

**SB494\_BAIR\_FAVOR.pdf**

Uploaded by: Bair, Gary

Position: FAV

**Gary E. Bair, Retired Judge**  
**Circuit Court for Montgomery County, Maryland**  
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**POSITION IN FAVOR OF SENATE BILL 494**

I have been involved in juvenile justice issues over the past 45 years as a prosecutor, defense attorney, law school adjunct professor, and most recently, as a trial judge sitting on the Circuit Court for Montgomery County. As such, I have seen these matters from all perspectives. For the reasons stated below, I urge the Committee to issue a favorable report on Senate Bill 494.

Sentences of life without the possibility of parole are particularly harsh when applied to juveniles. Currently, persons can be so sentenced when found guilty of a first degree murder, whether that murder was intentional or committed during the course of a felony, even when the child did not intend to commit a homicide. Thus, a juvenile could be part of a group (which often is the case), whose involvement in a crime is tangential, and yet this child can be sentenced to life imprisonment without parole. Teenagers are driven by peer pressure and group think and often are involved in criminal activity when in a group that they never would have done if alone.

Senate Bill 494 prohibits a court from sentencing a juvenile to life without parole going forward and allows for re-sentencing of those who have served at least 20 years if the person can show rehabilitation and lack of danger to the public. This is in line with national trends, both from the United States Supreme Court and other state court legislatures. The Supreme Court has recognized that juveniles are not “miniature adults” in many ways. The research and science tell us that their brains are not fully developed until age 25 or so and they lack the full appreciation of the consequences of their actions. I have studied this case law in connection with my law school teaching of Advanced Criminal Procedure at American University’s Washington College of Law. Further, as a trial judge, I have attended a number of State and national programs in this regard.

All this bill does is require that a court consider the factors the Supreme Court has deemed relevant to juvenile sentencing. It is not unduly burdensome to require trial judges to do so, given the small number of cases to which this bill would apply. Further, this decision could be done either on the record and then transcribed or as a separate written opinion by the judge.

I have also seen, first-hand, the juveniles who have committed crimes and who have been brought to justice. When their crimes are not so serious, they are treated as juveniles and given second chances to mature. But when they commit serious crimes, current law in Maryland treats them as adults even at age 16 or 17. And if convicted, they face lengthy prison sentences, to be served with older adults. And some are even sentenced to life without the possibility of parole. Such children do not get a chance to mature and redeem themselves. This bill gives them a second chance at life after serving 20 years.

Finally, I must also point out that in my experience as a trial judge, it is tragic that a disproportionate share of these juveniles are Black or Hispanic. Indeed, in Maryland, some 87% of the cases affected by this bill are persons of color. This bill helps address the issue of systemic racial injustice as well.

# **REC Testimony in Support of SB 494.pdf**

Uploaded by: Bickelman, Kirsten

Position: FAV

**Testimony in SUPPORT OF SB 494 – Juvenile Restoration Act**

*Submitted by*

**The Re-Entry Clinic, American University Washington College of Law**

The **Re-Entry Clinic at the American University Washington College of Law** represents child offenders serving life sentences in Maryland prisons. Through its work, the Clinic is acutely familiar with the harsh sentences child offenders face, verging on *de facto* life without parole, and the impact that such sentences have on clients and their families. Thus, the Clinic strongly SUPPORTS passage of SB 494.

“Maryland’s legislature should put an end to the practice of sentencing children to die in prison.”<sup>1</sup> Though the United States Supreme Court has spoken clearly—life without parole for children under eighteen is unconstitutional in the majority of cases because children exhibit “diminished culpability and heightened capacity for change”<sup>2</sup>—Maryland continues to sentence children to spend their natural lives in prison. Unlike twenty-four states and the District of Columbia, Maryland has yet to put the mythical days of the child “superpredator” behind it.<sup>3</sup>

In Maryland, children convicted of first-degree murder face a mandatory sentence of life imprisonment, and the potential of life without the possibility of parole. Even those who receive life sentences *with* the possibility of parole, confront a dire reality—given the operation of Maryland’s parole process, the likelihood of being granted parole, even after decades of incarceration, is slim.

