released until she is 64.

The daughter of heroin addicts who could not raise her, Keesha was shunted from relative to relative, from group homes to detention centers until she eventually became a child of the streets. At fourteen, she was a runaway who, along with an older boy, participated in a robbery-gone-wrong that resulted in homicide. Prior to Keesha's trial and conviction, her addicted father, newly "born again," advised her that the truth would set her free. And so, both streetwise and naïve, Keesha complied with the version of the truth her prosecutor had spun. A probation officer declared in his pre-sentence investigation that she would be a life-long menace to society who should be locked away indefinitely. Her judge agreed, and so Keesha was given a 50 year sentence and imprisoned as an adult. In the early years of her incarceration, she attempted suicide three different times because, in her words, "How do you begin a life at age 64 when you never even started one?" Nevertheless, now in her early thirties, she has become a mature, responsible, and fully rehabilitated young woman. But don't take my word for it. Take hers.

In an essay she wrote titled "Laying Roots," Keesha says, "I know now that I am more than a career criminal. I was young, messed up, and homeless. I needed money. On the streets you basically have three choices: sell drugs, sell your body, or rob people. Drugs had ruined my parents and destroyed my family; I could never push that poison. I would never sell myself; the fear of rape and HIV cancelled that out. So robbery seemed like my only option. My father had talked about pulling off robberies when I was little—romanticizing it, never speaking of anything going wrong. No one ever got hurt during a robbery--or so I thought. When I committed my crime, I did not yet understand the concept of death. Oh, I knew that when you die, you are buried and gone forever. But I didn't understand the pain of loss to your children, the devastation of a parent's loss, or the ripple effect in a community. I had been abused my entire life, and so did not appreciate that life has value. How could I appreciate someone else's life when I couldn't appreciate my own? In the years that I have been at York C.I., however, I have learned the true value of human life, and with it the devastation that my crime had caused. It hit me like a runaway train and, for a time, I was drowning in a guilt so severe that I thought I could never forgive myself for what I had done and might as well just end it.

But lying on a plastic mattress in mental health after one of my suicide attempts, I began to realize that I am more than I and others ever thought I could be. Since then, I have gotten my GED, become trained as a Certified Nurse's Assistant, done many groups, and become a role model to a lot of the younger inmates. Having bled this place of all the resources available to a woman with my time, I now sit and stagnate. And yet, I no longer take for granted the blessings God has given me. He has saved me from so many things, including myself. And so I now facilitate an Alternatives to Violence group. I speak to at-risk youth. I have a true spiritual connection with God. I've now spent more time *in* prison than I have *outside* of it, and I have come so far. What I want and what I pray for is a chance to break free from this pot of prison life so that I can lay down roots in the ground beyond these walls."

Legislators, I come here today to ask you—*implore* you—to hammer out a bill, get it out of committee, and get it passed so that our state can undo the damage of past administrations and past legislative sessions and create a procedure by which juvenile offenders with long sentences can get a "second look"—a second chance—after they have served a portion of their sentence.

We in Connecticut need to stop throwing away the lives of children prematurely branded as hopeless incorrigibles. We need to replace hopelessness with hope and give inmates like Keesha a "second look" by which they might have the opportunity to access responsible adult lives *beyond* the gate and the razor wire-crowned walls. Women like Keesha have earned this chance through the hard but necessary work of rehabilitation. Please fix this injustice in our system. It's cheaper. It's safer. And it works.

---Wally Lamb, author and educator

**Testimony of Denise Krall and Janie McDermott  
Juvenile Sentencing Project, Legal Clinic, Quinnipiac University School of Law**

**Testimony before the Judiciary Committee in Support of SB 796**

**March 4, 2015**

Dear Members of the Judiciary Committee:

We submit this testimony in support of SB 796, An Act Concerning Lengthy Sentences for Crimes Committed by a Child or Youth and the Sentencing of a Child or Youth Convicted of Certain Felony Offenses. We are also supportive of the juvenile provisions of HB 6926.

**I. Key Provisions of the Bill**

SB 796 responds to recent U.S. Supreme Court decisions in *Graham v. Florida* and *Miller v. Alabama*,<sup>1</sup> and ensures that Connecticut's juvenile sentencing structure is constitutional. The bill provides:

**Parole Eligibility Rules Tailored for Juveniles**

- **Chance for a Hearing:** The bill does not guarantee release, but only provides the chance for a hearing before the parole board. Juveniles would be eligible for a hearing after serving 60% of their sentence, or 12 years, whichever is longer. Those serving more than 50 years would be eligible for a hearing after 30 years.
- **Strict Criteria for Parole Board Consideration:** The parole board would use criteria for release that are more stringent than the statutory criteria for release of adults, including scientific risk assessment and, where indicated, mental health evaluations.

**Sentencing Rules Tailored for Juveniles in Adult Court**

- **Elimination of Mandatory Life-without-Parole Sentences for Juveniles:** The bill responds to the U.S. Supreme Court's 2012 decision in *Miller v. Alabama*, holding that juveniles are not eligible for charges that mandate a life-without-parole sentence.
- **Consideration of Youth-Related Factors at Sentencing:** The bill requires judges to consider in sentencing juveniles convicted of serious felonies in adult court the scientific and psychological evidence of the difference between a child's and an adult's brain development by codifying youth-related factors drawn from the *Miller* decision.

---

<sup>1</sup> *Miller v. Alabama*, 132 S. Ct. 2455 (2012); *Graham v. Florida*, 560 U.S. 48 (2010).

## II. Connecticut's Current Laws Affecting Child Offenders in Adult Courts

Under Connecticut's mandatory transfer law, children ages fourteen to seventeen charged with certain serious felonies are automatically transferred to adult court, treated as adults throughout the criminal process, and subject to adult penalties, including mandatory minimum sentences and parole ineligibility for certain offenses.<sup>2</sup>

Connecticut's mandatory transfer statute was enacted in the mid-1990s. At around the same time, Connecticut enacted new adult parole restrictions and eliminated "good time" credit. The combined effect of these laws was to subject youth involved in serious crimes to much harsher penalties: What might have been a four-year juvenile hall sentence could morph into a 50-year adult sentence. Indeed, in the mid-1990s, an offender's youth was often considered an aggravating factor at sentencing; the news at the time was full of concerns about soaring gang violence and "juvenile superpredators." The idea of a "juvenile superpredator" has since been debunked. Experts recognize that children have enormous capacity to change, and one cannot determine at the time of sentencing whether a child is irredeemable. Now, after the Supreme Court's holdings in *Graham* and *Miller*, it is clear that youth must be treated as a mitigating factor by sentencing courts.

Connecticut is required to modify its laws in light of the Supreme Court decisions. The proposed legislation would ensure that these constitutionally mandated sentencing requirements will be made uniformly and predictably.

## III. Children Disadvantaged in an Adult Criminal Justice System

The U.S. Supreme Court has recognized that "the features that distinguish juveniles from adults also put them at a significant disadvantage in criminal proceedings."<sup>3</sup> The most significant disadvantages faced by youth lie with their inability to communicate effectively with their counsel and aid in their defense, their flawed decision-making ability, and the role that stress, emotions, and their peers play in the decision-making process.

It is well documented that adolescents find it difficult to understand the criminal justice system. Research into juvenile decision-making in and outside the context of court proceedings confirms that while adolescents often properly identify the existence of risk, they underestimate long-term bad outcomes and overestimate good outcomes. Adolescents have difficulty weighing multiple factors, and are more likely than adults to let emotion, stress, or peers affect decisions.<sup>4</sup> An

<sup>2</sup> Conn. Gen. Stat. §§ 46b-127 (transfer statute), 54-125a (parole statute). Under current law, children charged with Class A felonies must be tried in adult court: neither the prosecutor nor the judge have discretion to keep the case in juvenile court. *Id.* § 46b-127(a)(1). Children charged with Class B felonies are automatically transferred to adult court, and the prosecutor may file a motion to transfer the case to juvenile court. Judges lack discretion to keep Class B offenses in juvenile court. *Id.* § 46b-127(a)(2).

<sup>3</sup> *Graham v. Florida*, 560 U.S. 48, 78 (2010).

<sup>4</sup> Steinberg, *A Behavior Scientist Looks at the Science of Adolescent Brain Development*, 72 *Brain and Cognition* 160, 162 (2010); Grisso, *Juveniles' Competence to Stand Trial: A Comparison of Adolescents' and Adults' Capacities as Trial Defendants*, 23 *Law & Hum. Behav.* 333, 336 (2003); Halpern-Felsher & Cauffman, *Costs and Benefits of a Decision: Decision-making Competence in Adolescents and Adults*, 22 *J. Applied Dev. Psych.* 257, 264-70 (2001).

adolescent is significantly disadvantaged in plea negotiations because of these factors. Indeed, a juvenile may end up serving a longer sentence than a more culpable adult because he or she rejects a plea offer and takes the case to trial.<sup>5</sup> The consequences of such decisions can be severe: the sentence received after a trial may be decades longer than the plea offer. Or, a juvenile may accept a plea agreement without understanding the consequences.

Adolescents often are wary of lawyers, even their own, and do not communicate effectively with counsel. Indeed, the Supreme Court recognized that this "reluctance to trust defense counsel" puts adolescents at a disadvantage in navigating the criminal justice system.<sup>6</sup> Adolescents may lack the perspective to help counsel identify mitigating information, as they may perceive their own childhood experience as "normal" or "okay" even if it is not.<sup>7</sup> Further, adolescents tend to tell lawyers what they think the lawyers want to hear.<sup>8</sup> Communication between a juvenile and his or her lawyer may be further hindered by undiagnosed language impairments or learning disabilities, which are four times more common among incarcerated children than in the general population.<sup>9</sup> Children for whom English is a second language are particularly disadvantaged in navigating the criminal justice system.

As the Supreme Court has recognized, the disadvantages that youth face in navigating a criminal justice system designed for adults weigh in favor of taking youth into account at the time of sentencing and allowing for a "second look" at these cases after a portion of the sentence is served. The proposed legislation addresses these issues by requiring judges to consider youth-related factors at sentencing and providing parole eligibility for juveniles sentenced as adults.

#### IV. Racial Disparities Among Children Serving Lengthy Sentences

Connecticut has serious racial disparities in its overall prison population.<sup>10</sup> But the disparities in charging and sentencing are, if anything, more pronounced in juvenile sentencing than in adult sentencing. Children of color in Connecticut tend to bear the brunt of harsh adult punishments, and are disproportionately likely to be transferred to adult court.<sup>11</sup>

<sup>5</sup> Beyer, *Immaturity, Culpability & Competency in Juveniles: A Study of 17 Cases*, 15 Crim. Just. 27, 32-33 (2000). Beyer's qualitative study of 17 juveniles provides a telling example of this naive risk perception: When asked whether a young girl who was with her boyfriend when he killed a cab driver should take a plea bargain for 8 years instead of risking 25 years at trial, "every delinquent given this question said, without hesitation, 'I'd tell her to go to trial. She didn't do it.'" *Id.* at 29.

<sup>6</sup> *Graham v. Florida*, 560 U.S. 48, 78 (2010).

<sup>7</sup> Substance Abuse and Mental Health Services Administration, *Tips for Talking With and Helping Children and Youth Cope After a Disaster or Traumatic Event: A Guide for Parents, Caregivers, and Teachers* 2 (2013).

<sup>8</sup> Beyer, *Immaturity, Culpability & Competency in Juveniles: A Study of 17 Cases*, 15 Crim. Just. 27, 32-33 (2000).

<sup>9</sup> LaVigne & Van Rybroek, *Breakdown in the Language Zone: The Prevalence of Language Impairments Among Juvenile and Adult Offenders and Why it Matters*, 15 U.C. Davis J. Juvenile L. & Policy 37, 44 (2010); Davis, *Language Skills of Delinquent and Nondelinquent Adolescent Males*, 24 J. Comm. Disorders 251, 252 (1991); Mears & Aron, *Urban Institute Justice Policy Center, Addressing the Needs of Youth with Disabilities in the Juvenile Justice System: The Current State of Knowledge* ii (2003).

<sup>10</sup> As of 2007, our State had the fourth highest discrepancy in the nation between the incarceration rates of African American and White individuals. Marc Mauer & Ryan S. King, *Sentencing Project. Uneven Justice: State Rates of Incarceration by Race and Ethnicity* (July 2007).

<sup>11</sup> Spectrum Associates, Market Research Incorporated, *A Study of Juvenile Transfers in Connecticut, 1997 to 2002, Final Report*, Apr. 3, 2006, at 16, available at

<http://www.house Dems. ct. gov/jjpo/cc/JuvenileTransfersReport2006.pdf>; Spectrum Associates, *A Second*

Currently, 94% of individuals serving adult sentences of more than twelve years for crimes committed under the age of 18 are African American or Hispanic.<sup>12</sup> The disparity increases still further as the sentence gets longer. African Americans and Hispanics represent 97% of juvenile offenders serving sentences of 50 years or more. All of the juvenile offenders serving life-without-parole sentences in Connecticut are African American. All juvenile offenders sentenced to more than twelve years in New Haven, Bridgeport, and Hartford courts are African American or Hispanic.

#### V. History of Trauma Among Children Serving Lengthy Sentences

Sometimes the root cause of the behavior that brings children into the criminal justice system starts with trauma brought on by pervasive violence during their childhoods.<sup>13</sup> However, evidence shows that children who have lived through trauma have the ability to overcome the obstacles it poses after receiving treatment. They can be rehabilitated.

In a 2012 report of the Attorney General's National Task Force on Violence on Children Exposed to Violence, experts stated that exposure to violence causes major disruptions of the basic cognitive, emotional, and brain functioning essential for optimal development. These disruptions often leave children traumatized.<sup>14</sup> Chronic, pervasive violence, such as living in a violent home or neighborhood, can cause children to develop symptoms such as anxiety, helplessness, numbness, difficulties concentrating, and a belief that they have no future.<sup>15</sup> Furthermore, they may become desensitized to threat, and engage in high levels of risk-taking and dangerous activities. When exposed to trauma or mistreatment, a child may cope by resorting to indifference, defiance, or aggression to protect herself or himself.<sup>16</sup> These protective behaviors, which experts describe as a means to survive emotionally or literally, can bring youth into the juvenile justice system.

Children exposed to violence are not beyond help. Evidence-based interventions can help repair the emotional damage done to children as a result of exposure to violence, and can put them on a course to being well-adjusted, law-abiding, and productive citizens. One such treatment is cognitive behavioral therapy, or CBT, which has been shown to be particularly effective for

---

*Reassessment of Disproportionate Minority Contact in Connecticut's Juvenile Justice System, 2009*, at 39, available at [http://www.ct.gov/opm/lib/opm/cjppd/cjjjyd/jjydpublishings/final\\_report\\_dmc\\_study\\_may\\_2009.pdf](http://www.ct.gov/opm/lib/opm/cjppd/cjjjyd/jjydpublishings/final_report_dmc_study_may_2009.pdf).

<sup>12</sup> Data received from the Connecticut Department of Correction (2014).

<sup>13</sup> A national survey of juveniles serving life-without-parole sentences shows that 80% witnessed violence in the home. The Sentencing Project, *The Lives of Juvenile Lifers: Findings from a National Survey*, March 2012. The vast majority of those surveyed perceived their neighborhoods to be unsafe, saw drugs sold openly in their neighborhoods, and witnessed violence in their neighborhoods on a weekly basis. Additionally, many were victims of abuse.

<sup>14</sup> U.S. Department of Justice, *Report of the Attorney General's National Task Force on Children Exposed to Violence* (December 2012).

<sup>15</sup> National Child Traumatic Stress Network Juvenile Justice Working Group, *Victimization and Juvenile Offending* (2004).

<sup>16</sup> National Center for Mental Health and Juvenile Justice, *Trauma Among Youth in the Juvenile Justice System: Critical Issues and New Directions* (June 2007).

children in the juvenile justice system.<sup>17</sup> Currently, the Connecticut Department of Correction runs cognitive behavior therapy programs, as well as trauma group programs.<sup>18</sup> Programs like these have great potential to help children serving lengthy adult sentences overcome the trauma they have experienced. Additional programs supporting anger management techniques and alternatives to violence are run at a number of other facilities.

