



Ohio Judicial Conference

The Voice of Ohio Judges

House Criminal Justice Committee

Paul Pfeifer

Proponent Testimony on Senate Bill 256

December 3, 2020

Chair Lang, Vice Chair Plummer, Ranking Member Leland, and members of the House Criminal Justice Committee, I thank you for this opportunity to submit proponent testimony for Senate Bill 256 on behalf of the Ohio Judicial Conference. I am Paul Pfeifer, Executive Director of the Ohio Judicial Conference.

The Ohio Judicial Conference supports S.B. 256 for the opportunity to create the necessary statutory framework for parole board review of certain juvenile life and extended sentences. A juvenile sentence review procedure is required by the Eighth Amendment to the United States Constitution. In 2010, the Supreme Court of the United States decided *Graham v. Florida*, 560 U.S. 48, which held that juvenile offenders cannot be sentenced to life imprisonment without parole for non-homicide offenses. In 2012, the Supreme Court decided *Miller v. Alabama*, 567 U.S. 460, which held that mandatory sentences of life without parole for juvenile offenders, even in cases of murder, are unconstitutional. In *Montgomery v. Louisiana*, 577 U.S. ____ (2016), the Supreme Court determined that *Miller* must be applied retroactively.

In 2016's *State v. Moore*, 2016-Ohio-8288, the Supreme Court of Ohio held that, pursuant to *Graham* and the Eighth Amendment, a "term-of-years" prison sentence that exceeds a defendant's life expectancy is unconstitutional when it is imposed on juvenile non-homicide offenders. In her concurrence to *Moore*, Justice Lanzinger noted that "no statute is on point," and implored the General Assembly to address the issue. S.B. 256 would create a procedure to review juvenile extended sentences, as the Constitution requires. This bill would also eliminate most of the ongoing appellate litigation about the application of *Graham*, *Miller*, *Montgomery* and *Moore* to Ohio's sentencing laws. This litigation will continue until the legislature provides statutory guidance.

To be clear, enacting S.B. 256 would not mean automatic release of an inmate who committed offenses as a juvenile after they served 18 or 25 years. It merely allows a parole board hearing to determine whether the offender has been sufficiently rehabilitated to be considered for release. This meaningful hearing is what the Constitution requires. The juvenile offender's prison records would provide the parole board with guidance on whether he or she have matured and improved themselves through G.E.D. programs and prison work opportunities, or whether the offender remains as incorrigible as they were as a child.

Thank you for the opportunity to testify in support of S.B. 256. We thank the sponsor, Senator Manning, for reintroducing this bill to pass the needed framework for juvenile life sentence review. I am available to answer any questions you may have.