



## Ohio Prosecuting Attorneys Association

Louis Tobin  
Executive Director  
Senate Bill 256  
Opponent Testimony  
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Chairman Lang, Vice-Chair Plummer, Ranking Member Leland and members of the Senate Judiciary Committee, thank you for the opportunity to provide opponent testimony on Senate Bill 256. Proponents of this legislation have pointed two United States Supreme Court cases and one Ohio Supreme Court case that they argue makes this legislation necessary in order to bring our sentencing practices in line with what the Constitution requires. We support addressing this line of cases to give youthful offenders a meaningful opportunity for release. But we oppose how the bill currently operates. The contortions that the bill goes through in homicide cases and the lack of connection to conduct in non-homicide cases demean the seriousness these crimes, ignore the impact on victims and communities, and undermine judicial sentencing authority.

Senate Bill 256 repeals juvenile life without parole sentences in Ohio except for the newly created aggravated homicide offense that consists of three or more homicides where the offender was the principal offender – the TJ Lane exception. Repealing JLWOP is not constitutionally required. In *Miller v. Alabama*, 567 U.S. 460, the Supreme Court of the United States held that the Eighth Amendment forbids a sentencing scheme that mandates life in prison without the possibility of parole for juvenile offenders. The Court did not foreclose the possibility of a discretionary life without parole sentence and neither should the General Assembly. In *Miller*, the Court reasoned that mandatory life without parole is flawed because it gives no significance to the character and record of the individual offender or the circumstances of the offense and therefore does not allow for individualized sentencing that enables a judge to account for factors of youth. A blanket sentencing rule that juvenile can ever be sentenced to life without parole is no more individualized than a mandatory life without parole sentence. An especially depraved juvenile offender may be just as culpable and an adult. *Roper v. Simmons*, 543 U.S. 599 at 600 (O'Connor, J., dissenting.) There are only a couple of offenses in the Ohio Revised Code that mandate life without parole. Ohio law can be brought into line with the *Miller* decision by providing for discretionary sentencing for these offenses as they relate to youthful offenders.

In addition, it is not appropriate to arbitrarily create a new category of offender – the aggravated homicide offender – just because it would be politically unpopular to make TJ Lane eligible for parole. If some future juvenile offender were to shoot ten people and by sheer luck eight survived that crime would be no less horrendous. And yet this offender would become eligible for parole under the bill after 30 years. If by sheer luck nine survived, the offender would be eligible after 25 years under the bill. The requirement that the offender be the principal offender is also unnecessarily arbitrary. Someone like Jordyn Wade who was convicted of four aggravated murders for participating in four execution style murders and another

attempted murder in Franklin County in 2015. While Wade was not the principal offender, the court found that he encouraged the principal offender to commit the acts. Our law should not be written this way.

Current law provides judges wide discretion under most circumstances to impose whatever sentence they feel is appropriate. The penalty for murder, under most circumstances, is fifteen years to life. For aggravated murder, a judge can select from a range of sentences that include life without parole, 20 to life, 25 to life, or 30 to life. If there were multiple offenses they can mostly choose to impose concurrent or consecutive sentences. When a judge selects 30 years to life from this range, he or she has determined that the conduct more serious than conduct that warrants 20 to life or 25 to life. Nevertheless, Senate Bill 256 would make the person eligible for parole after 25 years. It empowers the parole board to essentially select a different sentence. One that the judge could have selected and chose not to. This is not a power that the parole board should not have.

Parole eligibility in non-homicide cases is established in the bill at 18 years, regardless of how serious the series of offenses. In *State v. Moore*, 2016-Ohio-8288 the Ohio Supreme Court held that a term of years sentence imposed on a juvenile non-homicide offender that exceeds their life expectancy amounts to a functional life sentence and is prohibited under the constitution. We support addressing the *Moore* decision. But providing for parole after only 18 years and regardless what the person was convicted of, demeans the seriousness of these offenses too. Using the Moore case as an example, Brandon Moore was convicted in Mahoning County of three counts of aggravated robbery, three counts of rape, three counts of complicity to commit rape, one count of kidnapping, one count of conspiracy to commit aggravated robbery, one count of aggravated menacing, and 11 firearm specifications. He was originally sentenced to 141 years in prison. After the Supreme Court of Ohio decision he was resentenced to 50 years – a sentence which was recently upheld by the 7<sup>th</sup> District Court of Appeals. Under Senate Bill 256 Moore would eligible for parole after serving only 18 years – a sentence reduction of about 87% from his original sentence and a reduction of 64% from his recently upheld sentence. Some other offender convicted of some lesser series of non-homicide offenses would also be eligible after 18 years. There is no connection in the bill between what the offender does and when they become eligible for parole.