Many youth victimized by pervasive violence react in ways that can involve them in the juvenile justice or criminal justice systems. With the right treatment, these youth can become healthy and rehabilitated adults. The bill allows them a "second look," so that they can be reevaluated after serving a substantial portion of their sentence. Release would be possible only if, after thorough review, the parole board determined that an individual had truly rehabilitated and could be safely released.

#### **VI. Report on Connecticut Children Serving Long Prison Sentences**

In 2013, Quinnipiac University School of Law's Juvenile Sentencing Project coordinated with Yale Law School's Lowenstein Clinic to produce a report entitled *Youth Matters: A Second Look for Connecticut's Children Serving Long Prison Sentences*.<sup>19</sup> The report draws upon testimony presented to the Connecticut Sentencing Commission, as well as interviews that students conducted with nine inmates who are currently serving lengthy sentences for crimes that occurred when they were children. This report incorporates the voices of these individuals. Many had childhoods of poverty, abuse, and neglect. Yet we found that these men and women, who have spent in some cases more than half their lives in prison, have become mature, thoughtful, and caring adults. They are tutoring fellow inmates and serving as certified nursing aids and hospice volunteers, and they are capable of making positive contributions to their communities. A second report authored by Yale's clinic provides further information.<sup>20</sup>

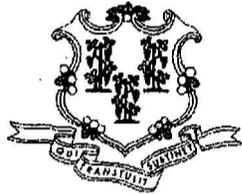
---

<sup>17</sup> National Child Traumatic Stress Network Juvenile Justice Working Group, *Trauma-Focused Interventions for the Juvenile Justice System* (2004).

<sup>18</sup> State of Connecticut, Department of Corrections webpage, [www.ct.gov/doc](http://www.ct.gov/doc).

<sup>19</sup> The report is available at: <http://www.law.yale.edu/documents/pdf/YouthMatters2013.pdf>.

<sup>20</sup> The report, *I'm Going to Move Forward: Stories of Change from Men Imprisoned as Children in Connecticut*, is available at: [http://www.law.yale.edu/documents/pdf/Im\\_Going\\_to\\_Move\\_Forward.pdf](http://www.law.yale.edu/documents/pdf/Im_Going_to_Move_Forward.pdf).



**Connecticut  
Sentencing  
Commission**

[www.ct.gov/ppm/csc](http://www.ct.gov/ppm/csc)

**TESTIMONY IN SUPPORT OF SB 796**

HB6926

**AN ACT CONCERNING LENGTHY SENTENCES FOR CRIMES  
COMMITTED BY A CHILD OR YOUTH AND THE SENTENCING OF A  
CHILD OR YOUTH CONVICTED OF CERTAIN FELONY OFFENSES**

**By Andrew Clark**  
Acting Ex. Director, Connecticut Sentencing Commission

Good afternoon Chairs Coleman and Tong, Ranking Members Kissel and Rebimbas, and members of the Judiciary Committee. I am Andrew Clark, Acting Executive Director of the Connecticut Sentencing Commission. I am here to testify in support of Committee Bill No. 796, An Act Concerning Lengthy Sentences For Crimes Committed By A Child Or Youth And The Sentencing Of A Child Or Youth Convicted Of Certain Felony Offenses. With me today representing the Commission's workgroup on matters relating to this bill is Chief State's Attorney Kevin Kane, Atty. Robert Farr, and Professor Sarah Russell of Quinnipiac University Law School.

I'd first like to give you some brief background about the Sentencing Commission. We are a permanent commission created about four years ago, consisting of all of the stakeholders in the criminal justice system of Connecticut. Our membership includes the commissioners of Corrections, Emergency Services and Public Protection, and Mental Health and Addiction Services; the Chief State's Attorney; the Chief Public Defender; the Victim Advocate; Judges; representatives of the business community; community activists interested in the criminal justice system; the chair of the Board of Pardons and Paroles; a municipal police chief; the undersecretary of the criminal justice policy and planning division; as well as others vitally engaged in the criminal justice system. We have adopted a policy of making consensus recommendations to you. So the bill we are supporting today is the direct result of that consensus process.

And now to Committee Bill No. 796. This bill mirrors the Sentencing Commission's consensus proposal for the 2014 and 2015 sessions. It brings Connecticut law into line with the reasoning of two recent United States

The Honorable  
David M. Borden, Chair

Undersecretary  
Mike Lawlor, Vice Chair

Andrew J. Clark, Acting  
Executive Director

**MEMBERS**

Natasha Pierre

Vivien K. Blackford

The Honorable  
Patrick L. Carroll, IIIThe Honorable  
Robert J. Devlin, Jr.

William R. Dyson

Scott Sempie

Stephen Grant

Peter M. Gioia

Kevin Kane

Tracey L. Meares

Mark A. Palmer

Susan E. Pease

Maureen Price-Boreland

Patricia Rehmer

John Santa

Dora B. Schrio

David Shepack

Susan O. Storey

Carleton Giles

Thomas J. Ullmann

The Honorable  
Gary White

Supreme Court decisions, which I will refer to as the Graham and the Miller decisions. The virtue of this bill is that it addresses the difficult issues raised by those decisions legislatively—and now—so that all cases are treated consistently, rather than leaving their resolution to the delays and uncertainties of litigation.

Both these decisions were based upon the results of brain science and sociological studies that show (1) a lack of maturity and an underdeveloped sense of responsibility in youth—defined by the Supreme Court as persons under the age of eighteen at the time of the commission of a crime—that often leads 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 the juvenile and adult brains, especially in the parts of the brain involved in behavior control. As a result, the Court stated that, because the character of a juvenile (again, defined as under the age of 18) is not as well formed as that of an adult and because juveniles are more capable of change than adults, even the commission of a serious crime by a juvenile cannot ordinarily be considered as evidence that he or she is of a permanent bad character and incapable of reform.

In Graham, the Court held that the U.S. Constitution prohibits a sentence of life without parole for a youth convicted of a non-homicide offense. The state must give the offender the opportunity for a second look at his sentence—in the words of the Court, a "meaningful opportunity" to obtain release before his maximum sentence "based on demonstrated maturity and rehabilitation." In Miller, the Court extended this principle to homicide offenses, and added that, at the time of sentencing, the trial court must take into account the differences between the juvenile and adult brains.

We emphasize that this bill does not ensure the release at any time of any serious offender. It merely provides that a youth given a lengthy sentence be afforded a distinct parole hearing at which the parole board would consider whether the offender has demonstrated the necessary maturity and rehabilitation to afford him parole release.

The Graham, or second look, part of the bill applies to any youth who received a sentence of 10 years or more. More specifically, if the sentence

imposed is 50 years or less, the offender would be eligible for parole consideration after serving 60 percent of the sentence or 12 twelve years, whichever is greater. If the sentence imposed is more than 50 years, the offender would be eligible for parole consideration after serving 30 years. We estimate that this will apply to approximately 200 people, of whom approximately 50 are serving sentences of 50 years or more, most with no current eligibility for parole.

The Miller, or sentencing, part of the bill applies prospectively to any youth who is transferred from the juvenile docket to the regular criminal docket and is convicted of a class A, B or C felony. At the time of sentencing, the court must take into account the science regarding the differences between the juvenile and adult brains and, if it proposes to impose a sentence under which it is likely that the youth will die in prison, consider how that science counsels against such a sentence. In this regard, the Judicial Branch is required to establish reference materials to assist courts in sentencing such youths.

We would also like to comment on Raised Bill 6926, An Act Concerning Lengthy Sentences for Crimes Committed by a Child or Youth. This bill would make changes to the Sentencing Commission's consensus proposal which, as we mentioned earlier, is reflected in Committee Bill 796. In particular, in Section 1 (f) 1, "aggregate sentence" would be changed to "total effective sentence". Additionally, in Section 2 (a), the Miller factors would apply only to A and B felonies, and not C felonies, as in the Commission's original proposal. We believe these changes are not only consistent with the Commission's consensus proposal, but help to clarify it as well. Additionally, we believe there is an interest in clarifying that the victim or victim's family would be notified whenever a person became eligible for release pursuant to the Graham part of the bill. We also believe this to be consistent with the Commission's proposal.

As for Sections 10 and 11 of HB 6926, which refer to victim notification of the defendant's possible release dates, at both the plea bargaining and sentencing phases, our understanding is that this language is a work in progress and may not reflect a final proposal. Members of the Commission's work group on this matter are in agreement with the concept, as we believe the Commission would be, but would want the opportunity to vet these changes with the full Commission to ensure all aspects of the system are able to weigh in so as to make it as sound and comprehensive as possible. Section 12 addresses the Earned Risk Reduction program. This was not part of the Commission's proposal, but we have agreed to recommend the Commission examine this program with the intent of presenting a proposal for any recommended legislative or executive actions in time for the next legislative session.

We thank you for your consideration of this testimony. We will be glad to answer any questions you might have.

001114

**Testimony of Val Rossetti in Support of SB 796  
Judiciary Committee  
March 4, 2015**

I am writing in support of efforts to reform juvenile sentencing in the State of CT, specifically in regard to long sentences or life-without-parole sentences for crimes committed by those under 18 (SB-796). It's time that CT law be brought into compliance with the Miller v. Alabama Supreme Court decision. Given that juvenile brains have not yet fully developed, and that actions by juveniles are often impetuous and immature, it makes sense not to accord them adult length sentences. Affording them an opportunity for a parole hearing after 60% of their sentence or 12 years has been served seems just and wise. It allows for maturation to occur, for the processes of remorse and rehabilitation to take place, and provides at least a possibility for that young offender to emerge from prison to a useful life. The proposed law provides only a "second-look", not a "get-out-of-jail-free" card.

I am writing not only as a physician with some knowledge of human neural development. I am also writing as a volunteer of several years in the CT Correctional institutions. I have personally come across inmates who would be afforded an opportunity for parole review under the new law. One young man stands out in my mind. Involved in a capital felony at age 17 in which he did not hold or fire a weapon, he nevertheless has now spent over 18 years in prison. He has publically taken responsibility for his part in the crime, asked forgiveness, and committed himself to becoming a skilled and compassionate medical assistant. His equanimity, skillful restraint, and wise understanding have made him into a role model for many of his fellow inmates.

As a legislator, you also certainly realize that absent an amended sentencing bill, the State of CT will be subject to numerous individual lawsuits from juveniles with lengthy sentences, each of which will require public resources and tax dollars to address. Much better to implement a new standard. In addition, the costs of long term incarceration of those who may ultimately prove to be productive members of society can be saved.

Thank you for your consideration of my views.

Sincerely,

Valerie A. Rossetti, M.D., M.P.H.  
88 Kenmore Road  
Bloomfield, CT 06002



**TESTIMONY OF THE CONNECTICUT JUVENILE JUSTICE ALLIANCE  
FOR THE JUDICIARY COMMITTEE  
MARCH 4, 2015**

**IN SUPPORT OF:  
S.B. No. 796 AN ACT CONCERNING LENGTHY SENTENCES FOR CRIMES  
COMMITTED BY A CHILD OR YOUTH AND THE SENTENCING OF A CHILD OR  
YOUTH CONVICTED OF CERTAIN FELONY OFFENSES**

Senator Coleman, Representative Tong and members of the Judiciary Committee, thank you for the opportunity to testify today. My name is Lara Herscovitch, I am the deputy director of the Connecticut Juvenile Justice Alliance – a non-profit organization focused on de-criminalizing our state's children and youth. The Alliance works to keep children and youth out of the justice system and advocates for a safe, effective and fair system for those who are involved.

The Alliance strongly supports S.B. No. 796, as it would fix a glaring problem in our state's justice system. Many people are serving long or even life sentences for crimes they committed before their 18<sup>th</sup> birthdays, and there is no mechanism to determine if that sentence remains appropriate. **We believe it is ethically, morally, legally and fiscally wrong to lock children up and "throw away the key."** This bill would give them a "second look," after they had served a significant amount of time.

**Neuroscience tells us that a person's brain is still developing** until the age of 25. Those who commit crimes as juveniles are very different from adults and have a greater capacity for change. Even if a child commits a very bad act, it does not mean he or she has a permanently bad character and is incapable of rehabilitation.

**This was confirmed by the U.S. Supreme Court in recent rulings; the bill would move Connecticut into compliance by:**

- A) Ending mandatory life-without-parole sentences for children and youth. S.B. 796 would exclude juveniles from charges that carry that sentence in Connecticut.
- B) Requiring that judges, when they are sentencing children and youth who are facing the possibility of life in prison, to consider youth, maturity, developmental issues, and capacity for rehabilitation. S.B. 796 would require judges to consider these factors for juveniles in serious felony cases, while leaving the judge free to hand down the sentence she or he sees fit.
- C) Providing parole eligibility rules for all individuals whose crimes occur before they are 18, in line with the Supreme Court's requirement of a "meaningful opportunity" for release. S.B. 796 would lead to release only if, after thorough review, it is established by a parole board that an individual has truly matured and rehabilitated.

**S.B. 796 would not jeopardize public safety.** Parole consideration would only be after a significant amount of time had been served (60% of a sentence or 12 years, whichever is longer - those sentenced to more than 50 years would be eligible for a hearing after 30 years). The

001116

Connecticut Board of Pardons and Paroles uses scientific risk-assessment tools and would require a higher standard of demonstrated rehabilitation than those who were convicted as adults must meet. If an individual were granted parole, his or her original sentence remains in place; any parole violations can lead to re-incarceration. In the absence of action by the Connecticut General Assembly, **individuals will continue petitioning the courts**, which not only is exorbitantly expensive, but could result in their immediate release with no parole supervision. With S.B. 796, on the other hand, a released individual would have ongoing supervision and support in the community to encourage success.

Passage of S.B. 796 is also preferable to court-mandated solutions because, by definition, the courts would have to review every existing lengthy sentence case-by-case, determining arbitrary thresholds in deciding which to reduce and which to leave untouched.

Lastly, there are misconceptions about some of the children affected by this bill. **They are as young as 14 years old, and may not have intended to harm anyone.** Because children tend to discount consequences and act in groups or with older adults, a backseat passenger in a car used for an older relative's robbery of a grocery store, or a "lookout" for someone else's drug-deal-gone-wrong can receive just as much prison time as an older person who planned the crime and pulled the trigger. The charge category felony murder requires only that the juvenile be engaged in a felony (most often a robbery), that someone died as a result (even by accident), and that the juvenile knows one of his co-felons was carrying a dangerous weapon.

As you know, in each of the past two years, the proposal in S.B. 796 successfully passed in the Judiciary Committee and the House. We are hopeful that this year, with your leadership, we can give children who deserve it a meaningful second chance, while also respecting the rights of victims and improving our system of justice.

Thank you for your time.

**Alliance member organizations:**

AFCAMP, Center for Children's Advocacy, Center for Effective Practice, CHDI, Connecticut Junior Republic, Connecticut Legal Services, Connecticut Voices for Children, Connecticut Youth Services Association, Community Partners in Action, FAVOR, FSW, NAMI Connecticut, Keep the Promise Coalition, Office of the Chief Public Defender, Office of the Child Advocate, RYASAP, The Tow Foundation, The Village for Families and Children

001117

**TESTIMONY OF STUDENTS FROM THE UNIVERSITY OF CONNECTICUT  
SCHOOL OF SOCIAL WORK IN SUPPORT OF S.B. 796, AN ACT CONCERNING  
LENGTHY SENTENCES FOR CRIMES COMMITTED BY A CHILD OR YOUTH  
AND THE SENTENCING OF A CHILD OR YOUTH CONVICTED OF CERTAIN  
FELONY OFFENSES**

Joint Committee on Judiciary  
March 4, 2015

Submitted by A collection of students from the University Of Connecticut,  
School of Social Work

Senator Coleman, Representative Tong, Distinguished Members of the Judiciary Committee. We would like to thank you for hearing our testimony. We submit this testimony in support of S.B. 796.

As social workers we feel this particular policy should be supported and implemented because children and youth are more likely to reform than adults who commit the same offenses. Therefore a line should be drawn between how we treat youth who commit crimes as opposed to adults.

The bill fits in directly with the "Second Chance Society" Governor Malloy proposed in recent weeks. If we are choosing to build our communities through creating alternatives for those who have made mistakes, then youth should be a priority. As quoted in the Governors speech to the Yale Law School, "people, particularly young people make mistakes". This bill would make a major statement in our efforts to build our citizens through a second chance motto.