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<sup>1</sup> [Maryland must put an end to juvenile life without parole](https://www.washingtonpost.com/opinions/maryland-must-put-an-end-to-juvenile-life-without-parole/2021/02/05/b813bb08-67da-11eb-886d-5264d4ceb46d_story.html), WASH. POST, (Feb. 5 2021)

[https://www.washingtonpost.com/opinions/maryland-must-put-an-end-to-juvenile-life-without-parole/2021/02/05/b813bb08-67da-11eb-886d-5264d4ceb46d\\_story.html](https://www.washingtonpost.com/opinions/maryland-must-put-an-end-to-juvenile-life-without-parole/2021/02/05/b813bb08-67da-11eb-886d-5264d4ceb46d_story.html).

<sup>2</sup> *Montgomery v. Louisiana*, 136 S. Ct. 718 (2016); *Miller v. Alabama*, 567 U.S. 460 (2012); *Graham v. Florida*, 560 U.S. 48 (2011).

<sup>3</sup> Carol Bogert & Lynell Hancock, [The Media Myth That Demonized a Generation of Black Youth](https://www.themarshallproject.org/2020/11/20/superpredator-the-media-myth-that-demonized-a-generation-of-black-youth), THE MARSHALL PROJECT, <https://www.themarshallproject.org/2020/11/20/superpredator-the-media-myth-that-demonized-a-generation-of-black-youth>.

The Re-Entry Clinic and its clients are all too familiar with this reality. Upon their first meeting of the semester, one such client, “David,”<sup>4</sup> offered advice to the student attorneys who would prepare him for his *fifth* parole hearing: “remember to have patience.” David has been incarcerated for nearly four decades and satisfies many of the criteria needed to receive parole—he has family support, earned a GED and a college degree, and has demonstrated over the years that his remorse is sincere. As David awaits yet another decision on his parole application, he is required to have faith in a system that is unpredictable, opaque, and unjustifiably slow. Despite his record, this system is also disinterested in the fact that he is immune compromised and has contracted the COVID-19 virus.

According to the Campaign for the Fair Sentencing of Youth, there are approximately 400 people in Maryland’s prisons who were sentenced as children who would be immediately eligible for an opportunity to have their sentences reviewed if SB 494 is passed. Shamefully, 87% of them are Black; 114 of them are over 50 years old. Among those in Maryland sentenced to life without parole while they were still children, 82% are Black—the worst racial disparity of its kind in the entire U.S.

Maryland’s harsh treatment of child offenders is out of step with and functionally contrary to what we know about child culpability and what constitutional law has recognized in this regard. The Supreme Court acknowledged the effect of children’s brain development with regard to culpability in the landmark cases of *Roper v. Simmons*,<sup>5</sup> *Graham v. Florida*,<sup>6</sup> and *Miller v. Alabama*.<sup>7</sup> The Court emphasized that because juveniles have diminished culpability and greater prospects for

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<sup>4</sup> A pseudonym has been used to protect the client’s anonymity.

<sup>5</sup> *Roper v. Simmons*, 543 U.S. 551 (2005) (holding that the death penalty cannot be imposed upon juvenile offenders).

<sup>6</sup> *Graham v. Florida*, 560 U.S. 48 (2010) (holding that sentencing a juvenile to life imprisonment without parole for a nonhomicide offense constituted cruel and unusual punishment).

<sup>7</sup> *Miller v. Alabama*, 567 U.S. 460 (2012) (holding that mandatory sentencing schemes requiring life imprisonment without the possibility of parole for juveniles convicted of murder violate the Eighth Amendment).

reform, “they are less deserving of the most severe punishments.”<sup>8</sup> *Roper* and *Graham* established that children are constitutionally different from adults for purposes of sentencing. In *Miller*, the Court explained that “developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds”—for example, in “parts of the brain involved in behavior control.”<sup>9</sup>

Our Eighth Amendment rights protect us from the infliction of cruel and unusual punishment. These rights stem from the “basic ‘precept of justice that punishment for crime should be graduated and proportioned’ to *both the offender and the offense*.”<sup>10</sup> (emphasis added). The concept of proportional justice, as explained by the Court, is not to be viewed through a stagnant, historical prism, rather according to “the evolving standards of decency that mark the progress of a maturing society.”<sup>11</sup>

Maryland must respond to the indisputable data before it. The science not only makes clear that a child’s cognitive abilities are profoundly shaped during the early years of life, but also that, as time progresses, the adolescent brain is highly vulnerable to risky decision making, especially in an aroused emotional state.<sup>12</sup> Experts now consider the adolescent brain period to extend well beyond the years of physical maturing—up to a decade or more after the onset age of puberty, which is twelve years old in the United States.<sup>13</sup>

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<sup>8</sup> *Graham*, 560 U.S. at 49-50 (describing the “limited culpability” of child offenders).

