

# Juvenile Sentencing Update

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# CT Sentencing Commission Recommendation

## Parole Eligibility Rules Tailored for Juveniles

- **Chance for a hearing:**
  - Juveniles would be eligible for a hearing after serving 60% of sentence, or 12 years, whichever is longer.
  - Those serving more than 50 years would be eligible for a hearing after 30 years.
- **Strict criteria for Parole Board consideration**

# CT Sentencing Commission Recommendation

## **Sentencing Rules Tailored for Juveniles in Adult Court**

- Eliminates mandatory life-without-parole sentences for juveniles
- Requires consideration youth-related factors at sentencing

# History of Bill

- In 2013, passed the House 137-4
  - Lengthened time until parole eligibility; consideration of youth-related factors only in more serious felony cases
- In 2014, passed the House 129-15
  - In Judiciary Committee, enhanced victim notification & waiting time until subsequent parole hearing

# Connecticut in the Northeast

State	Mandatory Transfer to Adult Court for Some Crimes	Mandatory LWOP for Some Crimes	Juvenile Offenders Actually Serving LWOP
Connecticut	X	X	X
Massachusetts	X		
Maine			
New Hampshire		(statute held unconstitutional)	(those serving LWOP will be resentenced)
New York	X	(for terrorism crimes only)	
Rhode Island			X
Vermont			

# U.S. Supreme Court Decisions

- Graham v. Florida (2010)
  - “meaningful opportunity to obtain release”
- Miller v. Alabama (2012)
  - No mandatory life-without-parole sentences for juveniles
  - Youth-related mitigating factors must be considered at sentencing

# State Legislative Action Post-Miller

- Following *Miller*, West Virginia, Hawaii, Wyoming, Delaware, Massachusetts, and Texas have completely eliminated life-without-parole sentences for juveniles
  - A number of states banned the sentence by statute prior to *Miller*
  - Many states do not actually have juveniles serving such sentences

# Examples of State Legislation

## West Virginia (2014)

- Eliminates life-without-parole sentences for juveniles
- Eligibility for parole after no more than **15 years**
- Applies to prisoners currently serving sentences
- Reconsider release every 3years for those serving life (annually for others)
- At sentencing, courts must consider factors including child's age, role in the crime, intellectual capacity, history of trauma, family background and potential for rehabilitation



# Massachusetts

- Supreme Judicial Court decision in 2013
  - parole eligibility after **15 years** for juveniles serving life-without-parole
- Legislation in 2014
  - Applies prospectively
  - Sentence for first degree murder is life with parole eligibility date to be set by court at sentencing
  - Range is parole eligibility after 20 to 30 years depending on certain facts

# Wyoming

- Eliminates life-without-parole sentences for juveniles
- New penalty for first-degree murder is life with parole after **25 years**
- Applies to prisoners currently serving sentences

# Hawaii

- Eliminates life-without-parole sentences for juveniles (going forward)
- New penalty for first-degree murder is life with parole
- Parole eligibility date set by board after initial hearing

# New Sentence Modification Statutes

- California:
  - Juveniles serving life without parole can petition after 15 years to be resentenced to life with parole after 25 years
  - Others serving lengthy sentences automatically eligible for parole now after 15 years
- Delaware:
  - Juveniles serving more than 20 years can petition for resentencing
  - Petition after 30 years in first-degree murder cases; after 20 years for all other cases
- Florida
  - Right for juveniles to petition for resentencing in virtually all types of cases (prospectively)
  - statute provides for review by courts after 15, 20, or 25 years, depending on certain factors

# National movement to eliminate JLWOP

- American Correctional Association
- American Probation and Parole Association
- Boy Scouts of America
- United States Conference of Catholic Bishops
- United Methodist Church (General Board of Church and Society)
- Jesuit Conference
- Unitarian Universalist Association of Congregations
- Evangelical Lutheran Church in American
- American Psychological Association
- National Parent-Teacher Association

# Support for Connecticut's Bill

- Connecticut Catholic Public Affairs Conference
- Connecticut Psychological Association
- Connecticut Business and Industry Association
- Right on Crime
- Sentencing Project
- Jesuits New England Province
- Department of Children and Families
- Office of the Child Advocate
- Connecticut Chapter of the National Association of Social Workers
- National Alliance on Mental Illness in Connecticut
- Connecticut Juvenile Justice Alliance
- Campaign for the Fair Sentencing of Youth

# Litigation Nationwide

- Litigation in states that have not enacted legislation
- Courts striking down mandatory life-without-parole statutes and creating own remedies
- Courts remanding cases for resentencing where judges didn't consider youth-related factors at sentencing
- Litigation in states that enacted narrow bills

# Retroactivity

- Courts agree *Graham* is retroactive
- Split about whether *Miller* is retroactive, with majority of state supreme courts concluding decision is retroactive
  - Finding retroactive: Nebraska, New Hampshire, South Carolina, Texas, Wyoming, Illinois, Iowa, Massachusetts, Mississippi
- U.S. Supreme Court's grant of cert. in *George Toca v. Louisiana*



# Connecticut Litigation

- Approximately 150 cases pending in the courts brought by juvenile offenders serving long sentences
  - lawyers appointed or being appointed
  - Habeas petitions; motion to correct illegal sentences
- Several cases pending in Connecticut Supreme Court