In addition, citizens of Connecticut are paying close to three times the amount of money to incarcerate those eligible for S.B. 796 than it is for community supervision. This bill would reduce those unnecessary costs. The costs of dragging these cases through court are also reduced as hearings would be upheld and tended to in a more extensive and supervised manner by the parole board.

Again, we ask for your support for SB 796.

We thank you for hearing our testimony.

Sincerely,

A collection of students from the University Of Connecticut School of Social Work:

Landon Osborn	Aswad Thomas	Raquel Vasquez
Aurelia Price	Christen Cassidy	Takaya Owens
Jasmine Haynes	Kenterra Carrion	
Robert Haswell	Madeline Granato	
Alberto Cifuentes jr.	Kelsey Barringham	

001118

Testimony of Charlotte Finegold  
Co-Director of Advocacy & Awareness  
Yale Undergraduate Prison Project

March 4, 2015  
205 Elm St, A 13  
New Haven, CT 06511

In favor: S.B. No. 796

An Act Concerning Lengthy Sentences for Crimes Committed By A Child Or Youth And The Sentencing Of A Child Or Youth Convicted Of Certain Felony Offenses

My name is Charlotte Finegold and on behalf of the Yale Undergraduate Prison Project, I urge the committee to pass Senate Bill 796. This proposal, essential to reforming Connecticut's juvenile justice laws, recognizes that we must judge youths' decisions in the context of their neurological development and their backgrounds; it acknowledges that many juvenile offenders come from backgrounds of poverty and violence. As a college student, I am arguably more likely than others to be repulsed by the idea that a decision made under the influence of peer pressure in youth could determine the rest of one's life. Evidently, so are the other 928 Connecticut college students who signed these letters.

The stakes are extremely high for approving this proposal in this legislative session. Last Friday, the Connecticut Supreme Court ruled that it is down to the legislature to decide whether juveniles convicted of life sentences should be granted parole hearings. Furthermore, the future of dozens of men and women depend on the Assembly's decision, as emphasized in *The New Haven Register* profile of Nick Aponte, who is serving 38 years in prison without the possibility of parole.

The Yale Undergraduate Prison Project works with more than 100 students who, like Mr. Aponte, have devoted themselves to their education and deserve a second look. Our organization is based on the humanistic premise that people are capable of self-improvement and should be recognized for turning themselves around. We put these beliefs into action through our G.E.D. tutoring programs in Manson Youth Correctional Institution and at the New Haven Community Correctional Center and through one-on-one mentoring of inmates at Manson Youth Prison and York Correctional Institution.

In the past year, at New Haven's jail, I have tutored men who have been convicted for everything from minor drug offenses to murder. For a few months, I worked with a man who was convicted of homicide at age 17. At age 14, he had dropped out of the classroom and into a gang. The night he was arrested, he had no idea what he was doing. I learned all this after I had led him through sheets of word problems and geometry questions; after I saw him fail the G.E.D. twice, then pass it on his third try; after our discussion on American policy in the Middle East in which we debated how to respond to ISIS. He, like all our students, is channeling his remorse to focus on his education and start over.

I know that I only see these men for a couple hours a week and that I do not know all the details of their cases. But I am not naive in thinking that they deserve to be given a second look. Their stories conform to scientific evidence that shows that those who enter the criminal justice system as

001119

juveniles are more likely to better themselves. If the committee failed to pass this proposal, it would ignore this evidence and the resilience shown by those like Nick Aponte and the Prison Project's students who are committed to contributing, rather than burdening society.

This proposal is remarkably safe; it only supports release for individuals who are thoroughly reviewed by parole boards. It is high time to update Connecticut's sentencing policies so that they align with the 2012 *Miller v. Alabama* Supreme Court ruling and recommendations from the state's bipartisan Sentencing Commission.

As a citizen of Connecticut who wants to see our justice system live up to its name, I strongly encourage the committee to pass Senate Bill 796 as soon as possible.

Thank you for your time.

**TESTIMONY OF NEALY ZIMMERMANN, MA**

**In support of S.B. 796**

**Judiciary Committee  
Connecticut General Assembly**

**March 4, 2015**

Dear Distinguished Members of the Judiciary Committee:

I am Nealy Zimmermann, former executive director of the Connecticut Coalition to Improve End-of-Life Care, Inc. I submit this testimony in support of S.B. 796 (AN ACT CONCERNING LENGTHY SENTENCES FOR CRIMES COMMITTED BY A CHILD OR YOUTH AND THE SENTENCING OF A CHILD OR YOUTH CONVICTED OF CERTAIN FELONY OFFENSES).

As a former volunteer for the Connecticut Department of Correction, I along with others helped develop a prison hospice program and assisted in training inmates in Connecticut correctional facilities to provide end-of-life care and bereavement services for their fellow inmates. I coordinated or co-coordinated the training of a couple hundred inmates to be hospice and bereavement volunteers for their fellow inmates at York, MacDougall-Walker, and Osborn Correctional Institutions.

The proposed legislation would provide a "meaningful opportunity" for a child sentenced as an adult for serious offenses to obtain release on parole after serving a portion of the child's sentence. I strongly urge enactment of this legislation. In my many experiences with our incarcerated population, I have gotten to know adult men and women who have exhibited remarkable change, maturation, and rehabilitation. These persons deserve a "meaningful opportunity" to obtain release on parole after serving a portion of their sentence.

In my extensive work with the prison hospice program in Connecticut correctional facilities, I encountered men and women who have dramatically rehabilitated and are now doing remarkable work. Some of these individuals have been inspiring to me personally. These individuals have exhibited a significant change in attitude and have expressed tremendous appreciation for the opportunity to be of service to their fellow inmates. They have become model citizens.

I worked with one particular inmate who is serving a thirty-eight year sentence for a crime which occurred when he was just seventeen years old. He is a hospice volunteer. And for the last few years, he has also worked as a Certified Nurse's Assistant. He was very helpful to the new inmate hospice volunteers in coping with their first dying patient. His experience with the prison hospice program exemplifies the transformation that many child offenders undergo

while incarcerated. He summed up his experiences beautifully in the following quote, which is included in my recently published article "Caring for Others Behind Prison Walls":

How could I help other men see loss and grief as an exploration of opportunities instead of the often felt limitations of hopelessness? It seemed like a daunting task because as a man, I know we are often denied the opportunity to express our pain openly. Men are encouraged to hide pain by being strong, being in control, or covering it with anger. Prison environment further complicates things because of the fear that expression of sadness will make them appear weak and out of control.

To my relief, the training in this program not only addressed my concerns and taught me how to be an effective bereavement volunteer; it also deepened my understanding of myself. It was great that throughout the training the counselors constantly addressed our personal grief. They understood the importance that care for oneself allows one to be able to provide care for others.

I also learned that I didn't need to have the answers. I need to provide guidance that will help someone see that he has the answers: that he has the hope and power within himself because empowering someone is one of the greatest gifts you can give.

Ultimately, our goal as bereavement volunteers is to help someone acknowledge his loss and grief, and have his grief validated so with time he can reinvest in life. We have the privilege to journey with those in sorrow and let them know that they are not alone in this hard process regardless of who they are.<sup>1</sup>

This articulate, well-spoken man is evidence that individuals can rehabilitate and change. In my work with Connecticut's incarcerated population, I have seen first-hand that juveniles who commit serious crimes can change and mature into responsible, thoughtful adults. Therefore, I strongly support an opportunity to provide a "second look" at these long sentences given to children. The proposal under consideration does not mandate release of any individual, but it does provide a much-needed "meaningful opportunity" for persons convicted of crimes committed when they were children to obtain release on parole after serving a portion of their sentence.

---

<sup>1</sup> Nealy Zimmermann, "Caring for Others Behind Prison Walls," in *The Arts of Contemplative Care*, Cheryl A. Giles and Willa B. Miller, eds. (2012).

001122

CCDLA  
"Ready in the Defense of Liberty"  
Founded 1988

Connecticut Criminal Defense  
Lawyers Association  
P.O. Box 1766  
Waterbury, CT 07621-1776  
(860) 283-5070 Phone/Fax  
[www.ccdla.com](http://www.ccdla.com)

March 4, 2015

The Honorable Eric D. Coleman  
The Honorable William Tong  
Chairmen  
Joint Committee on Judiciary  
Room 2500, Legislative Office Building  
Hartford, Connecticut 06106

**Re: S.B. 796, AN ACT CONCERNING LENGTHY SENTENCES FOR CRIMES COMMITTED BY A CHILD OR YOUTH AND THE SENTENCING OF A CHILD OR YOUTH CONVICTED OF CERTAIN FELONY OFFENSES**

Dear Chairmen and Committee Members:

The Connecticut Criminal Defense Lawyers Association (CCDLA) is a statewide organization of over 300 licensed lawyers, in both the public and private sectors, dedicated to defending persons accused of criminal offenses. Founded in 1988, the CCDLA works to improve the criminal justice system by ensuring that the individual rights guaranteed by the Connecticut and United States constitutions are applied fairly and equally and that those rights are not diminished. At the same time, the CCDLA strives to improve and suggest changes to the laws and procedures that apply to criminal justice.

The CCDLA strongly supports Senate Bill 796, An Act Concerning Lengthy Sentences for Crimes Committed by a Child or Youth and the Sentencing of a Child or Youth Convicted of Certain Felony Offenses. S.B. 796 is an important legislative proposal that provides for automatic review of sentences of ten years or more for individuals who were under 18 years of age when their offenses were committed and requires the court to consider evidence concerning the differences between a child's brain and an adult's.

The United States Supreme Court has long recognized that children are different, because "[they] have diminished culpability and greater prospects for reform, ... [they] have a lack of maturity and an undeveloped sense of responsibility, ... [and] a child's character is not as well formed as an adult's..." Roper v. Simmons, 543 U.S. 551, 569-570 (2005). Senate Bill 796 demonstrates our recognition of the differences between an adult and juvenile offender, allows for the consideration of mitigating factors in sentencing children based on those differences, and permits us to revisit those sentences in the future to determine whether, in any particular case, release to parole is appropriate. It is important to note that this bill does not guarantee release, nor does it prevent judges from imposing lengthy sentences if warranted. It merely affords an opportunity for a hearing to consider release and to allow victims and others the chance to be heard on that consideration.

Senate Bill 796 amends the Connecticut General Statutes to comply with Miller v. Alabama, and our own

Supreme Court's recent decision in State v. Ackeem Riley, by requiring a sentencing court to consider not only the nature of the circumstances of the offense, but the characteristics and circumstances of the offender. This will ensure that our courts adhere to that requirement by recognizing that the criminal conduct of a child may be mitigated by a number of considerations. These have been recognized by both the United States Supreme Court and our Supreme Court to include the offender's age, educational background, history of trauma and abuse; immaturity, impetuosity, and failure to appreciate risks and consequences; the offender's family and home environment and the offender's inability to extricate himself from that environment; the circumstances of the offense, including the extent of the offender's participation in the conduct and the way familial and peer pressures may have affected him; the offender's inability to deal with police officers or prosecutors (including on a plea agreement) or his incapacity to assist his own attorneys; and the possibility of rehabilitation. State v. Ackeem Riley, 2015 Conn. LEXIS 50 (March 1, 2015).

Senate Bill 796 also amends our General Statutes to comply with the United States Supreme Court decision in Graham v. Florida. In that case, the Supreme Court said that a sentencing judge is precluded from determining at the outset that a juvenile non-homicide offender is beyond rehabilitation and has required that such offenders be afforded a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation. As this Committee is aware numerous scientific studies over the past 25 years have demonstrated that the adolescent brain is not fully developed. The immaturity of the juvenile brain makes a teenager more susceptible than an adult to impulsive and impassioned behavior. Society's imposition of various restrictions on young people with regard to voting rights, motor vehicle licensing, alcohol use, and consent for sexual intercourse, clearly reflects the recognition that adolescents and even young adults do not possess sufficient judgment, foresight or self control to be granted these responsibilities. If we believe that children are not able to make reasoned and responsible judgments regarding their bodies, driving, voting and drinking before reaching the ages of 16, 17, 18 and 21, respectively, how can we conclude that their judgment and culpability are comparable to those of an adult when they commit a crime? Senate Bill 796 gives young people in these circumstances another chance at life: To live as mature, responsible, and productive members of society after demonstrating that they can do so without violating the law.

Historically, we have cast aside adolescents with serious felony convictions with the view that these young people are permanently damaged and in need of warehousing. S.B. 796 reflects society's current understanding that adolescents change dramatically as they mature into adulthood and that it is appropriate to review the lengthy sentences of teenage offenders.

For all the reasons stated above, the CCDLA strongly urges the passage of Senate Bill 796. Please feel free to contact me if you have any questions regarding this testimony.

Respectfully submitted,



Elisa L. Villa  
President, CCDLA

860-655-9434

001124

Senate Bill No. 796, An Act Concerning Lengthy Sentences for Crimes Committed by a Child or Youth and the Sentencing of a Child or Youth Convicted of Certain Felony Offenses

House Bill No. 6926, An Act Concerning Lengthy Sentences for Crimes Committed by a Child or Youth

3.3.15

Judiciary Committee

Hartford, CT.

Dear Judiciary Committee,

My name is Jack Holden, father of Kyle Holden who was murdered on 10.15.1999, by two thugs who Carjack his car.

Once they were captured and brought to court, one thug was over 18 and pleaded guilty and received life without the possibility of parole.

The second thug, Jamaal Coltherst, being 126 days before his 18 birthday, fought the court system. There were numerous discussions about his age at the time he Murdered my Son KYLE and was still found guilty of the following charges:

Accessory to Capital Murder

Robbery 1<sup>st</sup>

Robbery 2<sup>nd</sup>

Accessory to commit Larcey 1<sup>st</sup>

Conspiracy to commit Kidnap 1<sup>st</sup>

Laceny 4<sup>th</sup>.

**FOR A GRAND TOTAL OF LIFE PLUS 71 YEARS.**

THREE DAYS LATER HE TRIED KILLING MICHAEL CLARK.

His age was brought up numerous times as well.

These are the following charges in Mr. Clark's case.

Attempted Kidnap 1<sup>st</sup> with a firearm

Burglary 1<sup>st</sup>

Conspiracy to Commit Burglary 1<sup>st</sup>

001125

Attempt to Commit Murder

Assault 1<sup>st</sup>

Conspiracy to Commit Assault 1<sup>st</sup>

Robbery 1<sup>st</sup>

Conspiracy to commit Robbery 1<sup>st</sup>

Conspiracy to commit Kidnap 1<sup>st</sup> with Firearm

Conspiracy to Commit Burglary 1<sup>st</sup>

Conspiracy to Commit Assault 1<sup>st</sup>

Larceny 1<sup>st</sup>

Conspiracy to Commit Larceny 1<sup>st</sup>

**FOR A GRAND TOTAL OF 85 YEARS.**

**Together a final GRAND TOTAL OF LIFE PLUS 156 YEARS.**

**DOES THIS SEEM LIKE A SOMEONE WHO DESERVES A BREAK  
BECAUSE HE WAS 126 DAYS BEFORE HIS 18<sup>TH</sup> BIRTHDAY?**

**Please stop the suffering my family has gone through for the  
last 3 years with this potential re-sentencing of this thug  
hanging over our head.. We have gone through 15 years of  
torment with the senseless MURDER of our beloved son KYLE.**

*Holden Family*



NATASHA M. PIERRE, ESQ.  
*State Victim Advocate*

Testimony of Natasha M. Pierre, Esq., State Victim Advocate  
Submitted to the Judiciary Committee  
Wednesday, March 4, 2015

Good afternoon Senator Coleman, Representative Tong and distinguished members of the Judiciary Committee. For the record, my name is Natasha Pierre and I am the Victim Advocate for the State of Connecticut. Thank you for the opportunity to provide testimony concerning:

Senate Bill No. 796, An Act Concerning Lengthy Sentences for Crimes Committed by a Child or Youth and the Sentencing of a Child or Youth Convicted of Certain Felony Offenses, and  
House Bill No. 6926, An Act Concerning Lengthy Sentences for Crimes Committed by a Child or Youth

***Enhancing Crime Victim's Rights***

The Office of the Victim Advocate (OVA) supports the following proposals to enhance crime victim's rights:

Section 11 of House Bill No. 6926 requires the state's attorney to provide additional detailed information regarding a defendant's period of confinement, pursuant to a plea agreement, to victims of crime who request such information. This will ensure that victims understand the nature of the sentence and the potential impact that credits for good conduct and programming will have on the period of confinement.

