



## **Testimony of Josh Rovner**

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**In support of SB952, An Act Concerning Parole Eligibility For an Individual Serving a Lengthy Sentence For a Crime Committed Before the Individual Reached the Age of Twenty-Five.**

Before the Connecticut Judiciary Committee

March 22, 2023

Established in 1986, The Sentencing Project advocates for effective and humane responses to crime that minimize imprisonment and criminalization of youth and adults by promoting racial, ethnic, economic, and gender justice.

We are grateful for this opportunity to submit testimony endorsing SB952, a bill that would extend Connecticut's parole eligibility rules -- currently operable for people under 18 years old at the time of their offense -- to people who were under 25 years old.

The Sentencing Project endorsed a prior iteration of this bill in 2021 (SB978), and we are pleased to do so once again. We also submitted testimony in support of H.B. 5221 in 2014, which provided a second look to people sentenced for offenses before age 18. At the time, Connecticut was fixing unconstitutional schemes that were rejected by the Supreme Court in *Miller v. Alabama*.<sup>1</sup> While that testimony was limited to people under 18, it surely applies to older adolescents as well:

A juvenile, even one who is convicted of a serious crime, should have the chance to understand the nature of his crime and to consider a better path. Not all will do so. A more reasonable minimum sentence would allow us to say that there is a meaningful opportunity to reform and for some of them to make a meaningful contribution to the society that they have wronged.

This bill would still require that persons convicted of crimes that were committed when they were juveniles would serve very lengthy terms. The minimum sentence of 30 years prior to a parole hearing would still mean that a 15-year old sentenced for certain crimes would merely have a chance to demonstrate his progress.<sup>2</sup>

That bill was reintroduced as SB 796 a year later and eventually became Public Act 15-84, ending life without parole for people under 18. **Connecticut can and should extend its provisions to people under 25. Under current law, people under 18 cannot be sentenced to life without parole, justified by the understanding that people in prison are capable of reform, especially if they were young. The same is true for older adolescents.**

Nothing in current law nor under the changes proposed by this bill would guarantee release, but SB952 would ensure young people would have a second chance to prove they can be productive members of society. The status quo, allowing for death by incarceration, makes their rehabilitation irrelevant.

We support this bill for three reasons.

1. Older adolescents are developmentally similar to their younger counterparts.
2. Arrest data strongly suggest that people convicted of violent offenses are likely to desist as they age.
3. Other jurisdictions have reformed aspects of their justice systems to recognize the special attributes of older adolescents.

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<sup>1</sup> 132 S. Ct. 2455 (2012).

<sup>2</sup> Testimony of Marc Mauer (March 3, 2014), Joint Committee on the Judiciary re: H.B. 5221.

## Older adolescents are developmentally similar to their younger counterparts

Despite the frequent utilization of age 18 as a border between youth and adulthood (e.g., voting rights and other civic rights, such as marriage), developmental research has found no such bright line in the maturation of the adolescent brain. This finding is important for understanding why Connecticut should allow sentence modifications for people convicted as older and younger adolescents alike.

The National Institute of Justice has found “developmental studies of late adolescence and early adulthood do not support the notion that there is any naturally occurring break in the prevalence of offending at age 18.”<sup>3</sup> Harvard University Psychologist Leah Somerville concurs, “Nothing magical happens at that age.”<sup>4</sup>

Psychologists and neuroscientists<sup>5</sup> have concluded that cognitive maturity lags behind popular understanding of when adolescence ends. These experts explain that adolescence is a prolonged period that extends into one’s twenties. Generally, adolescents are impulsive. They make poor decisions, especially in times of stress or when in the presence of other adolescents. They have weak impulse control and struggle at weighing risks and predicting consequences.

These hallmarks of youth are not unique to those who commit crimes, but instead derive from the way the brain develops post-puberty. Such attributes as listed in the paragraph above are controlled, in adults, by the brain’s pre-frontal cortex, and the development of this region typically continues through one’s twenties.<sup>6</sup> As such, it is not surprising that criminologists have found an age-crime curve that increases through one’s teen years before falling. As discussed below, offending, serious and otherwise, drops precipitously following late adolescence.

