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Committees:

- Judiciary – *Ranking Minority Member*
- Finance Subcommittee on Health and Medicaid – *Ranking Minority Member*
- Government Oversight and Reform
- Health, Human Services, and Medicaid
- Local Government, Public Safety, and Veterans Affairs
- Rules and Reference

SB 100 Sponsor Testimony
Extended Prison Sentences of Juveniles
Senate Judiciary Committee, March 27, 2019

Chairman Eklund and Vice Chair Manning, and members of the Senate Judiciary Committee, I offer testimony on SB 100, a bill to modify Ohio's laws on extended prison sentences of juveniles.

This legislation would afford prisoners sentenced to indefinite life terms as juveniles the opportunity for parole hearings. This legislation is based on input from experts in the criminal justice field.

It is now understood that juveniles require a different approach in the juvenile justice system than adults in the adult system. This is especially significant for juveniles who commit crimes that carry extended sentences.

Due to recent research on the brain capacity and capabilities of the young brain, we need to review how youth are sentenced in our criminal justice system, especially those serving indefinite life sentences.

Research shows:

1. Juvenile brains are still developing until at around age 23.
2. Children are less capable than adults in long-term planning, the regulation of emotion, impulse control, and the evaluation of risk and reward.
3. Juveniles are more susceptible to peer pressure and heavily influenced by their surrounding environment, which is rarely in their control.

The good news is that juveniles are uniquely capable of maturing and changing due to the plasticity of their brains, making them ideal candidates for rehabilitation.

Under the bill, a prisoner who was under the age of eighteen at the time of the offense(s) for which he or she is serving a prison sentence is eligible for a parole hearing as follows:

- If the prisoner's stated prison term totals at least fifteen years, the prisoner is eligible for a parole hearing after serving fifteen years;
- If the prisoner has a sentence that permits parole only after fifteen or more years, the prisoner is eligible for a parole hearing after serving fifteen years;

- If the prisoner is serving a sentence of life without parole, the prisoner is eligible for a parole hearing upon turning age forty.

The bill does not guarantee that a prisoner will receive parole, only that prisoners subject to this change receive a meaningful opportunity to obtain release.

There have been recent U.S. Supreme Court cases dealing with the issue of parole eligibility review for prisoners who were incarcerated as juveniles. These cases center on the brain and behavioral development science showing that children are fundamentally different than adults.

In *Graham v. Florida*, a 2010 decision, the court struck down life without parole sentences for non-homicide offenses and held that states must give children a “realistic opportunity to obtain release.”

In *Miller v. Alabama*, a 2012 decision, the court held that “the Eighth Amendment forbids a sentencing scheme that mandates life in prison without the possibility of parole for juvenile offenders”. The court in that case also held that sentencing courts need to “take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison.” The Court explained that while a life without parole sentence might be justified for “the rare juvenile offender whose crime reflects irreparable corruption,” such a penalty should be “uncommon.”

More recently, *Montgomery v. Louisiana*, a 2016 decision, the court held that the *Miller v. Alabama* decision must be applied retroactively to individuals serving life without parole for crimes they committed while under 18. The court held that “life without parole is an unconstitutional penalty for a class of defendants because of their status—that is, juvenile offenders whose crimes reflect the transient immaturity of youth.”

It is very important to note that at the time of the *Miller* decision which declared juvenile life without parole unconstitutional, Ohio had three (3) prisoners in that category. Today we have eleven (11). Even after the court found the sentencing structure unconstitutional, Ohio courts continued to impose life without parole for juvenile offenders.

Twenty one (21) states and the District of Columbia have abandoned life without parole sentences for juveniles. Five additional states do not have anyone serving juvenile life without parole. I ask that you support this legislation and allow Ohio to join those states. Thank you.