Section 12 of House Bill No. 6926 will add two crimes, manslaughter first degree and manslaughter first degree with a firearm, to the list of crimes that are ineligible to earn risk reduction credits. Currently, a defendant convicted of six specific crimes, including murder, are ineligible to earn risk reduction credits. However, a defendant originally charged with murder, may accept a plea agreement and be convicted of manslaughter, thus becoming eligible to earn risk reduction credits. To ensure that murderers are not earning risk reduction credits, as intended, at minimum, those crimes should be added to the list.

***Juvenile Sentencing***

The OVA is an active member on the Sentencing Commission, which has been diligently working to address the U.S. Supreme Court's rulings in Miller v. Alabama and Graham v. Florida regarding the sentencing of juvenile offenders.

001127

While the OVA realizes that, in some cases, a juvenile offender may be worthy of a "second chance" and be considered for the potential of early release, from the victims' perspective, the age of the offender does not lessen the impact suffered as a result of the crime. The OVA strongly believes that there are cases where a juvenile offender has clearly and consistently demonstrated their propensity for violence and are a continued threat to victim and public safety. These instances require us to carefully consider the impact of Senate Bill No. 796 and House Bill No. 6926, not only on the juvenile offender, but also on the victim and public safety.

The decision in Miller v. Alabama requires the court to consider certain factors prior to sentencing a juvenile offender, convicted of murder, to a life sentence. The decision **does not** prohibit the court from sentencing a juvenile to life, rather, the court must consider all information about the juvenile's maturity, influence and appreciation of the consequences of his/her criminal conduct.

There are only **FOUR** cases in Connecticut that are impacted by Miller v. Alabama; Connecticut has always been cognizant of reserving the life sentence for the worst of the worst, even more so, when the offender is a juvenile. Additionally, Connecticut routinely reviews information concerning the juvenile's history as part of the pre-sentence investigation report to the court. Although the four defendants impacted by Miller v. Alabama will be resentenced, as agreed upon by the State's Attorneys, it is possible that life sentences will again be imposed.

The decision in Graham v. Florida requires a process for a juvenile offender, serving a lengthy sentence, to be able to demonstrate substantial rehabilitation and maturity and have a meaningful opportunity for early release consideration. This decision comes from a Florida case in which a juvenile was sentenced to, effectively, a life sentence for a crime other than murder. Moreover, there was no opportunity for early release as Florida does not have an established parole system.

The issues in Graham v. Florida do not exist in Connecticut. First, Connecticut does not sentence juveniles to a life sentence for crimes other than murder. Second, Connecticut has a well-established parole system whereby a person becomes eligible for parole after serving a certain percentage of their sentence, based on the crime or crimes committed. For example, if a person is convicted of a non-violent crime and sentenced to more than 2 years, the person would be eligible for parole consideration after serving fifty percent (50%) of their sentence, minus any credits for good conduct and programming. A person sentenced for a violent crime, other than murder, must serve eighty-five percent (85%) before becoming eligible.

Essentially, the proposals before you establish a separate eligibility process for juvenile offenders, who were convicted to a lengthy sentence (10 years or more), to seek early release consideration: a person sentenced to 50 years or less would become eligible after serving sixty percent (60%) or twelve years, whichever is greater and a person sentenced to more than 50 years, would become eligible after serving thirty years. If after a hearing, the Board of Pardons and Paroles determines that continued confinement is required, the Board would have discretion to reassess the person's suitability for a new parole hearing, but not earlier than two years after the denial.

The OVA opposes the establishment of said separate eligibility process for juvenile offenders because

- 1) Connecticut already considers all factors, including maturity, family background, educational history, criminal history, substance and/or mental health history, prior to sentencing a juvenile to a lengthy term of confinement. Juvenile offenders whose cases are transferred from the juvenile delinquency docket to the adult criminal docket are largely due to the seriousness of the offense and/or the continued criminal conduct of the offender.
- 2) Connecticut has a system in place for most offenders, whether juvenile or adult, to seek sentence reduction opportunities and early release opportunities.
- 3) The proposal appears to allow multiple parole hearings, which goes well beyond any interpretation of the Graham decision.

The OVA, as well as most crime victims, generally understand that juvenile offenders will be treated slightly different in the criminal justice world. Whether the criminal matter is transferred to the adult criminal docket, is approved for youthful offender status or remains on the juvenile delinquency court docket, victims maintain the rights to be informed and heard. Furthermore, there is a general understanding that efforts towards rehabilitation are more prevalent when it comes to juvenile offenders.

However, the emotional, financial and psychological impacts suffered by a victim as a result of crime are no less if the crime is committed by a juvenile. Juveniles convicted of serious, violent crimes and sentenced to lengthy terms of confinement, should expect that such criminal conduct will have significant and severe consequences. It is more than likely that a juvenile offender charged with a serious, violent crime, has had a prior history of involvement with the criminal justice system and that efforts towards rehabilitation have been unsuccessful. Those rising to the level of lengthy periods of confinement should not be unduly rewarded by an exaggerated interpretation of a decision by the Supreme Court of the United States.

I strongly urge the Committee to carefully review Miller v. Alabama and Graham v. Florida to ensure a complete understanding of the decisions as well as to recognize that Connecticut requires very few changes to be in compliance with the requirements of both decisions. Thank you for consideration of my testimony.

Respectfully submitted,



Natasha M. Pierre, Esq.  
State Victim Advocate

001129

SB796

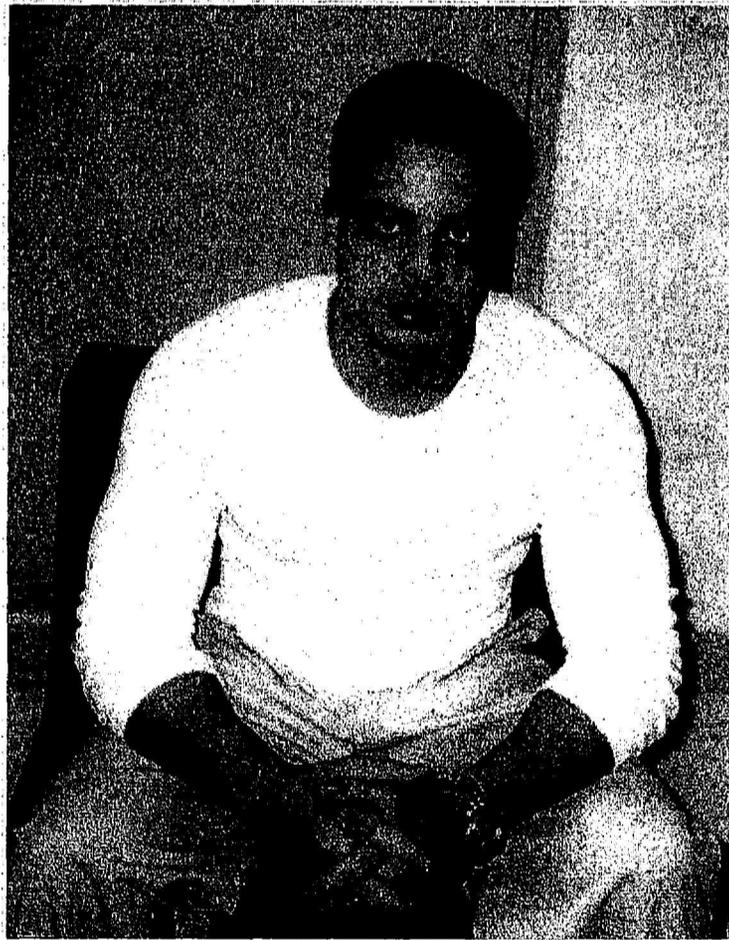
# NEW HAVEN INDEPENDENT

IT'S YOUR TOWN. READ ALL ABOUT IT.

## Should Nick Get A "Second Look"?

BY Michelle Hackman | MAR 3, 2015 3:40 PM

Posted to: Legal Writes, State



Inmates like Aponte, shown in jail, have a lot riding on a "Second Look" bill coming up for a hearing Wednesday.

On a humid, overcast evening in July 1996, four teenaged boys sat on a front porch drinking malt liquor and playing spades. Early in the evening, one of the boys, 16-year-old Jason Casiano, confided in the others that he badly needed money and was contemplating robbing a store. Would they be willing to help? he asked.

**Should Connecticut enact the "Second Look" law?**

VOTE	RESULTS
<p><b>Yes</b></p> <p><b>No</b></p> <p><b>Don't know</b></p>	<p>"We were like, 'I don't think so,'" recalled his cousin Nick Aponte, one year Jason's senior. But as the night drew on and the boys grew more intoxicated, "we loosened up to the idea."</p> <p>Jason kept pressing. He suggested that the extra money could help fund Nick's son's first birthday, coming up that Saturday. "He assured us that nothing bad would happen," Nick said. Nick trusted his cousin; Jason, who had escaped family strife in Florida to live with Nick several months earlier, projected a self-possessed machismo that Nick envied. "There were no other male figures in my life. I looked up to him," Nick said.</p> <p>Nick knew that while Jason was still living in Florida, he had successfully carried out acts of theft without significant repercussions. And so it was that Nick and the other boys — 14-year-old Miguel Rodriguez, Nick's little</p>

Poll ends: 5/31/15  
**You haven't voted yet**

SUBMIT YOUR VOTE

©2015 New Haven Independent (<http://www.newhavenindependent.org>)

brother, and 15-year-old Adam Strong, Miguel's friend — willingly followed Jason into Nick's bedroom, where they would begin sketching out the crime.

At the time, Nick could not know that the robbery would deviate from their plan, and take a turn toward something far worse. Nick had never proven particularly prone to making smart choices: he partied, he drank, he was promiscuous. But for all his self-perceived faults, Nick had never before dreamed he could be tried as an adult on felony charges, and if found guilty, spend most of his life in prison.

On a recent frigid morning, sitting in a prison conference room, Nick recalled to me the details of that fateful August night. At 36, Nick still appeared young for his age, tall and buff, with full brown hair and prominent golden features. He sat at one end of a white Formica coffee table, dressed in an orange jumpsuit, facing a locked door and a watchful corrections officer.

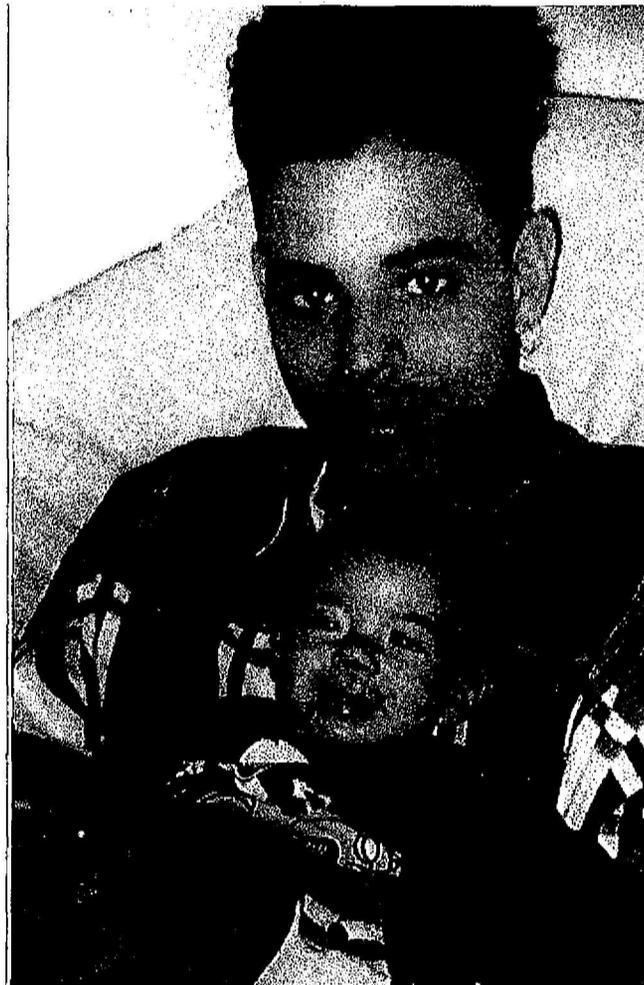
His message now was simple: over time, Nick has grown immensely remorseful of the events that unfolded that night. But, though he has reformed himself in prison, due to the state's arcane legal code, he will never become eligible for parole — for a second chance at life 19 years after a childhood mistake.

Nick is one of 275 inmates in the state who are serving sentences longer than ten years for crimes they committed under the age of 18, according to the state's Department of Corrections. Of those, approximately 50 are serving sentences of 50 years or more, most with no eligibility for parole.

A bill pending before the state legislature this year, SB 796, a proposed so-called "Second Look" law, aims to change that. If passed, the bill—whose sponsors include New Haven State Sens. Martin Looney and Gary Winfield—would make inmates like Nick eligible for a "second look" that can result in parole. (Click [here](#) to read the bill.) Under the bill, convicts who committed their crimes as minors—and who have served 12 years or 60 percent of their sentences—could come before the Board of Pardons and Paroles for a new hearing. The Judiciary Committee is scheduled to hold a hearing on the bill Wednesday, it

comes amid a mandate to revise the state's juvenile sentencing laws as well as a new "Second Chance Society" initiative by Gov. Dannel P. Malloy to reform Connecticut's criminal-justice system.

#### "Bad Choices"



Even before Jason came to live with Nick's family, Nick had already faced hardships. One year earlier, Nick had impregnated a fellow 16-year-old named Carey Coppola. In anticipation of his son's birth, he had dropped out of high school and taken two jobs, one as a "food preparer" at a truck stop in Southington and the other flipping burgers at a Burger King near his home in Waterbury. But Nick dreamed of one day improving his lot: of giving his son more hands-on care, of perhaps returning to school and earning his G.E.D. "Anybody who knew me back then—I made bad choices as a teenager, but nothing to that extent," he said.

Several months after his son Devin was born, Nick took a trip to Florida to visit his maternal grandmother. Things were not going well with Carey, and Nick thought that, by taking some time away from work, he could save

up some money for his son. Nick's grandmother warned him repeatedly not to hang around with Jason, who was living nearby at the time. "But my son just — I don't know. He didn't really listen to my mom," recalled Nick's mother, Leslie Aponte. "And Jason started showing him around Florida."

The two grew exceedingly close. Though Jason was a year younger than Nick, his brash charisma and sympathy for Nick's plight — he, too, was a young father who had suffered abuse as a child — inspired Nick to look up to his younger cousin. "He was kind of a tough guy, and I admired that," he said. "There's not a lot of good role models where I grew up." Just before Nick was due to return to Connecticut, Jason robbed the home of a nearby drug dealer, an ordeal that did not go as smoothly as he'd hoped. He confided in Nick that if he were to stay in Florida, the drug dealer would likely come after him. And so it was that, with Leslie's blessing, the two returned to Waterbury months before the night of the crime.

Nick's house was empty on the night of the crime; Nick's mother had gone out with her new partner. The moment the bedroom door clicked shut, Jason began directing. He would need a lookout, Nick, to stand guard as he robbed the store. The other boys would tag along to watch. At around 11 in the evening, they set off in Carey's car, which he had borrowed the day before, with Jason occupying the driver's seat.

They drove to a nearby subway sandwich shop in North Haven. Jason considered the spot ripe for robbing. It was located in a secluded neighborhood with little foot traffic, especially at that time of evening. To be sure, Jason directed Adam to check for bystanders while the others waited in the car. Adam returned to report that, other than an employee, two customers were lingering inside.

The boys stalled for nearly an hour inside the car, awaiting the customers' exit. As the minutes drifted past, Nick remembers feeling the first distinct flickers of doubt. "I was scared, very scared. My brother started to talk about, 'Maybe we shouldn't be here.'"

Their second-guessing triggered Jason, who was already more intoxicated than the rest and who, Nick thinks, was also under the influence of cocaine at the time.

To ease tension, Nick suggested that the boys return another night. "Because if we could save it for another day, it wouldn't happen," Nick recalled thinking. "Because I could be in a better state of mind and say 'no.'"