<sup>9</sup> *Miller*, 567 U.S. at 471-72 (highlighting that children possess lessened “moral culpability” and the enhanced prospect that as neurological development occurs, rehabilitation is possible).

<sup>10</sup> *Id.* at 469 (quoting *Weems v. United States*, 217 U.S. 349, 367 (1910)).

<sup>11</sup> *Trop v. Dulles*, 356 U.S. 86, 100-01(1958).

<sup>12</sup> Ronald Dahl, *Adolescent Brain Development: A Period of Vulnerabilities and Opportunities*, ANN. N.Y. ACAD. SCI., 1021 (2004)

<https://nyaspubs.onlinelibrary.wiley.com/doi/10.1196/annals.1308.001>.

<sup>13</sup> *Id.*

Furthermore, the child who experiences trauma is all the more likely to exhibit the risky behaviors and poor decision making that other children exhibit. Recent research indicates that the first five years of life are acutely important for the development of a child’s brain, and even more so, the first three years fundamentally shape a child’s brain construction.<sup>14</sup> When a child experiences trauma early in life, “grave psychosocial, medical, and public policy problem[s]” result.<sup>15</sup> It is predictable then, that up to ninety percent of justice-involved youth report exposure to some type of trauma during childhood.<sup>16</sup>

Justice cannot be served for either victims or offenders when we lock children up and throw away the key. Because child offenders commit crimes before full brain development occurs, their likelihood of rehabilitation is unique, and their chances of recidivism are low. A 2020 study found a recidivism rate of just over one percent among people who were sentenced as juveniles in Philadelphia to life without the possibility of parole and then later released.<sup>17</sup> This one percent recidivism rate reiterates what the science has consistently told us—people age out of criminal behaviors and exacting sentences fail to deter crime.<sup>18</sup>

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<sup>14</sup> *Child Development and Early Learning*, UNICEF <https://www.unicef.org/ffl/03/>.

<sup>15</sup> Michael D. De Bellis & Abigail Zisk, *The Biological Effects of Childhood Trauma*, *Child Adolesc Psychiatr Clin N Am*. 2014 Apr; 23(2): 185–222  
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3968319/>.

<sup>16</sup> Carly B. Dierkhising et al., *Trauma histories among justice-involved youth: findings from the National Child Traumatic Stress Network*, *Eur J Psychotraumatol*. 2013; 4  
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3714673/> (“ . . . justice-involved youth report high rates of trauma exposure and . . . this trauma typically begins early in life, is often in multiple contexts, and persists over time.”).

<sup>17</sup> *New Study Finds 1% Recidivism Rate Among Released Philly Juvenile Lifers*, MONTCLAIR STATE U. <https://www.montclair.edu/newscenter/2020/04/30/new-study-finds-1-recidivism-rate-among-released-philly-juvenile-lifers/>.

<sup>18</sup> *Montgomery v. Louisiana*, 136 S. Ct. 718, 733 (2016) (“The need for incapacitation is lessened, too, because ordinary adolescent development diminishes the likelihood that a juvenile offender ‘forever will be a danger to society.’”) (quoting *Graham*, 560 U.S. at 72); *Miller*, 567

As society matures, so must our laws. It is now widely acknowledged that the myth of the child “superpredator” was rooted in racism and inaccuracy. The state of Maryland must recognize such progress and do better—to both protect the community and ensure allegiance to the basic precepts of justice. We should take what we know about children’s culpability into account when sentencing them, and we need to resentence those child offenders serving sentences well beyond what is just.

For these reasons, we urge you to PASS SB 494.

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U.S. at 472 (finding that the deterrence rationale likewise does not suffice, since “the same characteristics that render juveniles less culpable than adults—their immaturity, recklessness, and impetuosity—make them less likely to consider potential punishment”).



# **JermaineBowden\_Testimony.pdf**

Uploaded by: Bowden, Jermaine

Position: FAV

Submit written Testimony for Juvenile Restoration Act  
(HB 409)  
(SB 444)

February 15, 2021

Mr. Jermaine A. Bowden  
9216 Flagstaff Street  
Landover, Maryland 20785

House sponsor: Delegate Jazz Lewis  
Senate sponsor: Senator Chris West

Committee Name: Judicial Proceeding Committee  
Committee chair: Senator William C. Smith  
Committee Vice-Chair: Senator Jeff Waldstreicher

How are you doing today?

