



SB 256 (133 GA) Testimony to the Senate Judiciary Committee
Written Testimony Submitted June 2, 2020 (As Corrected)

Thank you Chairman Eklund, Vice-Chair Manning and Ranking Member Thomas, and Senate Judiciary Committee members.

My name is Gabriella Celeste and I am the Policy Director of the Schubert Center for Child Studies at Case Western Reserve University where we focus on bridging research, policy, practice and education for the well-being of children. My 30 plus-year career has focused on improving opportunities for children and youth and I offer this testimony as an interested party for SB 256.

As a Center dedicated to the well-being of children and young people, we strive to advance public policy that reflects a developmental understanding of child and adolescent development. The science is abundantly clear that children and adolescents are cognitively undeveloped or incomplete – different from adults. Research also informs our understanding of how adverse life experiences – trauma, inadequate supports, environmental hazards – impact the development of the child. Significantly, the fields of cognitive development and social science have rejected the notion of a child being static: what a child does at the age of 14 or 17, does not define who that child will become. This developmental science has been relied upon by the U.S. Supreme Court which has recognized that imposing the highest level of culpability on the least mature, least developed, is unconstitutional. These understandings have been adopted as policy by a number of other legislatures that recognize it imprudent to hold children to the highest levels of responsibility, particularly as adult society itself has not resolved all of its failings to adequately protect children from harm and ensure that they have a meaningful chance for a decent life.

Thank you Senators Manning and Lehner for introducing SB 256 – earlier versions of this bill have been introduced several times over the years without success. SB 256 represents an important compromise. While the lengthy term of years required by SB 256 prior to even the possibility of release remains a concern for me, I urge serious consideration of SB 256 today. I will not review the elements of the bill as I am certain you are well aware of those details. Rather, my comments will focus on the importance of a developmental approach and how research informs our understanding of a “meaningful opportunity” for parole eligibility.

Notably, last month marked 10 years since *Graham v. Florida* was decided (*Miller v. Alabama* was decided two years later and *Montgomery v. Louisiana* made *Miller* retroactive in 2015) and still, **Ohio has yet to adopt policy that is consistent with the U.S. Supreme Court’s central holding: that children who commit even heinous crimes are capable of change** and that because of their “diminished culpability and greater prospects for reform” children must have a “meaningful opportunity for release.” Significantly, this holding was predicated on the evolving standards of decency that mark a civilized society – consistent with the practice in the majority of states today. Indeed, the *Graham* decision likened a life-without-parole (LWOP) sentence to the death penalty for children, which the *Miller* decision relied upon in its requirement for individualized sentencing consistent with the principle of proportionality.

Despite clear and abundant Supreme Court precedent and directives, Ohio is among a small handful of states (along with Georgia, Louisiana and Michigan) that, as noted a [recent brief](#) by the Campaign for the Fair Sentencing of Youth, “**continues to sentence children to life without parole in new cases at a rate that far outpaces the rest of the country, and in contravention of the constitutional mandate** established in *Miller* and *Montgomery* that the sentence be uncommon.” SB 256 offers Ohio a chance to finally adopt a constitutional approach by allowing an opportunity for consideration – while certainly no guarantee – of release where a child has been sentenced to life.

I want to reiterate at the outset that this committee heard powerful proponent testimony for SB 256 at the last hearing, including from victims of juvenile crime, a former prosecutor, loved ones of those incarcerated and even family members who lost a loved one to a juvenile offender. One mother, Ms. Abdul-Mutakallim, whose son was killed, hauntingly described our current law as “burying children alive”, which coming from a victim’s parent was particularly profound. You also heard from Eric Alexander of ICAN (Incarcerated Children’s Advocacy Network) who had been released from prison after serving 25 years and who implored you to recognize that “we are all more than the worst thing we have ever done” and urged the passage of SB 256 for “an opportunity to prove it”. Now 43 years old, Eric has dedicated his second chance to helping prevent other young people from a similar fate, standing as living testimony of young people’s capacity to change. Indeed, Chairman Eklund noted that Eric’s story was a “redemptive one and we always have room for that” and Senator Lehner pointed out that Eric’s story is not unique.

This capacity for change in young people (and lack of a serious public safety risk) was reinforced in a [new Montclair State University study](#) finding a **recidivism rate of only 1.14% among released juvenile lifers** who were resentenced in Philadelphia (Daftary-Kapur and Zottoli). The findings in this study are consistent with scientific research that shows people age out of criminal behaviors and that lengthy prisons sentences are not cost-effective to deter crime. The study analyzed data and outcomes associated with 269 juveniles sentenced to life from Philadelphia, including 174 who were subsequently released, looking at reconviction for any subsequent offense. The study also estimated \$9.5 million in correctional cost savings over the first decade alone as a result of releasing the 174 juvenile lifers. These cost savings are a conservative estimate but still could offer valuable resources to for things like violence prevention programs and support services for victims and their families – important considerations for Ohio as well.