His suggestion only inflamed Jason further. Suddenly, Nick saw a gun flash in his cousin's hand. "We're here now, it's got to happen," Jason said. "You promised. You gave me your word." Nick hesitated. After a moment, his brother Miguel offered to accompany the two older boys into the restaurant. "That's what gave me the courage to say, 'OK, we'll go in there.'"

### 3 Shots

The restaurant was now deserted but for a lone employee. Jason entered with Nick and Miguel trailing several steps behind. Leaving his cousins at the door, Jason moved forward and demanded the employee hand him cash from the register. The employee, visibly frightened, blustered that the register contained hardly any cash. Jason then demanded that the employee show him to the restaurant's safe, and, with a forceful hand on the employee's upper arm, the two disappeared around a corner behind the serving area, out of Nick and Miguel's sight.

They heard yelling. Suddenly the two reappeared, and the employee, now quaking with fright, explained that he did not know the combination to open the safe. And, without so much as a pause, Jason once more lifted his weapon and shot the employee blankly in the face.

Nick and Miguel froze. The employee fell to his knees, and Jason shot twice more, sending bullets ricocheting through the employee's torso.

"I felt totally separated from the situation, like I was watching it but not watching it," Nick recalled. "I was so young. I didn't know if the shots had hit him. I mean, I heard the shots, but ..." Against all odds, the employee rose to his feet and bolted for the back door. Nick and Miguel promptly followed. Jason stayed behind; Nick later learned that, as the scene unfolded around him, his cousin was attempting to force open the mouth of the cash register.

A few minutes later, Jason emerged through the front door of the restaurant and joined the others waiting in the car. They sped off. Several blocks down, they spotted a huddle of people standing on a street corner surrounding a body lying on the ground. They kept driving.

### The Morning After

When the boys returned to Nick's home around 1 a.m., Nick took the car to see Carey. He drove the ten minutes to her home, nearly pulling into her driveway before reversing course.

"I didn't have the heart to tell her what had just happened," he said. That night, sleep came to Nick in fitful bursts, as though his slumber had shattered into jagged shards of glass.

The next morning, he arose with the bullets ricocheting through his memory, hoping against hope that each shot had missed. But he turned on the television in his living room, and the truth was spelled out before him: The previous evening, a 28-year-old Subway sandwich shop employee named David Horan had been shot dead.

Nick yelled for Jason, who was sleeping in another room, to come watch. "That's when we knew," Nick said.

Nick demanded that Jason leave the house immediately. He once more drove his son's mother's car to her home, this time successfully visiting her. He did not mention the events of the previous evening; their son's birthday party was scheduled for the next day, a Saturday, and the two still needed to plan.

When Nick returned home on Friday evening, Jason still had not left. The descriptions of the suspected robbers on television did not match their profiles, he informed Nick. He believed the discrepancy would give him enough time to make a break for Florida. Jason called members of his family and confided what he had done, in the hopes one would wire him enough cash for the journey.

Nick began refusing to speak to Jason. He attempted to go about daily routines as normally as he could. He exercised, took shifts at the nearby Burger King. On Saturday afternoon, he attended his son's first birthday party without issue.

But on Sunday morning, at about 8, as Jason was readying himself to catch a cab, two detectives ascended the steps of Nick's front porch. Within minutes, the boys were handcuffed in the back seat of a police car, racing to the nearby Waterbury police headquarters.

They had denied any involvement in the robbery — "I was here, I was home!" Nick had insisted — but he knew, from the details the detectives had supplied, that he could not feign innocence for much longer.

Still, Jason assured Nick that he could handle the situation, asking his older cousin to leave the explaining to him. Nick, feeling powerless, once more trusted him. "I thought I was a man, and I thought he was a man," Nick recalled, "and if he said, he's 'got it under control,' then he's got it under control."

The two cousins were interrogated separately for over six hours. Adhering to their plan, Nick continued to deny his involvement. "They kept saying, 'Nick, I know you were there,'" he remembered. "I just denied it the whole time." A little after 6 p.m., word came that Jason had signed a confession admitting that he had shot the Subway employee.

Nick asked to speak to his cousin, and they let him. Once they were in a room alone, Jason turned to Nick and told him, "You have nothing to worry about, Nick. I took full responsibility. Just answer their questions and sign a confession. They're not going to charge you with the heavy crimes."

#### **A Felony Rep**

Nineteen years later, Nick can still recite these words from memory, because as he put it, "that is exactly what happened."

At the age of 17, Nick was charged with felony murder for the death of David Horan — which in Connecticut meant he would be tried as an adult and, if found guilty, given a lengthy sentence without the possibility of parole.

In Connecticut, as in many other states, the state can charge adolescents above the age of 14 as adults. A "Raise the Age" law that took effect in 2010 required that most 16 and 17-year-olds be charged as juveniles, not adults. However, prosecutors can still charge minors as adults for certain serious crimes—

like the felony murder charge against Nick—under the law. (The "second chance" bill before the legislature would allow inmates like Nick a chance at a review to be granted parole, and it would eliminate minors charged in the future from facing sentences without parole.)

Several towns in Connecticut first established juvenile courts during the early 1920s, later than in most other states. The idea for such courts was born out of a reformist impulse to treat criminal behavior rather than punish it, by intervening in the lives of children whose homes had failed them. The establishment of a separate court system for juveniles mirrored other legal changes in the early 1900s meant to recognize adolescence as a stage of development, such as the extension of compulsory secondary education or the implementation of laws meant to protect teenagers from harsh labor conditions.

The juvenile system expanded state-wide in 1942, and for three decades, it housed children in separate facilities and released them when they had reached the age of 21. But by the 1960's, many legal experts had come to view these courts' uneven application of the law - a product of their paternalistic outlook - as capricious. A new generation of children's advocates sought to redefine the role of courts as liberating rather than protecting youths. Adolescents, they argued, deserved many of the same due-process rights as adults proceeding through the criminal justice system, such as access to a lawyer and the right to remain silent. As a result, during the 1970's, Connecticut, in concert with states across the country, eased the process of transferring juvenile cases to adult courts.

Amidst a wave of rising crime in the 1980s and 1990s, most visibly through the formation of gangs, reformers argued that the modern generation of adolescents had somehow matured faster than generations past. These claims grew increasingly sensational, culminating in news reports about a growing generation of adolescent "super predators" who perpetrated emotionless crimes in traveling packs. John Dilullo, then a professor of politics at Princeton University, championed the idea as a "demographic crime bomb," giving the issue more credence.

Dilullo has since recanted and apologized for this theory, saying his predictions never bore fruit. But at the time, all this hysteria fed into a trend of transferring more youths to adult courts, and, by extension, to greater numbers of youths serving out prison sentences well into their adult lives.

When Nick's case reached court, the prosecutor offered him a plea bargain: a sentence of 35 years in prison. Nick thought the bargain unfair. "I'm willing to take my responsibility, but I can't take the 35-year plea bargain," he told his court-appointed defense attorney, Beth Merkin. "I didn't pull the trigger. I didn't have a gun. I didn't want nobody to get hurt."

From there, the trial progressed quickly; Jason had already accepted a plea bargain of 50 years in prison without parole, a sentence that set the bar high for Nick's own. The prosecutor spent much of his presentation equating Nick's presence at the crime scene with the sandwich shop employee's death. Nick's brother, Miguel, testified against him in a negotiation with the prosecutor that would reduce his own sentence.

Within a matter of days, the trial had concluded with a guilty verdict. When the decision was announced, Nick wept openly on the stand. He wept because he had not been carrying a weapon; because it felt as though he was sacrificing himself for another person's will; because the guilty judgment would all but rob him of his adulthood.

"He was a very nice kid," Nick's lawyer, Merkin, recalled. "But you know, he was a kid, and I don't think he appreciated how serious this was."

In 1998, following a lengthy pre-sentencing investigation in which the court gathered more information on Nick's personality and circumstances, the judge handed down his sentence: 38 years in prison without the possibility of parole. At the age of 20, Nick had already served three years behind bars; the sentence all but ensured that he would not emerge until the age of 55. (Miguel, who accepted a plea bargain, was sentenced to 14 years and paroled after seven; Adam was sentenced to three and served out two.)

### From Couch To Couch

In recent years, the pendulum of public opinion has once more swung in the other direction. Today's child advocates, echoing the reformers of a century past, point to lagging brain development and socioeconomic disadvantages as reasons to consider the cases of adolescent offenders with more lenience. Their position was bolstered by a trio of Supreme Court decisions that culminated in a 2012 case,

Miller V. Alabama, which declared that sentencing minors to life without the possibility of parole constitutes cruel and unusual punishment. The ruling more broadly outlawed state mandates that predetermined sentences for juveniles, because, as Justice Elena Kagan explained in her majority opinion, judges must take into account "the mitigating factors of youth," such as immaturity or the inability to evaluate the consequences of one's actions, when deciding an appropriate sentence for a minor.

Many of the adolescents sentenced to long stays in prison tend to come from low-income and minority backgrounds; in Connecticut, 88 percent of juveniles given sentences of 10 years or longer are either African-American or Latino. They are more likely to have dropped out of high school and have other relatives who have gone to prison. Research shows, moreover, that a higher than average number have experienced physical and sexual abuse, emotional neglect or other psychological trauma.

"I think you develop more adult-type coping skills if you're in a better setting," said Andrew Lustbader, a clinical professor at the Yale Child Study center and the president of the Connecticut chapter of Child and Adolescent Psychiatry. "Parents who are not able to provide a level of stability or provide a floor for the kids to walk on – their kids will not feel prepared to make informed choices."

Research shows, moreover, that judges and juries tend to view these structural disadvantages as adding to the unsavory profile of the defendant they are sentencing, often causing them to result in longer, rather than shorter, prison terms. That is why, according to Marisa Masolo Halm, the director of juvenile justice advocacy at the Center for Children's Advocacy, it is especially important to consider the effects of such disadvantages on a youth's decision-making. "I think there is no bright line that can be drawn in making such a determination," she said. "There is too much at stake for these youth."

Nick's profile matches those of many of the juvenile offenders who came before and after him: Born to a low-income family in urban Connecticut to an overworked mother and a physically abusive father, he spent much of his youth raising himself. Nick's father would often refuse him money, so to pay his way through his teenage years – "when you're that age, you want sneakers" – he babysat, delivered newspapers and performed janitorial odd jobs.

Growing up, Nick showed unusual compassion for a child his age. His mother Leslie recalled times in kindergarten and first grade when Nick would return home from school, sobbing. "I'm thinking, 'Oh my god, he got bullied'," she said. "But it was because one of his friends got bullied. He would say, 'One of my friends, they pushed him, and they called him names!'" Unlike many other children, he loved to read whatever he could find: his textbooks for school; novels; even the tombstones of a graveyard near his home, which he liked examining to imagine the lives of the people buried there.

Neither of Nick's parents had finished high school. Though they urged him to stay, Nick would soon follow in their footsteps. "I was told, 'Do right, do good in school,'" Nick recalled. "But education wasn't ever fostered in my home."

When Nick entered ninth grade, his family life deteriorated. One evening, in a fit of anger, his father confessed to him, against Leslie's wishes, that they were not biologically related. After that, "he kind of lost the person who he was," Leslie said. He joined a gang – the Latin Kings – and had the group's insignia, a crown atop the letters "ADR," short for "Amor de Rey" or "love of the king," tattooed on the back of his right hand. He stopped caring as much about his schoolwork. His fights with his father grew only more contentious.

One day, Nick sold several of his father's most beloved rings and chains to a pawn shop. In retaliation, his father ousted him from their home. Leslie wanted to protest, but her religion at the time – she was a practicing Jehovah's Witness – prevented her from overruling her husband, she said. Instead, she would prepare food for Nick each night and drive around until she found him. Nick jumped from couch to couch. Amongst this turmoil, he dropped out of high school and fathered his son with Carey. "Before prison, all I had ever wanted was to get a job, put my son through school and repeat the cycle of my parents," Nick said. "I could only take things week by week."

Leslie said she could not tolerate watching her son live like this for long. She eventually separated from her husband and bought an apartment in Waterbury, where Nick and Miguel went to live.

Were Nick's trial to have been adjudicated adhering to the essence of *Miller*, the most recent Supreme Court precedent, it would likely have resulted in a much lighter sentence. Halm, of the Center for Children's advocacy, said. "He exemplifies the situation of a youth who was involved in a serious crime as an accessory because of those unique characteristics of being a youth. He engaged in an act that was impulsive in nature, an act he was goaded into through peer pressure, and with a complete lack of understanding of the risk of harm and the potential consequences."

Instead, Nick said, "I was treated as an adult. I was treated as a person who knows better – who had the foresight to realize I was getting into a situation where someone could get killed."

#### A "Second Look"

So far, at least 10 states have reformed their criminal codes through legislation to comply with *Miller*. But in Connecticut, defendants under the age of 18 convicted for capital murder – the state's equivalent of murder in the first-degree – are still required to serve life sentences without the possibility of parole, a direct violation of *Miller*. In response, the Connecticut Sentencing Commission formulated a recommendation for the legislature to take up. This recommendation is the basis for the juvenile sentencing bills that failed to clear both chambers of the state legislature the last two years, as well as the bill being debated in Wednesday's hearing.

Not only would their recommendation undo the requirement to sentence a minor to life without parole. It would go one step further, allowing inmates with lengthy sentences for crimes they committed as minors to become eligible for a parole hearing 60 percent of the way into their sentence, a modification that proponents of the recommendation have dubbed "a second look."

It is the "second look" aspect of this legislation that has proved controversial: While *Miller* does not require states to offer juvenile felons a chance to reduce their sentences, proponents insist that this aspect of the reform is a matter of equity. "If legislation provided a 'second look' at only the very longest sentences, it would lead to irrational results," said Sarah Russell, a law professor at Quinnipiac University and an integral member of the juvenile sentencing reform movement in Connecticut.

"Those serving longer sentences are often more culpable: Often those serving the longer sentences were the direct actors - triggerman who intended physical harm - whereas those serving somewhat shorter sentences were the lookouts or drivers in felony murder cases and intended no physical harm," she said. "It does not make sense for more culpable individuals to have a chance for parole while those less culpable, like Nick Aponte, do not."

But the prospect of mitigating this broad swath of sentences understandably does not sit well with the families of crime victims, making it a delicate issue for lawmakers to address.

"If you can't believe a judge's final decision in a courtroom, who can you believe?" said John Cluny, whose wife and teenaged son were murdered by the son's 15-year-old friend Michael Bernier in 1995, during a House hearing on the bill in March 2013.

Though, like Aponte, Bernier has reportedly grown remorseful and more mature in prison, Cluny told the assembled legislators that he should still not be entitled to a second chance. "You're in prison for what you did," he pronounced, "not what you've become."

#### A Letter From Another Father



Nick spent the first several years of his sentence caught in a miasma of bitterness. He attempted to fill his days with work at an eyeglass shop and later a license plate production shop, with intense daily workouts, with weekly visits from his mother Leslie, who would bring along Nick's toddler son. But none of it could crowd out the bitterness he harbored toward his sentence. He got into fights with other inmates, the few instances of misbehavior that color an otherwise spotless disciplinary record. He left a box of letters that his lawyer, Merkin, had given him from the pre-sentencing investigation, including one the victim's father had written Nick, languishing in a crate under his steel bed frame. He was simply attempting to exist, suspended in time, devoid of goals or motivation to set them.

What energy Nick did have, he channeled into thinking of ways to challenge his sentence. He appealed his sentence to the State Supreme Court; he contemplated suing the state for due process violations, alleging that he had not been read his Miranda rights when he was first arrested. At the time, these strategies served as Nick's only mental escape. But now, he regards the effort as a painful saga that delayed his personal growth, he said. "I messed up. I was there. I shouldn't have been there."

Still, even then, shimmers of the remorseful person Nick would become had begun to emerge. A cell mate in the New Haven County jail, where Nick was housed for the remainder of 1995, warned him that were other inmates to see his gang mark, they would force him to join his former gang's prison affiliate or risk being killed. Eager to avoid trouble, Nick purchased black ink and used various sharp objects in his cell to blot over the tattoo, so that it came to resemble a dark cloud hovering on the back of his hand. Later that year, word came that Jason, who was housed in the same facility, had put a hit on Nick for fear that he would testify in Jason's trial. Rather than strike back — a typical prison tactic, according to Karen

Martucci, spokeswoman for the state's Department of Corrections – Nick requested to be transferred to a different facility.