Hi; my name is Mr. Jermaine A. Bowden, and I got incarcerated (look-up) at the age of seventeen (17) years old as a Youth Juvenile and I was sentence to a life sentence, I was in incarcerated for thirty (30) years and the Parole Board gave me Parole.

I am just writing to support the Bill: (SB 444) for Juvenile Youth offender just like me to get and receive an second chance back out on the street in society, because they have change there lives and there thinking.

Sincerely Yours,  
Mr. Jermaine A. Bowden

**HB409\_SB494\_JuvenileRestorationAct\_FACTSHEET.pdf**

Uploaded by: Carpenter, Crystal

Position: FAV

# JUVENILE RESTORATION ACT (HB409/SB494)

House Sponsor: Delegate Jazz Lewis

Senate Sponsor: Senator Chris West

**"Each of us is more than the worst thing we've ever done."**

*Bryan Stevenson, Founder and Executive Director of the Equal Justice Initiative*

## WHY THIS MATTERS

- The U.S. Supreme Court has ruled that life without parole for children under 18 is unconstitutional in the vast majority of cases because of their "diminished culpability and heightened capacity for change."<sup>1</sup>
- Unlike our neighbors in West Virginia, Virginia, New Jersey, and the District of Columbia, Maryland has not yet ended the practice of sentencing children to die in prison.
- Extreme sentences for children **disproportionately** impact children of color. Nationally, Black children are serving life without parole at a per capita rate that is **10 times** that of White children.

## BILL SUMMARY

- HB409/SB494 ends the practice of sentencing children to die in prison
- HB409/SB494 ensures that all children in the state of Maryland have an opportunity to come before a judge for sentencing review after 20 years in prison
- HB409/SB494 will bring Maryland in line with governing U.S. Supreme Court and Maryland jurisprudence
- HB409/SB494 will bring Maryland in line with 24 other states and the District of Columbia that have banned life without parole for children
- HB409/SB494 will require courts to consider the child's family and home environment at the time of the offense, the extent of the child's participation in the crime, the child's potential for rehabilitation and his or her demonstration of maturity and reform while incarcerated, when determining whether to grant release.



When I was 16 years old, I was called a menace to society, and told I should never get out of prison. But I received a second chance and now provide support to formerly incarcerated children all over the country. My life is a testimony that no child is beyond the hope of redemption.

*Eddie Ellis, The Campaign for the Fair Sentencing of Youth*

Prosecutors have a responsibility to seek justice over convictions. This is why my office supports this bill; ultimately to allow prosecutors across the State to put into practice the evidence found in developmental criminology-criminal behavior decreases significantly as people age, and therefore, lengthy and extended incarceration often does not promote community safety.

*Marilyn J. Mosby, State's Attorney for Baltimore City*

Having been involved with juvenile justice over the past 45 years as a prosecutor, defense attorney, and trial judge, I have seen these cases from all angles. Without a doubt, we in Maryland often prosecute and punish children much too harshly in a system designed for adults. The Juvenile Restoration Act will provide appropriate second chances to those children, now that they are mature adults, who have been rehabilitated and are ready for a future outside prison. Now is the time to finally recognize that a child who commits a serious crime at age 16 is not the same person 20 years later.

*Judge Gary E. Bair (Ret.)*



<sup>1</sup> *Graham v. Florida*, 560 U.S. 48 (2011); *Miller v. Alabama*, 567 U.S. 460 (2012); *Montgomery v. Louisiana*, 136 S. Ct. 718 (2016).



The **CAMPAIGN** for the  
**FAIR SENTENCING**  
of **YOUTH**

## FACTS & FIGURES<sup>1</sup>

# 400

Over 400 people who are serving life or life equivalent sentences for crimes they committed as children have already served in excess of 20 years and would be immediately eligible for review under HB409/SB494

# 114

114 of those serving life or life equivalent sentences for crimes committed as youth are 50 years of age or older

# 87%

Eight-seven percent of people who will be immediately eligible under HB409/SB494, for crimes they committed as children, are Black

# 1

At eighty-two percent, Maryland ranks first in the nation with the highest proportion of Black youth sentenced to life without parole

“I saw those boys in court. When I saw them, I thought I was going to see men. They were babies, and I knew I had to look deeper, so I did, and that’s why I’m here [supporting legislative reform ensuring that no child is sentenced to die in prison].”

