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Oversight and Reform Committee  
Proponent Testimony  
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SB 272

For the past decade, the United States Supreme Court has repeatedly found that children are constitutionally different from adults for the purpose of adult criminal sentencing. Kids under eighteen are not little adults and as a result there is decreased reason to impose the harshest of punishments on them. In 2010, the Court held in *Graham v. Florida* that children cannot be sentenced to life without parole for a non-homicide offense. In 2012, in *Miller v. Alabama*, the Court struck down mandatory life without parole sentences for children who committed homicide offenses and required that sentencing courts “take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison.” These decisions are based on the premise that children have not yet fully developed; they are categorically less culpable than adults, and they are also more capable of rehabilitation and change.

The Supreme Court has stated that a State is not required to guarantee eventual freedom to a youthful offender, but must provide some meaningful opportunity for release based on demonstrated maturity and rehabilitation. It is for the State to explore the means and mechanisms for compliance.

To that end, the Ohio Criminal Sentencing Commission created a subcommittee to review juvenile extended prison sentences. Working with officials from DRC, judges, prosecutors, and legislators, OPD participated in that subcommittee, which ultimately lead to the language of this legislation.

This bill allows children who receive extended prison sentences a parole review after serving at least 15 years (and longer in some cases) of their adult sentence. Further, the bill includes language taken from the Court’s cases, directing the Parole Board on factors they must consider during the hearings. The rest of hearing is regulated by current DRC policies and administrative rules.

In January of this year, the U.S. Supreme Court ruled in *Montgomery v. Louisiana*, that the *Miller* decision applies retroactively to youth previously sentenced to mandatory life without parole. In a 6-3 decision, the Supreme Court reiterated that the Constitution bans life without parole for all juvenile offenders except “the rare juvenile offender whose crime reflects irreparable corruption.” The Court said 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.” The U.S. dment for a child whose crime reflects ‘unfortunate yet transient immaturity.’” By fully eliminating life without parole as a sentencing option for children under 18 and ensuring that all children have the opportunity at parole review, this bill would eliminate the state’s exposure to *Miller* and *Montgomery* violations. This bill does not guarantee release for any individual; rather it simply gives them hope for a future and the opportunity to present to the Parole Board the ways in which they have grown and changed.

As a result of the U.S. Supreme Court cases, sixteen states have eliminated life without parole as a sentencing option for children. These states represent the diversity of our country—they are red states and blue states, in the Midwest, Northeast, South, and Pacific Coast. It includes our neighbors in Kentucky and West Virginia, who have recognized that all children, even those convicted of serious crimes, have the potential for rehabilitation. Additionally, states like Texas, South Dakota, Utah, Kansas, Nevada, Colorado, Wyoming, Montana, Delaware, Connecticut, Massachusetts, Vermont, Hawaii, and Alaska have revised their laws to acknowledge that children can grow and change.

The Court has given our State a road map to improve sentencing for children who are bound over to adult court. Senate Bill 272 is a reflection of the tremendous effort on the part of the professionals on the Sentencing Commission, staff, and you, our legislators, to bring Ohio up to date in evidence based practices and fair sentencing of our youth.