As his first year bled into a second, and a second into a third, Nick withdrew further into himself, determined to avoid the near-daily confrontations that characterized his earlier days in jail. He started writing letters to reconnect with old family members on the outside. He would plead with his mother to purchase him novels, which he read at first to transport his mind to more pleasant surroundings, but which, he soon realized, could also help him remold his own personality. "I spoke so much slang—I had to clean that up," he recalled. With financial assistance from his brother Miguel, now a CVS district manager in San Diego, he started taking correspondence courses in hopes of perhaps completing his G.E.D.

One morning in 1998, after Nick had been formally sentenced, he retrieved the dusty box of letters that his lawyer Merkin had given him years earlier from underneath his bed. He rifled through the stack of papers until he found what he had been looking for: the note from David Horan's father. Nick unfolded it with trembling hands. "It took a long time to get through the stages of grief" to be able to do so, he said.

The letter appealed to Nick's sensibility as a father. He was still angry, the victim's father wrote, but he was also willing to forgive Nick. He implored Nick to pursue ways of giving back, of serving others – so that Nick's life would not go to waste just as David's had. "Reading all that," Nick recalled, "I was able to comprehend at that young age, if he can say these kind things to me, I realized there's a chance at change."

The letter inspired Nick to redouble his focus on education. He completed his G.E.D. and in 2001 moved onto an associate degree in psychology, a field he said he chose to better understand what had motivated his path to prison. Psychology opened his eyes to the ways in which his own youth and background had informed his decision-making. It taught him that, as a teenager, his brain had not yet reached full maturity. "The best thing that's ever happened to me was understanding my mind state by reading 'Les Guilty by reason of adolescence,'" he recalled, referring to a 2003 academic paper that summarized the social and biological factors that differentiate youth from adults. (Click here to read the paper.)

Psychology also helped Nick discover Buddhist meditation. After reading several books that his family had purchased him on the subject, Nick began adapting meditative sits into his daily routine. Several years into his independent practice, Tollie, a meditation teacher from Hartford (whose name is being withheld here in accordance with prison rules), began teaching a weekly two-hour meditation class on Friday mornings. According to Tollie, Nick is the class's most devoted participant.

"I identify with Buddhism," Nick said, because Buddhists "concentrate on the inner self, which is exactly what I needed." Through meditation, Nick learned the concept of equanimity, a Buddhist tenet that teaches its adherents to focus their minds in the present, rather than vesting hope in the future. "He really sets a powerful example of doing the work that you need to do to live a life of integrity and growth," Tollie said.

In 2006, after several years of training alongside his psychology coursework, Nick began working as a certified nursing assistant in the infirmary at the men's prison facility in Suffield, where he has been moved specifically for the job. Without an actual nursing degree, Nick could not practice medicine. The job instead called for Nick to spend his shifts holding balmy hands and swapping out bedpans filled with defecation and vomit, tasks he treated with gusto. "I think it's a gift to me—I love it," Nick said of his work. "It gave me a depth of perception I didn't know existed." He said he hopes that one day, when he is released from prison, he can become a full nurse. That task may prove difficult with a felony on his record, but the prison officials and activists who work with Nick say that, in his case, this dream is certainly possible. "I just hope there will be a really smart person who will hire him," Tollie said. "I would be proud to have him as a member of my family, as my neighbor."

A couple years later, Nick also started taking shifts at the prison hospice, a volunteer position that just five other members of his 2,000-inmate facility were handpicked to take on. Martucci, the Department of Corrections spokeswoman, said that inmates had to come forward and volunteer themselves in order to be admitted to the hospice program. "There's no pay; it doesn't help you get points toward release," she said. Hospice work is thankless; the inmates transferred there from the infirmary typically come without any family, and they often direct their bitterness at Nick about watching their lives drawing to a close amidst such pitiful conditions.

Yet nothing kept Nick as grounded as the devoted family members who visited him week after week. Most often, Leslie would come with Devin in tow; when she could, she would also bring her younger children along. Each visit, held in a large meeting room lined with security guards, would open with a hug and a kiss – prison rules prevent family members from any further touch throughout the visit. They would gather to frantically catch Nick up on the goings-on outside the prison walls. During a recent visit, Leslie confessed to Nick that she had fallen behind on her bills. "He says, Mom, 'what did I tell you? You really have to get your stuff together,'" she recalled him chiding her.

Devin and Leslie's daughter Jodi, also Devin's age, would clamber to talk about their classes, their friends and other important events. When they were younger, Leslie recalled, Nick would challenge the two children to spelling or math competitions. Nick did what he could from inside prison to encourage his son to appreciate his education and avoid activities, especially gang membership, that might lead him astray. Nick felt it was particularly important to remain completely honest with his son; Devin knows all the details of his father's crime, but also all the details of his father's attempts at self-betterment.

"We're close beyond anything I could have imagined," Nick said. "He's had to live with his story for a long time. He's learned to embrace it."

Today, Devin cannot visit his father as often as in previous years – but with good reason. He is a sophomore at the University of Connecticut's Waterbury campus, looking to transfer to the university's main campus. Though he has not yet declared a major, he consults with his father on many of his classes and paper topics. Recently, he has expressed a desire to pursue a career in criminal justice reform.

#### Teenaged vs. Adult Males

Nick's voice crescendoed with pride when he spoke of his son. But he cautioned not to think of Devin as a fully-developed adult at age 20. It was only in recent years, he said, that seeing his son reach the age at which he had entered the prison system made him appreciate truly how young he himself had been.

"Especially teenaged males. We all think at that age, we think we understand the world," Nick said. "We think we are men, but the fact is, we're at about our peak in immaturity."

Science is just now catching up to Nick's realization. Ample evidence exists to support the fact that numerous structures in the brain, particularly the prefrontal cortex – responsible for regulating behavior and making constructive choices – do not fully develop until age 25, the likely reason why poor judgment and brash decision-making often characterize the teenage years. Still, though judges now more readily acknowledge the issues inherent in forcing a person with mental illness to stand trial, the same judges do not often consider findings that suggest minors may be similarly unfit.

"The idea of consequences are not really known to adolescents. They are obviously experiential learners more than adults are," Lustbader, the adolescent psychiatrist, said. "Someone might tell them that something is a bad idea, but if the kid next to them is doing it, they'll want to try it. And that thing might be disrespectful or annoying, or it might be dangerous."

Late last week, the Connecticut Supreme Court released its decision in *State of Connecticut v. Ackeem Riley*, a case in which the defendant, who had been found guilty of murder at the age of 17, challenged

the legality of his life sentence under *Miller*. The court ruled in his favor, stating that Riley's sentence did not take his youth into account. But in deference to the legislature's pending bill on the matter, it left the details of reducing Riley's sentence to be determined.

Proponents of "second look" say that its passage is far preferable to court-mandated solutions because, by definition, the courts would have to undo every existing lengthy sentence case-by-case, determining arbitrary thresholds in deciding which to reduce and which to leave untouched. "In situations where the liberty of individuals is at stake, particularly when that liberty is more likely to be infringed given the color of a youth's skin, I think a clear legislative rule that will be applied equally is by far preferable," Halm said.

Still, little is likely to change in Connecticut unless the state legislature passes a version of "second look." In the past two years, though nearly identical bills have passed through the House with overwhelming support – most recently clearing the chamber by 134-4 – the Senate has failed both years to adopt the legislation. In its second attempt, at the end of the legislative session last May, Democratic leadership in the Senate decided not to bring the sentencing bill up for a vote for fear that Republicans would introduce a host of unrelated, controversial criminal justice measures, such as reinstating the death penalty, that would force Democrats to debate controversial issues they would prefer to avoid.

"If an amendment would have asked whether it should be 70 or 75 percent rather than 60 percent, I think that's reasonable. I think it's subject to debate," said new Senate President Martin Looney, who was Senate majority leader at the time.

#### Counting On A Homecoming

Nick consented to a several-hours-long interview because, whether or not the bill passes this year, his future, as well as that of hundreds of others in his situation, hangs in the balance.

Nick's mother Leslie, counting on the bill's passage, has already prepared for her son's return home. She has been saving him a room, she said, where she is keeping an ever-growing stack of nursing textbooks she has been purchasing him.

For his part, drawing on the teachings of equanimity, Nick trains his mind as much as possible on the present. He rises each morning, meditates, exercises and completes college homework. At 2:30, seven days per week, he begins an eight-hour shift at the prison infirmary.

"I've found my place in life," Nick said. "Service. Exactly what Mr. Horan wanted me to do." When time permits, he writes letters – to his family, to the victim's family, and to the lawyers and politicians fighting to secure his release.

He has found the strength to dream – of one day earning his bachelor's degree, of working as a full-time nurse, of spending unrestricted time with his family, of perhaps even speaking face-to-face with David Horan's father.

But as it now stands, by the time Nick will be able to realize these dreams, he will be 55 – the age at which most Americans outside of prison begin contemplating their retirement. He does not know whether his mother, Leslie, will still be alive when he is released or how many family members will once more embrace him. He does not know how he will find work in a hospital with a felony on his record. He only knows that when he is 55, still 19 years away, a lonely bus will pick him up from prison and deposit him on the steps of city hall, with no plan or built-in support. He will be expected to resume his place as an adult in productive society, though he will have spent his entire adult life so far behind bars.

Was what happened to Nick fair?

He pondered the question for several moments before responding. "Well, in the eyes of the law, it's fair—because if I committed a crime, it's black and white," he said slowly. "But now I understand – I think we all know—that life is lived in the gray."

For now, Nick will keep on – keep on studying, keep on working, keep on believing that his chance at parole is just around the next corner. Because if he stops to think, he will be forced to ponder his life fading away – 19 years already gone, 19 more surely to go.

**You must register for an account and be logged in to comment**

If you already have an account, please log in using the link in the upper left corner of the page | If not, please register for an account .

---

Comment

posted by: Wikus van de Merwe on March 3, 2015 10:05pm

There are no shades of grey for their victim, only blackness.

100+ have been robbed of their lives in NH in the last 5 years. I shed no tears for the thieves.

*the* CAMPAIGN *for the* FAIR  
SENTENCING *of* YOUTH 

**BILL:** Senate Bill 796

**TITLE:** An Act Concerning Lengthy Sentences for Crimes Committed by a Child or Youth and the Sentencing of a Child or Youth Convicted of Certain Felony Offenses

**DATE:** March 4, 2015

**POSITION:** SUPPORT

**COMMITTEE:** Joint Committee on the Judiciary

**CONTACT:** Nikola Nable-Juris and James Dold

Mr. Chairman and members of the Joint Committee on the Judiciary:

The Campaign for the Fair Sentencing of Youth respectfully submits this testimony for the official record to express our support for Senate Bill 796 that provides a “second look” for youth sentenced to lengthy prison terms. We appreciate the Connecticut Legislature’s commitment to addressing this important constitutional and human rights issue concerning Connecticut children. We urge the Connecticut General Assembly to enact legislation holding youth accountable for their actions in an age-appropriate manner while providing them the opportunity to have a second look at their sentences after they have matured.

The Campaign is a national coalition and clearinghouse that coordinates, develops, and supports efforts to implement age-appropriate alternatives to the extreme sentencing of America’s youth with a focus on abolishing life without parole sentences for all youth. We work closely with formerly incarcerated youth, family members of victims, and family members of incarcerated youth in our efforts to develop policy solutions that will keep our communities safe and hold our children accountable when they commit serious crimes.

The Campaign supports SB 796 because, if signed into law, it will ensure that Connecticut fulfills the letter and spirit of recent U.S. Supreme Court rulings that children, because they are constitutionally different from adults, should not be subject to our nation’s harshest punishments. This bill would abolish life without parole as a sentencing option for children and provide parole eligibility for youth sentenced to lengthy prison terms. The bill sets stringent criteria for the Board of Pardons and Paroles to consider when an individual is eligible for parole. It requires youth who committed serious crimes to serve significant time and ensures that they have ongoing supervision after release. This bill acknowledges that youth possess a unique capacity for change and provides them a second chance while also ensuring the safety of the community. Connecticut should act now to ensure that all youth receive age-appropriate sentences that both protect the community while also giving youth an incentive toward rehabilitation.

**Demographics of Youth Serving Life Without Parole**

By sentencing youth under eighteen to life in prison without parole, we as a society are sentencing children to die in prison. We condemn them for life for their worst adolescent acts

rather than allowing them to demonstrate their capacity to grow and change. These children are regularly victims themselves long before becoming perpetrators of violence. Nationally, almost 80% of these youth witnessed violence in their homes and over half experienced violence weekly in their own neighborhoods.<sup>1</sup> Half were physically abused and 20% were sexually abused.<sup>2</sup>

In addition to failing to protect these children before they commit crimes, the criminal justice system also fails to treat these children fairly at sentencing. Nationally, African American youth are ten times more likely to be sentenced to life in prison without parole than their White counterparts for the same crime.<sup>3</sup> While most expect that the harshest penalty is reserved for the most severe offenders, almost two-thirds of youth sentenced to life in prison without parole were involved in the criminal justice system for the first time.<sup>4</sup> A quarter of those serving this sentence were convicted of felony murder, an offense in which they had no intention to kill anyone.<sup>5</sup>

#### **Adolescent Developmental Research**

Empirical research has demonstrated that adolescent brains are not fully developed. As many parents and educators could verify from personal experience, the adolescent brain does not fully mature until the mid to late twenties. Compared to adults, youth are less capable than adults in long-term planning, regulating emotion, impulse control, and the evaluation of risk and reward.<sup>6</sup> Additionally, youth as a whole are more vulnerable, more susceptible to peer pressure, and heavily influenced by their surrounding environment, which they rarely can control.<sup>7</sup> The majority of our laws reflect adolescents' diminished decision-making capacity, including limiting children's right to vote, prohibiting them from purchasing alcohol or tobacco, and preventing them from entering into contracts, yet our criminal laws uniquely treat them as adults.

Because the adolescent brain is still developing, children possess a unique capacity for change. The majority of children who commit crimes outgrow their delinquency behavior,<sup>8</sup> which means long prison sentences without parole eligibility prematurely gives up hope for many youth who would likely grow to be contributing members of society. Many individuals who were sentenced to lengthy prison terms as youth currently contribute meaningfully to society, including by mentoring at-risk youth and helping individuals transition back to society after incarceration. CFSY's Incarcerated Children's Advocacy Network, or ICAN, was created by and is composed of formerly incarcerated youth that are living testimonies of young people's capacity for change.

#### **United States Supreme Court Decisions**

Throughout the last decade, the Supreme Court has repeatedly concluded that children are constitutionally different from adults for the purpose of criminal sentencing. In *Roper v. Simmons* (2005), the Court struck down the death penalty for children, finding that it violated the 8<sup>th</sup> Amendment's prohibition on cruel and unusual punishment.<sup>9</sup> The Court emphasized empirical research demonstrating that children are developmentally different than adults and have a unique capacity to grow and change as they mature.<sup>10</sup> In *Graham v. Florida* (2010), the Court struck down life without parole sentences for non-homicide offenses, holding that states must give children a "realistic opportunity to obtain release."<sup>11</sup> Most recently, in *Miller v. Alabama* (2012), the Court struck down mandatory life without parole sentences for homicide offenses, and ruled that sentencing courts must "take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison" any time a child faces a potential life without parole sentence.<sup>12</sup> SB 796 ensures that Connecticut

fulfills both the letter and spirit of the recent U.S. Supreme Court rulings by eliminating the use of extreme sentences on children and requiring sentencing judges to consider the individual circumstances in each child's case and take into account children's capacity for change. As the Connecticut Supreme Court recently held, at the time of sentencing, trial courts "must consider age related evidence as mitigation when deciding whether to irrevocably sentence juvenile offenders to a lifetime in prison."<sup>13</sup> The passage of SB 796 would reduce ongoing, costly litigation to fully comply with the U.S. Supreme Court decisions, and indeed is necessary as the Connecticut Supreme Court has expressed deference to the legislature in determining prison terms for specific crimes.<sup>14</sup>

#### **National and International Perspective**

The United States is the only country in the world that actively sentences children to die in prison.<sup>15</sup> This practice directly violates Article 37 of the United Nations Convention on the Rights of the Child, which prohibits the use of "capital punishment and life without the possibility of release" as sentencing options for people younger than 18.<sup>16</sup> The United States and South Sudan are the only countries in the world that have not yet ratified this treaty.<sup>17</sup> One of the main reasons the United States has refused to ratify this treaty is because it still sanctions life without parole sentences for children.