Since the Moore case was decided, our courts of appeals have generally found that the opportunity for EITHER parole or judicial release prior to age 60 is what is constitutionally required in order to provide a youthful offender with a meaningful opportunity for release under constitutional standard. In some extreme cases, like Moore's, courts are allowing for even longer sentences as evidenced by the 7<sup>th</sup> District's recent decision upholding Moore's 50 year sentence.

Ultimately, we can accept something that is closer to the middle between the bill's extremely lenient parole eligibility times and the longer sentences that courts of appeals are finding meet constitutional muster. But the contortions that this bill currently goes through on homicide offenses and the fact that there is no connection to the seriousness of the series of crimes for non-homicide offenses are demeaning and should not be enacted.

Thank you again for the opportunity to provide testimony in opposition to Senate Bill 256. I would be happy to answer any questions that you have.

**Jordyn Wade** is currently serving a discretionary LWOP sentence for his participation in a quadruple murder and one attempted murder in Franklin County in 2015. Wade's partner shot four victims to death execution style and shot and wounded another victim, a 16 year old girl who was eventually able to testify at trial against Wade and his partner. He was convicted of four counts of aggravated murder, one count each of attempted murder and aggravated burglary, and multiple counts of aggravated robbery and kidnapping. Wade had an extensive criminal history including aggravated arson, had been on juvenile probation three times including at the time of these murders. Wade would be eligible for parole after 25 years under SB 256. (<https://www.supremecourt.ohio.gov/rod/docs/pdf/10/2018/2018-Ohio-976.pdf>)

**Gavon Ramsay** is currently serving discretionary LWOP after he broke into his 98 year old neighbor's house, strangled her to death, and then undressed and abused her dead body for over two hours – taking photographs and videos along the way. He then stuffed her body in a closet and left her there. Ramsay had been writing in a journal for months before the murder describing fantasies about killing and strangling people. Ramsey would be eligible for parole after 25 years under SB 256. (<http://www.supremecourt.ohio.gov/rod/docs/pdf/9/2020/2020-Ohio-1203.pdf>)

**Jacob LaRosa** is currently serving discretionary LWOP after breaking into his 94 year old neighbor's home, attempting to rape her, and then beating her to death with a heavy metal flashlight so fiercely that her eyes ruptured and the top of her skull was crushed. He had been released from juvenile detention earlier that morning where he had been serving time for a probation violation. LaRosa would be eligible for parole after 25 years under SB 256. (<http://www.supremecourt.ohio.gov/rod/docs/pdf/11/2020/2020-Ohio-160.pdf>)

**Brandon Moore** is currently serving a 50 year sentence after going on a crime spree for which he was convicted of three counts of rape, three counts of aggravated robbery, three counts of complicity to commit rape, one count of kidnapping, one count of conspiracy to commit aggravated robbery, one count of aggravated menacing, and 11 firearms specifications. He was originally sentenced to 141 years in prison. His sentence was subsequently reduced to 50 years in prison following the Supreme Court of Ohio decision in the above cited case. This 50 year sentence was recently upheld by the 7<sup>th</sup> District Court of Appeals. Nevertheless, Moore would be eligible for parole after 18 years under SB 256. Moore has been in prison for 18 years and would be eligible for release immediately upon the effective date of SB 256. (<https://www.supremecourt.ohio.gov/rod/docs/pdf/0/2016/2016-Ohio-8288.pdf>)

**Tremele Collins** was 17 when he committed three armed robberies in November 2016, all on Cleveland's near westside. On November 3, 2016, Collins carjacked a 38-year-old cleaning lady who had just pulled into the driveway of a client. On November 14, 2016, Collins and an accomplice carjacked a 45-year-old female who was returning to work from lunch. Finally, on November 19, 2019, Collins attempted to carjack a 53-year-old male who was entering his car outside his home. Despite having a gun to his head, the victim refused to give up his vehicle. Collins repeatedly struck the victim in the head with the gun. Collins managed to get into the driver's seat but could not get the vehicle started. Unable to take the vehicle, Collins chased down the victim and attempted to take the victim's backpack, which contained a laptop computer. Collins pistol-whipped the victim as neighbors called police. He entered a guilty plea and was sentenced to a term of incarceration of 29 years. See CR-17-617043.