Columbia University Law Professor Elizabeth Scott, one of the leading researchers on the intersection of adolescence and the justice system, notes “People are not magically different on their 18th birthday. Their brains are still maturing, and the criminal justice system should find a way to take that into account.”<sup>7</sup> One of the best ways to operationalize this knowledge is to grant the same sentencing structure to younger and older adolescents.

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<sup>3</sup> National Institute of Justice. (2014, March 11). From Juvenile Delinquency to Young Adult Offending. Retrieved from <https://www.nij.gov/topics/crime/pages/delinquency-to-adult-offending.aspx>

<sup>4</sup> Zimmer, C. (2016, December 21). You’re an Adult. Your Brain, Not So Much. *New York Times*. Retrieved from <http://clbb.mgh.harvard.edu/youre-an-adult-your-brain-not-so-much/>

<sup>5</sup> Steinberg, L. (2014). *Age of opportunity: Lessons from the new science of adolescence*. New York: Eamon Dolan/Houghton Mifflin Harcourt; Somerville, LH (2016, Dec. 21). Searching for Signatures of Brain Maturity: What Are We Searching For? *Neuron*, Vol. 92, p. 1164-1167. Available: <https://www.cell.com/action/showPdf?pii=S0896-6273%2816%2930809-1>

<sup>6</sup> Zimmer, C. (2016).

<sup>7</sup> Requarth, T. (2016, April 18). Neuroscience is Changing the Debate Over What Role Age Should Play in the Court. *Newsweek*.

## **Arrest data strongly suggest that people convicted of violent offenses are likely to desist as they age**

A review of national arrest statistics shows that arrests for serious offenses increase throughout one's teenage years, generally peaking in late adolescence and falling steadily thereafter. In other words, a disproportionate share of crime is committed by 18-to-24-year olds. As shown in the FBI's most recent arrest data for violent crime arrests,<sup>8</sup> people in their 50s -- who would be eligible for release under SB952 -- are vastly less likely to be arrested than are people in younger generations. In general, people desist from crime as they age.

To be clear, these data cannot predict what any individual will do. The chances of offending fall as one ages; middle-aged adults are far less likely to offend than their younger counterparts. In other words, Connecticut law ensures imprisonment for the age groups least likely to reoffend. Connecticut can fix this.

## **Other jurisdictions have reformed aspects of their justice systems to recognize the special attributes of older adolescents**

Connecticut is among the leading jurisdictions for regarding older adolescents. Special correctional facilities for older adolescent offenders -- The TRUE Program (an acronym for Truthfulness, Respectfulness, Understanding, and Elevating) at the Cheshire Correctional Institution<sup>9</sup> and WORTH (Women Overcoming Recidivism Through Hard work) program at the York Correctional Institution.<sup>10</sup> Young people housed at TRUE and WORTH are paired with older imprisoned adults who serve as mentors.

Given the disproportionate impact of older adolescents' offending on overall crime rates, many states focused policy and legislative changes on 18- to 24-year olds. This section reviews some of those changes.

## **Similar legislation is progressing elsewhere**

### ***California***

In 2012 California passed SB 9, which offered a second look after 15 years to people under 18 sentenced to life without parole.<sup>11</sup> The law offers eight factors for courts to consider before issuing a new sentence. The next year, California passed SB 260, which specified the procedure for Youth Offender Parole Hearings, applying to any person under 18 tried as an adult who was parole eligible and emphasizing the hallmark factors of youth that define their diminished culpability. According to

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<sup>8</sup> Federal Bureau of Investigation, Criminal Justice Information Services Division (2020). Crime in the U.S., Table 38: Arrests by Age, 2019.

<https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/tables/table-38>

<sup>9</sup> Interview with Mike Lawlor, former Under Secretary for Criminal Justice Policy and Planning, State of Connecticut. Conducted Jan. 17, 2019.