Connecticut currently has the opportunity to join the growing number of states who have banned the practice of sentencing children to die in prison and are committed to giving youth a second chance. In the last two years alone, states as diverse as West Virginia,<sup>18</sup> Hawaii,<sup>19</sup> Wyoming,<sup>20</sup> Delaware,<sup>21</sup> Massachusetts,<sup>22</sup> and Texas<sup>23</sup> have eliminated the practice of sentencing children to die in prison. They join states such as Alaska,<sup>24</sup> Colorado,<sup>25</sup> Kansas,<sup>26</sup> Kentucky,<sup>27</sup> and Montana<sup>28</sup> who had previously eliminated this sentence. Connecticut should look to neighboring Massachusetts and Delaware as examples of how to hold youth accountable for serious crimes while acknowledging youth's potential to change. Connecticut's regional neighbors of Vermont and Rhode Island are also considering legislation that would eliminate life-without-parole sentences for youth under eighteen.<sup>29</sup>

National organizations have expressed strong opposition to life-without-parole sentences for juveniles. The American Bar Association recently passed a resolution calling for states to eliminate life without parole as a sentencing option for youth, both prospectively and retroactively, and to "provide youthful offenders with meaningful periodic opportunities for release based on demonstrated maturity and rehabilitation."<sup>30</sup> The American Correctional Association and the National Association of Counties have passed similar resolutions in opposition to juvenile life without parole.<sup>31</sup> Organizations including the American Probation and Parole Association, American Psychological Association, National Association of School Psychologists, National Association of Social Workers, and the National Parent Teacher Association have signed statements in support of ending life without parole for juveniles.<sup>32</sup>

#### **Costs to Society and Victims**

In addition to the human rights and constitutional concerns for Connecticut to enact SB 796, the state must also consider the financial impact and loss of human capital under existing policies. In the United States, it costs approximately \$2.5 million to incarcerate a child for the duration of his or her life.<sup>33</sup> In contrast, a child with a high school education who is paroled after serving ten

years could potentially contribute \$218,560 in tax revenue.<sup>34</sup> A formerly incarcerated child who obtains a college degree can potentially contribute \$706,560 in tax revenue over his or her lifetime.<sup>35</sup> These estimates do not include the contributions that these individuals will make to the local economy, support for their families, and the impact they can have on future generations as role models for at-risk youth. Criminal justice reform is sound policy that protects public safety while allowing formerly incarcerated youth to tangibly repay society with positive contributions.

Finally, the Campaign has great concern for those who bear the greatest costs of any criminal justice policy—the loved ones of victims who have died due to violence. Our hearts go out to those who have been hurt by youth and we work closely with victims' family members who engage in restorative justice efforts to promote healing. Additionally, we recognize that in many communities, families may have both loved ones hurt by violence and loved ones incarcerated for committing violent acts. We would strongly encourage that the costs saved from incarceration be redirected to improve support services for victims and their families and improve violence prevention programs.

#### **Closing**

Our criminal justice system serves complementary functions of protecting the community from safety threats, ensuring justice for victims, and rehabilitating offenders to rejoin society as productive contributors. SB 796 achieves all three of these goals. Youth should be held responsible for their actions, especially for serious crimes, and the parole board should ensure that they are fully rehabilitated before being eligible for release. However, no single act as a teenager should destine a person to die in prison after serving a sentence approximately four to five times longer than they have currently been alive. We ask you to give these youth the opportunity to demonstrate they can change for the better.

Thank you,

Nikola Nable-Juris, J.D.  
Policy Counsel  
The Campaign for the Fair Sentencing of Youth

James Dold, J.D.  
Advocacy Director  
The Campaign for the Fair Sentencing of Youth

<sup>1</sup> Ashley Nellis, The Sentencing Project (2012). *The Lives of Juvenile Lifers*. Available at [http://sentencingproject.org/doc/publications/ij\\_The\\_Lives\\_of\\_Juvenile\\_Lifers.pdf](http://sentencingproject.org/doc/publications/ij_The_Lives_of_Juvenile_Lifers.pdf)

<sup>2</sup> *Id.*

<sup>3</sup> Human Rights Watch (2008). Submission to the Committee on the Elimination of Racial Discrimination. <http://www.hrw.org/en/reports/2008/02/06/submission-committee-elimination-racial-discrimination-0>

<sup>4</sup> Amnesty International & Human Rights Watch (2005), *The Rest of Their Lives: Life without Parole for Child Offenders in the United States*. Available at <http://www.hrw.org/reports/2005/us1005/TheRestofTheirLives.pdf>

<sup>5</sup> *Id.*

<sup>6</sup> Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty, Laurence Steinberg and Elizabeth Scott, *American Psychologist*, December, 2003.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Roper v. Simmons*, 543 U.S. 551 (2005).

<sup>10</sup> *Id.*

<sup>11</sup> *Graham v. Florida*, 130 S. Ct. 2011 (2010).

<sup>12</sup> *Miller v. Alabama*, 132 S. Ct. 2455 (2012).

<sup>13</sup> *Connecticut v. Riley*, Conn. Supreme Court, SC 19109 at 11 (March 10, 2015).

<sup>14</sup> *Id.* at 16.

<sup>15</sup> Here Are All the Countries Where Children Are Sentenced to Die in Prison, Huffington Post, Saki Knafo, September 20, 2013, [http://www.huffingtonpost.com/2013/09/20/juvenile-life-without-parole\\_n\\_3962983.html](http://www.huffingtonpost.com/2013/09/20/juvenile-life-without-parole_n_3962983.html)

<sup>16</sup> U.N. Convention on the Rights of the Child, <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

<sup>17</sup> *Id.*

<sup>18</sup> HB, 4210, 81st Legislature, 1st Sess. (W. Virg. 2013).

<sup>19</sup> H.B. 2116, 27th Leg. (Hawaii 2014).

<sup>20</sup> H.B. 23, 62nd Leg., Gen. Sess. (Wy. 2013).

<sup>21</sup> S.B. 9, 147th Gen. Assemb., Reg. Sess. (Del. 2013).

<sup>22</sup> H 4307, 188th Gen. Court (Mass. 2014).

<sup>23</sup> S.B. 2, 83rd Leg., Special Sess. (Texas 2013).

<sup>24</sup> AK. STAT. § 33.16.010(a).

<sup>25</sup> COLO. REV. STAT. § 18-1.3-401(4)(b)(I) (West 2012).

<sup>26</sup> KAN. CRIM. CODE. § 21-4622.

<sup>27</sup> KY. REV. STAT. §640.040

<sup>28</sup> MONT. CODE § 46-18-222(1) (2007).

<sup>29</sup> S 389, 2015 Gen. Assemb., Reg. Sess. (R.I. 2015) (filed); H 5650 2015 Gen. Assemb., Reg. Sess. (R.I. 2015) (filed); Vermont H 62, 2015 Gen. Assemb., Reg. Sess. (Vt. 2015) (passed House, referred to Senate Committee on Judiciary).

<sup>30</sup> Resolution 107C, American Bar Association (Feb. 2015). Available at [http://www.americanbar.org/content/dam/aba/administrative/house\\_of\\_delegates/resolutions/2015\\_hod\\_midyear\\_meeting\\_107c.docx](http://www.americanbar.org/content/dam/aba/administrative/house_of_delegates/resolutions/2015_hod_midyear_meeting_107c.docx)

<sup>31</sup> Resolution 2014-1, American Correctional Association (Aug. 2014). Available at <http://fairsentencingofyouth.org/wp-content/uploads/2014/10/ACA-Resolutions-and-Policies-on-Juveniles-Newly-Revised-and-Adopted.pdf>; Resolution, National Association of Counties (July 2014). Available at <http://fairsentencingofyouth.org/wp-content/uploads/2014/07/National-Association-of-Counties-policy-resolutions-July-2014.pdf>

<sup>32</sup> Official Supporters to the Statement of Principles for the Campaign for the Fair Sentencing of Youth. Available at <http://fairsentencingofyouth.org/about/who-we-are/>

<sup>33</sup> *The Mass Incarceration of the Elderly*, ACLU, June 2012. Available at: [https://www.aclu.org/files/assets/elderlyprisonreport\\_20120613\\_1.pdf](https://www.aclu.org/files/assets/elderlyprisonreport_20120613_1.pdf)

<sup>34</sup> *The Fiscal Consequences of Adult Educational Attainment*, National Commission on Adult Literacy. Retrieved from: <http://www.nationalcommissiononadultliteracy.org/content/fiscalimpact.pdf>

<sup>35</sup> *Id.*

001147



Trinity College  
HARTFORD CONNECTICUT

March 2, 2015

To Whom it May Concern:

I am writing with regard to Bill SB 796 that addresses the right of juveniles with very long sentences to have their cases looked at again, at another interval, a second time.

I have been a professor of Theater and Dance at Trinity College for 43 years and Founder and Executive/Artistic Director of the Judy Dworin Performance Project for 25 years. I have been leading education and arts intervention programs at York CI for the past nine years. Several of the women that I work with in the arts engagement workshops that I lead were sentenced at a very young age and have been at York for many years already. The woman that each is presently represents a significant evolution from the time she committed the crime for which she is now serving time. I see such growth and, not to overstate it, transformations occur in these young women. They are seeking whatever avenues are available to improve themselves---taking advantage of the arts and educational offerings and making tremendous progress. They are smart, talented, and show such great potential. And yet some of them face 10, 20 and even 30 more years of prison time.

It seems to be not only prudent, but also critical to re-examine the cases of these women (and men) who received these enormous sentences sometimes when they were as young as 14 years old, at an interval that might allow a reconsideration of their status. Perhaps on a re-examination, the benefits of the extensive sentences that they face might be seen in a different light. And perhaps not. But at least there would be an opportunity to assess this before a life since age 14 or 15 is lived 50 years behind bars.

Before I began my work at York, I might not have had this opinion. I, like so many, did not give those in prison much thought. But my work at York has afforded me the kind of insight that I wish were available to more of us. The people that reside at York are human beings, subject to grave errors and also capable of great change. The choices of youths, many of whom have led battered lives exposed to the streets, sexual and physical abuse, drug-addicted parents and family members, and more, can be wrong-headed and damaging, but whether the punishments that have been assigned are appropriate is another matter. I urge those in a position to decide to allow these bills to pass, and to offer therefore the sound and humane opportunities they afford youthful offenders---the possibility of much fairer treatment under the law.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Judy Dworin".

Judy Dworin  
Executive/Artistic Director, Judy Dworin Performance Project  
Professor, Theater and Dance, Trinity College

DEPARTMENT OF THEATER & DANCE  
300 SUMMIT STREET, HARTFORD, CT 06106-3100  
TEL (860) 297-5122 FAX (860) 297-5380 www.trincoll.edu

001153

FROM :

FAX NO. : 8608877339

Mar. 04 2015 10:28AM P2

3/4/15 SB 796

Subject: Juvenile  
Resentencing  
Committee.

To the Ct. State Legislature,

The following letter is from Elaine Cluny's former student and reflects how my wife affected and changed her life. This letter is one of multiple letters I have received.

Please read this letter and try to imagine how the magnitude of the loss of my wife and fifteen year old son affected not only myself but the community.

This is why any remediation of the original sentence handed down by the court would be unjustified and unwarranted.

*John Cluny*  
John Cluny

001154

FROM :

FAX NO. : 8608877339

Mar. 04 2015 10:29AM P3

February 19, 2015

SB 796

John Cluny  
346 Plain Hill Road  
Norwich, CT 06360

Dear Mr. Cluny,

My name is Kimberly Noëlle Charles. I live in San Francisco, CA and was a student of your wife Elaine Cluny, or as we loved calling her, *Madame Cluny*. I've wanted to write you for some time, ever since my 30<sup>th</sup> Ledyard High School reunion in 2011, but I wasn't sure how to reach you, so I do hope this letter makes it to you. First of all, please let me say how terribly sorry I am at the tragic loss of your wife and son. When I was at the reunion, my first with Ledyard High School since I'd graduated and moved away in 1981, I was devastated to hear of her passing and the senseless way in which it happened.

What I wanted to express to you, which I did in 1983 upon returning during college to speak at the high school in Madame Cluny's class, was how incredibly instrumental she was in shaping my life and igniting an undiscovered passion for and talent with the French language. I'll never forget our first day of class where she spoke not one word of English to a group of freshmen whose mouths dropped open when we knew we'd be completely immersed in the language with very little English spoken save for translations and key learnings. She made the culture come alive by taking us to Quebec (I won ambassador of the class for that trip), singing French Christmas carols, learning how to make a *bûche de Noël*, memorizing poems and fables. I must say she was my favorite teacher *ever*--- high school or college. I loved her joy and her zest for teaching. My family was a military family so by the time I reached Mme. Cluny's class, I had been in six schools so I'd had many teachers.

She changed my life. My love of France has never wavered, my ability with the language has shaped my career in many ways, I studied Foreign Service at Georgetown and took the proficiency in French as part of my degree. Today, I own a marketing agency with a focus in the wine business. As a marketer, I have worked with many leading French families and wineries. All of them remarked at how un-American and native my French is. I have her to credit and I am forever grateful.

When my high school friend told me of what happened, I sobbed instantly. So very senseless. I read about your dedicated work to change the law with respect to minors who commit heinous crimes and murder. I feel 100% the same way and truly hope that this case can be a landmark one that has the punishment align with the crime. I am pulling for you and I would appreciate knowing how it's progressing as agonizingly slow as I know the legal process is. If you're so inclined, please feel free to reach out either by email [chrulsee@gmail.com](mailto:chrulsee@gmail.com) or phone 415-730-0064. My business card is enclosed as well.

I hope that this letter brings you some happiness considering the circumstances. My intention was to share with you her profound effect on me as well as many others.

Meilleurs sentiments,  
Kimberly Noëlle Charles



001155

March 4, 2015

Wilfredo Ortiz #267596  
Osborn Correctional Institute  
Somers, Ct 06071

SB 796

Good Morning Committee Members;

I would like to thank the committee for allowing me to present my testimony and thank you to my amazing wife for making this all possible I love you Rachael. My name is Wilfredo Ortiz inmate number 267596 I am currently serving a 27 year sentence for felony murder. At the age 17, I was involved in a robbery the resulted in the death of Mr. Amend and the hurt and suffering of so many others. I am very sorry I take full responsibility for my actions, my ignorance and stupidity changed a lot of people's lives forever. No matter how good I do I cannot ever make up for my past, I think back on my thoughts to that horrible night when an innocent man lost his life for no reason what so ever I can't help but to feel the hurt I grew up on the streets and joined a gang where violence was the normal thing to see I became a product of my environment. I found myself at age 17 and in prison but since then I have accomplished so many things and I am proud to say I am not that 17 year old kid anymore. I do not want that night to define who I am today. I have taken advantage of just about every program that the Department of Corrections offers and focused on them every moment of my incarceration. Number one being completing my GED I remember receiving the diploma in my hands what a joy. Then came Hospice the Hospice program here in the prison infirmary I have spent a lot of time with dying men, men from all walks of life just sitting by their death beds and watching these men fighting for their lives. It has changed my life forever around forever how valuable life is this experience has allowed me to reflect on so many things on my past, my present and looking forward to my future my job as a Certified Nurse's Assistant was an amazing opportunity for me to give back to those in need of help. I wake up every morning proud to go to work at the Osborn infirmary. I work with wheelchair bound patients, dementia patient, total care patients. I see firsthand how cancer destroys people's lives since working as a CNA and a Hospice caregiver I have grown so much I have learned to appreciate the little things in life for years my dedication to the AVP Program and also the coordinator of this program at Osborn CI. Last but not least my loving wife and son after years of being my fiancée we were married on September 16<sup>th</sup> 2014 thanks to Minnie Gonzalez State Representative. God blessed me with my amazing wife and son who everyday love and support me and believes in me. We both know that the future holds challenges but we are ready to embrace what comes our way. I took this awful situation and turn it into a positive one. I learned my lesson I am not 17 years old child anymore I am mature 34yr old man. I have been rehabilitated and I have a life ahead of me. I forgave myself in order to change and grow I know if I was given the opportunity to be released, I will be a productive member of society and a law abiding citizen I have a job opportunity upon my release. Today I sit here with no opportunity to earn good behavior time and ineligible for parole. I believe in second chances I support legislation on Juvenile reform, please put politics away this year. I am a human being who made several mistakes but please take a look at who I am today. Thank you for allowing me to address the committee members for allowing to present my testimony today.