*Rukiye Abdul-Mutakallim, speaking in support of the youth who killed her son*

## THINGS YOU SHOULD KNOW

**Judicial review ≠ automatic release from prison**

- The bill provides a judicial review opportunity for those that have served at least 20 years in prison; it does not guarantee release.

**The bill will not make Maryland less safe**

- Research shows that incarcerating youths for longer than 15 to 20 years has diminished returns for public safety.<sup>2</sup>
- A study of individuals sentenced to life without parole as children in Pennsylvania who were released in the last five years found a recidivism rate of approximately 1 percent.<sup>3</sup>

**The bill will not make Maryland an outlier**

- Twenty-four states and the District of Columbia ban life without parole for children—including states as diverse as Texas, Arkansas, California, Ohio, and Connecticut.
- Our neighbors in Virginia, West Virginia, and the District of Columbia provide review to all youth after 15-20 years.

**The bill does not put an additional burden on victims**

- The judicial process in the bill is the exact same process as current law that allows victims to participate.
- The U.S. Supreme Court held that kids must have a “meaningful opportunity to obtain release”<sup>5</sup> which judicial review will accomplish.

<sup>1</sup> Data on file at CFSY; MPIA request from Delegate Jazz Lewis.

<sup>2</sup> *Graham v. Florida*, 560 U.S. 48 (2011); *Miller v. Alabama*, 567 U.S. 460 (2012); *Montgomery v. Louisiana*, 136 S. Ct. 718 (2016).

<sup>3</sup> *Still Life America's Increasing Use of Life and Long-Term Sentences*, The Sentencing Project Research and Advocacy for Reform, 2017, [www.sentencingproject.org/wp-content/uploads/2017/05/Still-Life.pdf](http://www.sentencingproject.org/wp-content/uploads/2017/05/Still-Life.pdf)

<sup>4</sup> Tarika Daftary-Kapur and Tina M. Zottoli, *Resentencing of Juvenile Lifers: The Philadelphia Experience*, Montclair State University, [www.msudecisionmakinglab.com/philadelphia-juvenile-lifers](http://www.msudecisionmakinglab.com/philadelphia-juvenile-lifers)

<sup>5</sup> *Miller v. Alabama*, 567 U.S. 460,479 (2012).

**testimony.SB494.pdf**

Uploaded by: Chaudry, Zainab

Position: FAV



February 17, 2021

Honorable Senator William C. Smith, Jr.  
Chair, Senate Judicial Proceedings Committee  
Miller Senate Office Building, 2 East  
Annapolis, MD 21401

**Re: Testimony in SUPPORT of SB494 – Juveniles Convicted as Adults - Sentencing - Limitations and Reduction (Juvenile Restoration Act)**

Dear Chair William C. Smith, Jr. and Senate Judicial Proceedings Committee Members:

On behalf of the Council on American-Islamic Relations, I thank you for this opportunity to testify in strong support of Senate Bill 494 entitled Juveniles Convicted as Adults - Sentencing - Limitations and Reduction (Juvenile Restoration Act). CAIR is America's largest Muslim civil rights and advocacy organization.

According to the Campaign for Fair Sentencing of Youth, the United States is the only country that sentences children to die in prison by imposing life-without-parole sentences on individuals under the age of 18.<sup>1</sup> An estimated 250,000 minors are tried, sentenced and incarcerated in adult prisons annually in America - predisposing them to greater risk of suicide, and sexual and physical assault.

According to Human Rights for Kids' report published in 2020, Maryland is tied with five other states for being our country's worst offenders of juvenile justice.<sup>2</sup> This rating is a direct consequence of state lawmakers' failure to update antiquated laws and not impose sentences of life without parole on juvenile offenders.

It is past time to change that, and to enact legislation in the Maryland General Assembly that creates fair, age-appropriate sentencing for children. Children deserve second chances. They deserve a fair chance at redemption, and need to be provided a meaningful opportunity to demonstrate rehabilitation.

The United States Supreme Court's ruling on multiple cases supports this measure. According to the Sentencing Project, its 2012 ruling in *Miller v. Alabama*, its now mandatory for states and the federal government to consider the unique circumstances of juvenile defendants in determining individualized sentences.<sup>3</sup> In its 2016 decision in *Montgomery v. Louisiana*, the Supreme Court ensured that the decision would apply retroactively. A mandatory life sentence for juveniles without the possibility of parole isn't simply unethical; it is also unconstitutional.