**Montez Cobb** was 16 when he burglarized a home in Garfield Heights, stealing a 9mm Smith & Wesson handgun in the process. Between April 22, 2017 and June 16, 2017, Cobb, then 17, committed six robberies, all either on or in close proximity to the Cleveland State University campus. His victims included

a 57-year-old female who was sitting on a park bench; a 23-year-old male who was walking to a friend's car; a 22-year-old female who was walking to her car in the parking garage of her apartment complex; an 82-year-old male and a 69-year-old female who were entering a car in a parking garage; a 66-year-old male who was attempting to pay for parking in a parking lot; and a 49-year-old female who had just parked in a parking garage. Cobb resorted to physical violence in several of the robberies. He entered a guilty plea and was sentenced to a term of incarceration of 30 years. See CR-17-623540.

**Krillian Howard** committed four robberies, all of which involved the use of firearms, between March 13, 2017 and April 12, 2017, the date of his 17<sup>th</sup> birthday. On March 13, 2017, Howard, adult co-defendant Maurice Montgomery, and two unknown suspects robbed an 18-year-old male as he was walking to his girlfriend's house in Cleveland. Howard and his accomplices took the victim's cellphone, backpack, and tennis shoes. On March 21, 2017, Howard and adult co-defendant Daryl Avent robbed a 57-year-old male while he attempted to use an ATM machine in Cleveland. The victim was pistol-whipped when he hesitated to turn over some of his property, which included cash, car keys, and a cellphone. Howard and Avent used the car keys to steal the victim's Dodge Ram 1500. On March 31, 2017, Howard and Avent robbed a Subway restaurant in Cleveland. Two employees and a customer were in the restaurant at the time of the robbery. One of the employees was shot in the arm by Howard during the robbery. Finally, on April 12, 2017, Howard and an unknown suspect carjacked a 62-year-old female while she was stopped at a rest-stop in Bath Township. He entered a guilty plea and was sentenced to a term of incarceration of 20 years. See CR-17-618513, CR-17-622059, and CR-17-623374.

**Eddie Burns** committed six robberies, four of which involved the use of a firearm between August 10, 2017 and February 7, 2017, the date of his 17<sup>th</sup> birthday. His victims included a 77-year-old male who was punched in the face while attempting to withdraw cash from an ATM machine; an 87-year-old male who was left duct taped to a chair inside his own home; a reporter and her cameraman who were parked in their news van covering a story; a Spectrum cable worker who was out on an installation job; an Amazon delivery driver who was delivering packages; and an elderly couple returning home from the grocery store who were nearly bludgeoned to death with one of their own canes. He entered a guilty plea and was sentenced to a term of incarceration of 27 years. See CR-18-633923.

**Michael Hutchins** was 17 when he raped a 51-year-old female in a parking garage outside Quicken Loans Arena. The victim, a paralegal, was walking to her car after work. Following the sexual assault, Hutchins attempted to abduct the victim in her vehicle, but had trouble with the gear shift and crashed into a wall as he attempted to exit the parking garage. Hutchins grabbed the victim's cell phone, debit card, and cash before fleeing on foot. During the ensuing investigation, Hutchins was also linked to a theft at Titan's Gym (619 Prospect Avenue) and a robbery at the 5<sup>th</sup> Street Arcade that occurred just prior to the sexual assault. He entered a guilty plea and was sentenced to a term of incarceration of 33 years. See CR-19-639870 and CR-19-639868.

**Onaje Nicholson** was 16 and a member of the "Real Shooters" gang when he was charged in connection with three shootings over a two-month period. On December 4, 2018, a 19-year-old male and three of his friends were travelling in a Ford Focus on Forest Avenue in Cleveland when someone leaned out the window of a white sedan and began firing at them. The 19-year-old male lost control of the Ford Focus and the vehicle flipped. Several bullet holes were found in the vehicle. On January 27, 2019, a 59-year-old male was sitting in his Chevy Impala in front of 13909 Svec Avenue in Cleveland when he heard five gunshots and observed a black car drive by with a male hanging out the window. The 59-year-old male exited the

Chevy Impala and heard two more gunshots whistle by him. Several bullet holes were found in his vehicle. On January 29, 2019, police were dispatched to the area of 5125 Arch Street in Maple Heights for a report of shots fired. Sixteen bullet holes were found in the residence at 5130 Cato Street; one bullet hole was found in the residence at 5134 Cato Street; and two bullet holes were found in a car parked in front of 5125 Cato Street. Eight individuals, including three children, were inside the residence at 5130 Cato Street at the time of the shooting. Nicholson was identified as the driver of the white sedan in the first shooting and as a shooter in the second and third shootings. Nicholson was convicted of charges relating to the January 29<sup>th</sup> shooting and was sentenced to a term of incarceration of 21 years. See CR-19-633923.