Sincerely,

Wilfredo Ortiz #267596

001194

CCDLA  
"Ready in the Defense of Liberty"  
Founded 1988

Connecticut Criminal Defense  
Lawyers Association  
P.O. Box 1766  
Waterbury, CT 07621-1776  
(860) 283-5070 Phone/Fax  
[www.ccdla.com](http://www.ccdla.com)

March 4, 2015

The Honorable Eric D. Coleman  
The Honorable William Tong  
Chairmen  
Joint Committee on Judiciary  
Room 2500, Legislative Office Building  
Hartford, Connecticut 06106

Re: Raised Bill 6926, An Act Concerning Lengthy Sentences for Crimes Committed By A Child or Youth

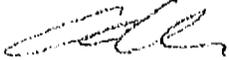
Dear Chairmen and Committee Members:

The Connecticut Criminal Defense Lawyers Association (CCDLA) is a statewide organization of over 300 licensed lawyers, in both the public and private sectors, dedicated to defending persons accused of criminal offenses. Founded in 1988, the CCDLA works to improve the criminal justice system by ensuring that the individual rights guaranteed by the Connecticut and United States constitutions are applied fairly and equally and that those rights are not diminished. At the same time, the CCDLA strives to improve and suggest changes to the laws and procedures that apply to criminal justice.

The CCDLA endorses the testimony of the Office of the Chief Public Defender as it pertains to the provisions in Raised Bill 6926, An Act Concerning Lengthy Sentences for Crimes Committed by a Child or Youth. The CCDLA also relies upon its own submitted written testimony on Raised Bill No. 796, An Act Concerning Lengthy Sentences for Crimes Committed by a Child or Youth and the Sentencing of a Child or Youth Convicted of Certain Felony Offenses, as additional support for Raised Bill No. 6926.

If you have any questions, please feel free to contact me.

Respectfully submitted,



Elisa L. Villa  
President, CCDLA

860-655-9434

001200



**State of Connecticut**

**SENATOR LEONARD A. FASANO**

**SENATE MINORITY LEADER**

34<sup>TH</sup> DISTRICT

SUITE 3400  
LEGISLATIVE OFFICE BUILDING  
HARTFORD, CONNECTICUT 06106-1591  
[www.SenatorFasano.com](http://www.SenatorFasano.com)

HARTFORD: (860) 240-8800  
TOLL FREE: (800) 842-1421  
FAX: (860) 240-8306  
[Len.Fasano@cga.ct.gov](mailto:Len.Fasano@cga.ct.gov)

**Testimony - Judiciary Committee**

**March 4, 2015**

**In Support of: H.B. 6926, AN ACT CONCERNING LENGTHY SENTENCES  
FOR CRIMES COMMITTED BY A CHILD OR YOUTH**

Senator Coleman, Representative Tong, Senator Kissel, Representative Rebimbas and members of the Judiciary Committee, thank you for the opportunity to testify in support of H.B. 6926, AN ACT CONCERNING LENGTHY SENTENCES FOR CRIMES COMMITTED BY A CHILD OR YOUTH.

I would like to take the opportunity to explain the differences between SB 796 (the Sentencing Commission's bill) and HB 6926 (the Senate Republican Caucus' legislative proposal) which both address the issue of sentence length for crimes committed by a youth.

While the main portions of both bills are the same, including the criteria required by the Miller decision to be used in reviewing or issuing sentences for juveniles, we believe that such review should only apply for class A and B felonies, and only for sentences where the juvenile will be serving a stretch of at least ten straight years. These are the lengthy sentences contemplated by Miller.

In addition, we want to add the victims of the crimes to those specified for notice under this new review system. As we have recently seen in the Castonguay parole case, we cannot trust that the system will provide notice absent a specific requirement to do so.

We also want there to be no surprises for victims or their families whenever a felon is sentenced. So we have included a section that would require the courts, at the time of sentencing, to clarify not only the longest sentence the person will serve, but to also inform victims of the shortest sentence that might be served, in light of our programs of sentence review for juveniles, parole, risk reduction credits, etc. We aren't looking for a date certain, realizing that a sentence can be commuted at any time, but rather we are looking to prevent cases where a victim is told their assaulter will be in prison for 12 years, only to find out they are released after six.

We have met with the Sentencing Commission, and these are areas where we seem to have some common ground and an agreement to go forward in passing a juvenile sentencing bill that will bring Connecticut into compliance with the Miller decision.

**Fasano Testimony - Judiciary Committee**

**March 4, 2015**

**Page 2**

Our bill is also tied in to the Senate Republican Caucus's Plan for Progress and Opportunity in Connecticut's Cities. This plan is a comprehensive approach to help support the needs of Connecticut's cities and residents. Sentencing guidelines as outlined in H.B. 6926 are part of our proposed justice system reforms. More details are included in my submitted testimony for your review.

Finally, since the last section of HB 6926 refers to the Risk Reduction program, and this is the only bill raised by this committee to deal with that subject, I want to comment on that program. This provision would simply add manslaughter to the very limited lists of crimes where risk reduction credits cannot be used to shorten a sentence. But it does not address all the ills of the system, including why violent offenders are getting their sentences shortened, why violent offenders are earning as many credits as nonviolent offenders, why inmates in our maximum security facilities are getting the same amount of credits as those in our minimum security ones, and why there is no follow up, no monitoring of released violent offenders such as Frankie Resto, who used his credits to simply walk out of prison and then to murder Ibrahim Ghazal, or Arthur Haggood, who got credits for drug treatment all the while failing numerous drug tests and after his release slashed one-year old Zaniyah Calloway killing her while under the influence of drugs.

These are problems inherent in the risk reduction program. While they are not addressed by the section of this bill dealing with manslaughter, they are addressed in other proposed legislation. These proposals and the problems they address certainly should be considered at the very least, if not corrected by this committee.

Thank you for the opportunity to share this testimony today.

Len Fasano



The 2015 Senate Republican Caucus plan for progress and opportunity in Connecticut's Cities as it relates to the Judiciary Committee is centered on strengthening and supporting urban communities by concentrating on policy initiatives and proposed legislation promoting reforms to the justice system, including how to comply with recent court decisions dealing with lengthy sentences for juveniles.

#### **Sentencing Guidelines and the *Miller v. Alabama* Decision**

The criteria to consider when sentencing juveniles has been spelled out by the United States Supreme Court in the *Miller v. Alabama* decision, and recently adopted by our own Supreme Court in the Riley case. . Senate Republicans are in agreement with much of the *Sentencing Commission Juvenile Justice* (SCJJ) proposals.

While there were differences between what the Sentencing Commission proposed and what Senate Republicans are comfortable with, the Commission agreed Senate Republicans' proposed changes are fair and reasonable. The SCJJ is going to support said proposals enumerated below.

When the court orders a review of "lengthy" sentences, the Commission decided it would be ten (10) years - **but that is total sentence, which can include three or four three year sentences served concurrently, which adds up to ten 10 or more years but the effective term of the sentence is in fact only serving four years.** Senate Republicans wanted the length of the sentence to be a "true" ten (10) years or longer effective sentence.

Furthermore, in consideration of future sentences, SCJJ wanted courts to consider all factors in any felony sentences. **Senate Republicans believe it should only be applied to those crimes where a sentence of ten (10) years or longer will be served - so we limit it to Class A and B felonies.** For a 16 year old, serving an eight (8) year sentence, he or she is released from incarceration at age 24, which is not a particular hardship for a violent felon.

Finally, two separate notice provisions were added to Senate Republicans' proposal: First, when the current lengthy sentences served by juvenile offenders are reviewed, victims receive notice and the opportunity to be present to offer their perspective at such a review and secondly, going forward in all criminal cases, Republicans believe victims should be informed upon sentencing or a plea deal the "truth" in that sentence - Not only the maximum but also the absolute minimum time the offender may serve, with risk reduction credits, parole, any reviews under the Miller decision, etc.

There should be no surprises when a victim finds out a violent felon they believed was serving 20 years is out in less than eight (8) years.



**State of Connecticut**  
DIVISION OF PUBLIC DEFENDER SERVICES

OFFICE OF CHIEF PUBLIC DEFENDER  
30 TRINITY STREET - 4<sup>th</sup> Floor  
HARTFORD, CONNECTICUT 06106

DEBORAH DEL PRETE SULLIVAN  
LEGAL COUNSEL, DIRECTOR  
(860) 509-6405 Telephone  
(860) 509-6495 Fax  
[deborah.d.sullivan@jud.ct.gov](mailto:deborah.d.sullivan@jud.ct.gov)

Testimony of  
Deborah Del Prete Sullivan, Legal Counsel, Director  
Office of Chief Public Defender

*Raised Bill No. 6926-An Act Concerning Lengthy Sentences  
for Crimes Committed by a Child or Youth*

**Judiciary Committee Public Hearing - March 4, 2014**

The Office of Chief Public Defender is supportive of certain language within *Raised Bill No. 6926, An Act Concerning Lengthy Sentences for Crimes Committed by a Child or Youth*. The Office of Chief Public Defender relies upon its written testimony submitted today on *Raised Bill No. 796, An Act Concerning Lengthy Sentences for Crimes Committed by a Child or Youth and the Sentencing of a Child or Youth Convicted of Certain Felony Offenses*, as additional support of this Raised Bill No. 6926.

This Raised Bill 6926 would make certain changes to the language contained in Raised Bill 796. While not speaking on behalf of the Sentencing Commission, the Office of Chief Public Defender supports certain changes proposed which include: (1) a technical change which clarifies that the intent of the legislation was to have the bill applicable to persons who had received a definite sentence or a "total effective sentence" of more than ten years; (2) a limitation on the applicability to persons convicted of A and B felonies; and, a clarification that the victim or victim's family are notified whenever a person becomes eligible for release pursuant to the bill and a hearing will be held. The Office of Chief Public Defender is not opposed to any of these and believes that these three changes actually reflect the intent of the working group.

The bill does contain other changes in Sections 10 and 11. At this time the Office of Chief Public Defender takes no position on those changes, as this office believes the proposed language is currently being discussed between the Sentencing Commission and the agencies that would be involved.

001207

~~YALE COLLEGE~~  
**DEMOCRATS**

March 4, 2015

Testimony of Julia Rosenheim  
Juvenile Justice Legislative Captain  
Yale College Democrats

206 Elm Street, B21  
New Haven, CT 06511

In favor: H.B. 6926  
An Act Concerning Lengthy Sentences For Crimes Committed By A Child Or Youth

My name is Julia Rosenheim and on behalf of the Yale College Democrats, I urge the committee to pass Senate Bill 796. This proposal is a necessary reform of Connecticut's juvenile justice laws, and it does not compromise public safety since a release would only be granted after thorough review by parole boards.

Last Friday, the state Supreme Court ruled that it is the legislature's job to decide whether juveniles convicted of life sentences should be granted parole hearings. This session, the committee has the opportunity to recognize the importance of acting now on this proposal. Scientific evidence shows that juveniles are much more likely to reform their ways than adults and that significant brain development occurs during and after adolescence. In addition, many juveniles serving time come from backgrounds of poverty, violence, and external pressures and passing this bill would finally allow for successful rehabilitation. It is unfounded and unjust to sentence a juvenile to life without parole considering such circumstances. And this session, the public will express again that under current law, Connecticut acts unconstitutionally considering the Supreme Court's 2012 *Miller v. Alabama* decision.

You will again hear about the importance of this bill from those who have personal connections to the prison system. I tutor an inmate at Manson Youth Prison once a week, and I have gotten to know him well. Every Saturday he uses his free time to sit with me and improve his analytical reasoning and math skills. He is bright and is interested in constitutional law, and he has taught me many things; it is clear that he is motivated to work hard to better himself. I know that there are many individuals currently serving time who have spent years in educational and rehabilitative programs and who are different people than they were when they were convicted. I am not here to offer a statement about whether any individual should be released or not, but I do know that they deserve the opportunity for a parole hearing. Passing this bill is not only the right thing to do considering all the expert advice about prison reform, the abundance of scientific evidence on brain development, or even the 2012 *Miller v. Alabama* ruling. Passing this bill is also the right thing to do for all the individuals who would be assets to their communities given the opportunity for parole.

This session, however, you might notice the increased passion with which we stand here and explain how Connecticut can become an example to the nation by improving its juvenile justice laws. Last session, the Yale College Democrats came to Hartford with 451 signed letters from young people in Connecticut who wanted to see reform in these ways. This year, young people have shown even more support for this bill and even more enthusiasm. Today, we

001208

prove again how important this issue is to young people. I have here 929 letters, all signed by individuals in Connecticut, both Republicans and Democrats, who understand the gravity of this opportunity and want to express to the committee that the time is now for this bill to pass.

As a citizen of Connecticut who wants to see more justice in our justice system, I strongly urge the committee to pass Senate Bill 796 as soon as possible.

Thank you for your time.

001211



State of Connecticut  
LEGISLATIVE BLACK AND LATINO CAUCUS  
STATE CAPITOL  
HARTFORD, CONNECTICUT 06106-1591

REPRESENTATIVE BRUCE V. MORRIS  
CHAIRMAN  
OF THE BLACK AND LATINO CAUCUS

LEGISLATIVE OFFICE BUILDING  
ROOM 5004  
CAPITOL: (860) 240-8595  
TOLL FREE: (800) 842-8267  
FAX: (860) 240-0206  
E-MAIL: Bruce.Morris@cga.ct.gov

Statement of Bruce Morris  
Chairman of the Black and Puerto Rican Caucus  
State Representative for the 140th Assembly District  
For the Joint Committee on Judiciary  
March, 4, 2015

In Support of:

H.B. No. 6926, An Act Concerning Lengthy sentences for Crimes Committed By A Child Or Youth.  
S.B. No. 796, An Act Concerning the Lengthy sentences for Crimes Committed By A Child Or Youth  
And the Sentencing Of a Child Or Youth Convicted of Certain Felony Offenses.

Good Afternoon Chairman Coleman, Tong, and Honorable members of the Judiciary Committee, as Chairman of the Black and Puerto Rican Caucus, I would like to express our strong support of H.B. 6926, and S.B. 796.

H.B. 6926 and S.B. 796 both address the lengthy sentences that Juveniles face in the state of Connecticut.

In the past decade the United States Supreme Court has held that juvenile offenders cannot be sentenced as if they were adults. In the case of *Graham v. Florida* the court ruled that a juvenile could not be sentenced to life without parole for a non-homicide crime. In the case *Miller v. Alabama* the court forbade a mandatory sentence of life without parole for children convicted of homicide.

The Supreme Court upheld these decisions based on conclusions with scientific evidence that show the psychological and developmental differences between a child and an adult. There are fundamental differences between the parts of the brain involved in behavior control because of the lessened capabilities of children the Supreme Court believes juveniles are deserving of lesser punishments.

In the State of Connecticut, however, under current law, individuals prosecuted as adults for crimes committed when they were under 18 are subject to the same parole rules as adults. According to the Supreme Court, because the character and mind of a juvenile is not fully formed juveniles are more capable of change than adults. Even in the cases of very serious crimes the juvenile is not incapable of reform.

For these reasons, incarcerated juveniles should not be subject the same parole laws as incarcerated adults. The Supreme Court ruling and countless studies clearly prove the developmental differences in adults and children.

Furthermore, the reality in Connecticut is that Black and Latino youth are incarcerated at a disproportionately higher rate than white youth. To empower all communities and to eliminate the educational and employments barriers that incarcerated youths face, the system needs to be remedied. Both H.B. 6926 and S.B. 796 would be a step in addressing the structural racial barriers our youths face in this state.