At least 24 states and the District of Columbia have banned such a measure; in some other states, judges are not serving the sentence. It's time for Maryland to be added to that list. My

organization strongly and respectfully urges a favorable vote on SB494. Thank you for your consideration.

Sincerely,

Zainab Chaudry, Pharm.D.  
Director, CAIR Office in Maryland  
Council on American-Islamic Relations  
Email: [zchaudry@cair.com](mailto:zchaudry@cair.com)

References:

1. Barry, Margaret. "Opinion: No Place for Redemption in Maryland's Criminal System." **Maryland Matters**. <https://www.marylandmatters.org/2020/12/30/opinion-no-place-for-redemption-in-marylands-criminal-system/> Accessed February 12, 2021.
2. Human Rights for Kids 2020 <https://humanrightsforkids.org/publication/2020-national-state-ratings-report/>. Accessed February 12, 2021.
3. Rovner, Josh. *Juvenile Life Without Parole: An Overview*. **The Sentencing Project**. <https://www.sentencingproject.org/publications/juvenile-life-without-parole/>. Accessed February 14, 2021.



# **MD SB 494 written testimony.pdf**

Uploaded by: Daftary-Kapur, Tarika

Position: FAV

# Testimony in support of Senate Bill 494

Submitted on February 15, 2021 by:

**Tarika Daftary-Kapur, Ph.D.**

**Tina M. Zottoli, Ph.D.**

## I. Scope

This testimony is offered in support of MD SB 494 (“The Juvenile Restoration Act”), which abolishes sentences of life without the possibility of parole for individuals who were under the age of 18 at the time their crimes were committed. Our testimony is premised on current science regarding adolescent development and trajectories of juvenile offending and desistance, and on data from our recent work showing negligible risk of re-offense for juvenile-lifers who were released following the *Montgomery v. Louisiana* (2016), decision of the Supreme Court of the United States (SCOTUS).

## II. Professional Qualifications

**Dr. Tarika Daftary-Kapur** is an Associate Professor of Justice Studies at Montclair State University. In her capacity as a professor she teaches several classes in Criminal Justice and Law, including Juvenile Justice and Delinquency, conducts scholarly research at the intersection of Psychology, Criminal Justice, and Law, mentors doctoral students, and directs the Criminal Justice minor program. Prior to coming to Montclair State University, Dr. Daftary-Kapur worked on juvenile justice reform issues at the Vera Institute of Justice. She is a member of the National Science Foundation grants review panel, and a member of the American Psychological Association’s Committee on Legal Issues, where, among other obligations, she advises on APA’s decisions to submit amici curiae briefs and on the content of such briefs.

Dr. Daftary-Kapur holds a Master’s degree in Psychology from the University of Dayton, and a Ph.D. in Psychology from the City University of New York, Graduate Center/John Jay College of Criminal Justice (with Psychology and Law concentration). Her current research program is primarily focused on decision making in legal contexts, including prosecutorial decision making related to plea offers and other outcomes. She is author/co-author on 17 peer-reviewed publications, 6 book chapters, and over 50 conference presentations. Along with Dr. Zottoli, Dr. Daftary-Kapur is the principal investigator on a grant examining the re-entry experiences of juvenile lifers in Pennsylvania.

**Dr. Tina Zottoli** is an Assistant Professor of Psychology at Montclair State University and a licensed clinical psychologist in the state of New York. In her capacity as a professor she teaches several Psychology and Law related courses at the undergraduate and graduate levels, sits on the doctoral faculty of the Ph.D. program in Clinical Psychology, conducts scholarly research in the fields of Psychology and Law, mentors doctoral students in the Forensic emphasis of the Ph.D. program and directs the Masters training programs in Clinical Psychology. In her private practice, she provides psychological expertise across a host of criminal (e.g., risk assessment; mitigation) and civil (e.g., deportation/removal cancellation) contexts, and provides expertise on factors that may compromise decision-making (e.g., false admissions). She is also a member of the American Psychological Association’s Committee on Legal Issues, where among other obligations she advises on APA’s decisions to submit amici curiae briefs and on the content of such briefs.