<sup>10</sup> Malloy, D. (2018, July 19). Press release. Gov. Malloy announces opening of new corrections unit preparing young female inmates to become productive members of society. Available at: <https://portal.ct.gov/Malloy-Archive/Press-Room/Press-Releases/2018/07-2018/Gov-Malloy-Announces-Opening-of-New-Corrections-Unit-Preparing-Young-Female-Inmates>

<sup>11</sup> SB 9 (California, 2012).

Fair Sentencing for Youth, there were more than 6,500 people in California’s prison who fit that description.<sup>12</sup> Starting in 2016, California expanded Youth Offender Parole Hearing to people who were under 23,<sup>13</sup> added people under 26 in 2018.<sup>14, 15</sup>

### ***District of Columbia***

Most similar to the reforms under consideration, the District of Columbia offers an opportunity for people who were under 25 to apply for a new sentence after having served 15 years in prison.<sup>16</sup> The legislation, thoroughly debated, was built on the same understanding that motivates SB 952: that older adolescents should have the opportunity to prove their rehabilitation.

### ***Illinois***

Illinois recently became the 26th state (then joined by New Mexico) to ban life without parole for people under 18. That state’s bill, however, largely covers people under age 21 (with a single carveout).<sup>17</sup>

### ***Vermont***

In 2018, Vermont became the first state to add 18- and 19-year olds into its juvenile system, raising the age of adult criminal responsibility past age 18. This change is distinguished from the bill discussed today, as it excludes those older adolescents charged with serious violent offenses. Nevertheless, this reform is also being discussed in Massachusetts, Connecticut, and Illinois, three states that previously included all 16- or 17-year olds in their adult courts, and in Arizona. In 2014, the Justice Department suggested that policymakers should raise their age of juvenile court jurisdiction to 21 or 24.<sup>18</sup>

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<sup>12</sup> Fair Sentencing for Youth (Undated page). Senate Bill 260 – Justice for Juveniles with Adult Prison Sentences. Online: <http://fairsentencingforyouth.org/legislation/senate-bill-260-justice-for-juveniles-sentenced-to-adult-prison-terms/>

<sup>13</sup> SB 261 (2015).

<sup>14</sup> AB 1208 (2017).

<sup>15</sup> For more information about California’s Youth Offender Parole Hearings, see Board of Parole Hearings (Undated). “Youth Offender Hearings.” Available:

[https://www.cdcr.ca.gov/BOPH/youth\\_offender\\_hearings\\_overview.html](https://www.cdcr.ca.gov/BOPH/youth_offender_hearings_overview.html)

<sup>16</sup> District of Columbia, B23-0127 - Second Look Amendment Act of 2019 (now known as "Omnibus Public Safety and Justice Amendment Act of 2020"). The bill, passed by the District’s legislature and signed by the Mayor, has yet to be implemented.

<sup>17</sup> Equal Justice Initiative (2023, Feb. 16). “Illinois Abolishes Life Without Parole Sentences for Children.” <https://eji.org/news/illinois-abolishes-life-without-parole-sentences-for-children/#:~:text=Illinois%20Gov.,without%2Dparole%20sentences%20for%20children.>

<sup>18</sup> Ridgeway, G. and Listenbee, R. (2014, Feb.) Young Offenders: What Happens and What Should Happen. Washington DC: National Institute of Justice. Online. Available: <https://www.ncjrs.gov/pdffiles1/nij/242653.pdf>

## ***Washington State***

Though not a legislative initiative, Washington State's Supreme Court ruled that life without parole sentences for people under the age of 21 are unconstitutional in that state.<sup>19</sup>

## **Conclusion**

In conclusion, this bill extends the direction that Connecticut and others states' initiatives have already taken.

This bill is consistent with other states' reforms and with our understanding of adolescent development. The Sentencing Project is pleased to support it.

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<sup>19</sup> Alicia, S. (2018, Oct. 18). Washington Supreme Court Bans Life Without Parole for Youth. <https://www.knkx.org/law/2018-10-18/washington-supreme-court-bans-life-without-parole-for-youth>