Three specific points about SB 256.

- **The parole eligibility terms in SB256 are consistent with the practices in other states** who still apply LWOP for youth. While 23 states and the District of Columbia have banned juvenile LWOP sentences outright, and many other states have no youth serving LWOP sentences, eight states (Arkansas, Louisiana, Massachusetts, Nebraska, Nevada, New Jersey, North Dakota, and Wyoming) have minimum juvenile parole eligibilities between 20-30 years depending on the severity of the crime.
- **SB 256 is consistent with research showing that the vast majority of youth, even serious juvenile offenders, grow up and out of crime** as they mature to adulthood (Steinberg, Cauffman and Monahan). The Age-Crime curve shows how crime begins in adolescence, increases sharply in late adolescence/early adulthood, and then decreases to near zero where it plateaus for the remainder of the life course (Hirschi and Gottfredson).
- The parole **eligibility terms for juveniles proposed by SB 256 are the maximum term of years acceptable**, particularly given how incarcerated youth experience the passage of time in a uniquely punitive way from adults. First, because they are confined while still in adolescence, youth and young adults miss key developmental milestones during their incarceration. Consider your own teen years and 20s for a moment – how formative those years were. These are the years where we learn what it means to live independently, to have a job, to pay the bills, maybe find a place to live. They will not have had a chance to try different jobs, to learn from different bosses and gotten a sense of what they are good at and not so good at. They will not have had a chance to work through different relationships where you learn about patience and forgiveness and empathy. I think about my 20s and how much of that time was all about trial and error. All the ways that I tried different jobs, different social circles, different cities even before beginning to gain the confidence to be who I wanted to be. And some of us then waited until our 30s to think more about possibly settling down, to maybe consider marriage, maybe buy a house, maybe have children, maybe slow down from our 20s just a little bit. Those were incredibly robust years of deep personal growth that youth are deprived of when locked away at a young age. Many adults incarcerated later in life at least have had some of those formative years outside of a locked facility. Not only does time work differently in our younger years, but research confirms the axiom that time flies as we get older.

Studies have found that time speeds up with age (Wittman and Lehnoff), that “time passes faster for older individuals” (Ferrerira) and thus, children and young people experience the passage of time more slowly. The implication of this research is that a long term of years has a disproportionate impact on young people and should be a consideration for their parole eligibility and meaningful opportunity for release.

SB 256 is an important step to returning incarceration to a place not only of proportional punishment but a chance for personal transformation. Let’s be clear, this is not about being soft on crime - youth who have caused harm will be held accountable for their actions. However, SB 256 creates at least a small window of opportunity for a former young offender. In many ways, I worry that this bill does not go far enough given that Ohio has a parole review process that makes the potential for release quite remote. While better than in prior years, according to the DRC 2019 Annual Report, the Ohio Department of Rehabilitation and Correction Parole Board release rate was still only 17.4%. As such, the inclusion of guidance in SB 256 from the Ohio Supreme Court to the Parole Board on a standard for “meaningful opportunity for release” and specific mitigating factors of youth is also critically important.

It is important to note that the 18-25 years for eligibility in the current version of HB 256 represents prior compromises and already means a youth is not even eligible for *consideration* of release until their later adult years, beyond what many other states would consider “meaningful”, but at least this still offers a glimpse of the possibility of becoming a contributing member of society as an older adult. Only after having served substantial prison time for the offense committed in childhood, would he or she then be eligible for a parole hearing, at which point they would still need to demonstrate their worthiness, showing a sincere understanding of the harm they caused, authentic growth during their confinement and, despite all the violence and difficulties they may have endured, that they are not a threat to society. Children deserve to be given this redemptive opportunity.

We saw this powerfully when Governor DeWine recently granted commutation to Alexis Martin, a child sex trafficking survivor, who was arrested at 15 and pleaded guilty to murder after her trafficker was shot and killed by someone else during a robbery in 2013. Despite a childhood filled with physical and sexual abuse, and being trafficked as a teenager, she was prosecuted as an adult. While her life sentence had parole eligibility in 21 years, this was still a significant burden to bear for someone so young, with such trauma. Alexis nevertheless devoted her time in prison to supporting and advocating for other survivors of sex trafficking. And after serving six years, she was given a meaningful opportunity for another chance and was released into a residential treatment center.

All people, but especially those in the turmoil of adolescence, are more than their worst deed – SB 256 creates the possibility that a convicted young person may yet, one day, grow into their best self and perhaps even have something of value to offer society. I hope you share the belief that each child should have the opportunity to demonstrate his or her capacity for change, for growth – and that Ohio will be a safer place, a more decent place, when it recognizes the inherent potential of each young person.

Thank you for your consideration.

Sources

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