Dr. Zottoli holds a Master's degree in Forensic Psychology from John Jay College of Criminal Justice and a Ph.D. in Psychology from the City University of New York, Graduate Center/John Jay College of Criminal Justice (with Forensic Psychology specialization). Her scholarly work focuses primarily on decision-making in legal contexts and she is an expert on adolescent development and legal competencies and on the psychology of guilty plea decision-making. She is author/co-author on 16 peer-reviewed publications, 12 other scholarly works (e.g., book chapters; editorials), and over 50 conference presentations. She is the recipient of 12 research grants and is currently a co-investigator, with Dr. Daftary-Kapur, on a grant examining the re-entry experiences of juvenile lifers who were released in Pennsylvania.

### **III. Background**

In a series of cases between 2005 and 2012, SCOTUS held that the most serious of criminal sanctions, first the death penalty (*Roper v. Simmons*, 2004) and then mandatory sentences of life-without-the-possibility-of-parole (LWOP; *Graham v. Florida*, 2010; *Miller v. Alabama*, 2012) are unconstitutional for individuals who were under the age of 18 at the time of their offenses (hereafter, juveniles). The *Miller* Court emphasized that adolescence is marked by “transient rashness, proclivity for risk, and inability to assess consequences,<sup>1</sup>” and required courts to consider developmental factors when sentencing juvenile defendants. In *Montgomery v. Louisiana* (2016), the Court held that *Miller* had established a new substantive rule prohibiting the imposition of LWOP for most juvenile offenders, thereby retroactively invalidating all juvenile LWOP sentences that had been mandated by statute.

To date, 24 states, and the District of Columbia have eliminated LWOP sentences for juveniles. In keeping with these trends, SB 494 recognizes adolescence as a formative developmental stage, marked by considerable biological and psychosocial change, and acknowledges that successful rehabilitation and societal re-integration is possible for the vast majority of youth who commit crimes. In the following sections we summarize the scholarly research on adolescent development and pathways to criminal behavior and desistance and present data on the outcomes for individuals sentenced to LWOP as juveniles (“juvenile lifers”) and subsequently released in Philadelphia, PA. These research data form the empirical foundation for our testimony in support of SB 494.

### **IV. Adolescent Development and Pathways to Criminal Offending and Desistance**

#### **Adolescent Decision-Making**

Adolescence is a transitional stage of human development involving considerable physical, hormonal, and behavioral change. Despite the development of relatively mature analytic reasoning by mid-adolescence (Fischhoff, 1992), the judgments and decisions of adolescents often reflect a failure to consider future consequences (Steinberg & Cauffman, 1996; Steinberg, 2009). Among the numerous physical, social and cognitive changes that occur during this period, most adolescents will show a marked increase in novelty seeking and risk-taking, and may exhibit mild-to-moderate rebellion against societal/cultural norms; sensitivity to peer influence is also at a peak during this period of development (Steinberg & Morris, 2001).

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<sup>1</sup> *Miller v. Alabama* 132 S. Ct. 2455 (2012), at 2465.

Adolescents are particularly vulnerable to poor decision making, including engaging in risky behavior, when in situations are emotionally laden or time pressured (see Crone, 2009 for a review) or when they are in the presence of peers (e.g., Gardner & Steinberg, 2005).

Normative developmental changes in decision making are multi-determined, resulting from the complex interplay of experience, bio-and neurobiological reorganization/maturation and changes in social contexts<sup>2</sup>. At a neurobiological level, the vulnerability of adolescents to risky and impulsive decision-making can be explained, in part, by the protracted development of cortical systems, which contribute to the regulation of emotion in decision-making, relative to the earlier maturation of the limbic system, which mediates approach and avoidance behavior (Galvan et al., 2006). Specifically, the limbic system matures by late childhood and can be *hyper-reactive* in adolescence; in contrast, regions of the pre-frontal and anterior cingulate cortices do not reach adult maturity until age 23 or 24 (Blakemore, 2012; Giedd, 2004). As a result, adolescents are, on average, less capable than adults in exerting cognitive control over their behaviors when they are in the presence of dysregulating influences (e.g., Luna & al., 2004; Van Duijvenvoorde, Jansen, Visser, & Huizenga, 2010).

Across the decade of adolescence, there is a gradual “catching up” between limbic and cortical systems and a gradual strengthening of the connectivity between them, facilitating the ability to regulate the influence of emotion on behavior (Spear, 2007). In essence, risky behavior ebbs as humans enter adulthood because we become more resistant to emotional dysregulation with age.

Thus, changes in risk-taking and novelty-seeking behaviors across adolescence are normative and biologically explained; the behaviors typically reach their apex by middle adolescence and remit for most individuals by the early twenties. This transitional period of increased risk-taking is developmentally necessary because it allows adolescents to attain greater independence as they approach adulthood (Kelly, Schochet, & Landry, 2004). However, a consequence of these normative changes is an increased vulnerability for engaging in criminal behavior (e.g., Farrington, 1986; Moffitt & Harrington, 1996). Empirical evidence for a normative increase in adolescent offending (followed by a decline in early adulthood) is robust. Age-crime curves showing peak offending rates between the ages of 15 and 25 with steep declines in incidence of offending thereafter are remarkably consistent across both historical-era and cultures/nations (Farrington, 1986; Tremblay & Nagin, 2005).

### **Trajectories of juvenile offending**

Of course, while most adolescents exhibit elevations in novelty-seeking and risk-taking, the vast majority will not engage in antisocial (i.e., criminal, norms-violating) behavior<sup>3</sup>. As with all human behavior, the emergence and remission of antisocial behavior is multi-determined. The likelihood that an adolescent will engage in a criminal act is exacerbated for youth who live in criminogenic environments (e.g., living in high crime areas; few pro-social community supports; low adult supervision; access to illegal substances), who are disengaged from school (e.g., frequent truancy; expulsions/suspensions<sup>4</sup>) and who have developmental and/or cognitive deficits, although antisocial behavior occurs among youth across the full range of environmental settings and demographic backgrounds (Tremblay & Nagin, 2005).

Normatively speaking, there are two primary developmental trajectories for anti-social behavior: one that is primarily limited to the period of adolescence and one that persists across the life-span<sup>5</sup>. The vast

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<sup>2</sup> For comprehensive reviews, see Casey, 2015; Ernst, Romeo & Anderson, 2009; Steinberg, 2007; Steinberg & Morris, 2001)

<sup>3</sup> In 2018, approx. 2% of juveniles under the age of 18 were arrested for any offense (Puzzanchere, 2020)

<sup>4</sup> For instance, zero-tolerance policies have are criticized for contributing to the School-to-Prison pipeline (e.g., Heitzeg, 2009).

<sup>5</sup> This dichotomization should not be assumed to capture the full range of trajectories of youth who offend. For example, the Pathways to Desistance project, which followed 1,300 serious juvenile offenders for seven years, described five separate trajectories (Steinberg et al., 2015); nonetheless, even in this sample of serious offenders, only about 8% of their sample exhibited a pattern of serious and persistent offending beyond their early twenties.

majority (more than 90%) of juveniles who commit crimes (even some who commit very serious crimes) will desist in their criminal behaviors as they enter adulthood. Although there are exceptions, these juveniles typically exhibit normative early adjustment but may be higher than average on personality traits associated with risk-taking, which are then exacerbated by the biological and social changes of adolescence. These youth also tend to exhibit a slower, or delayed, psycho-social maturation (i.e., responsibility; future orientation; temperance; Steinberg, Cauffman, & Monahan, 2015). Whether or not youth with such developmental characteristics will engage in serious criminal acts depends on a number of factors, including the extent to which their peers are engaging in antisocial behavior, the extent to which they are engaged in school and other institutions wherein they have pro-social adult influences and the extent to which they have an active parent/guardian who monitors their behavior. Although these youth can be expected to age-out of criminal behavior, they are at increased risk for a number of problems that may have life-altering consequences (e.g., substance abuse/addiction; injury/death of self or other). Developmentally appropriate legal sanctions and/or provision of empirically supported interventions are indicated for many of these youth.

While a minority of youthful offenders will persist in serious criminal activity across their lifespan—especially if they do not receive intervention—it is not possible to predict with any certainty which youthful offenders will continue on such a path. For instance, while risk factors for persistent offending include early adjustment problems (e.g., difficult childhood temperaments), unaddressed academic difficulties and serious familial disruption, the vast majority of individuals with such histories will *not* engage in criminal behavior, and among those who do, most will not persist into adulthood. As such, the weight of the scientific evidence supports *waiting* to make decisions about the potential for successful reintegration until such time that a youthful offender has matured and has been provided an opportunity to demonstrate successful (or, unsuccessful) rehabilitation; that is, the weight of the science supports parole eligibility for youthful offenders.

Evidence in support of the rehabilitative potential of juveniles who commit serious crimes is clear from our recent research on released juvenile lifers in Philadelphia, to which we turn next.

#### **IV. Recidivism and Cost Savings outcomes for juvenile lifers released in Philadelphia, PA**

Prior to *Montgomery v. Louisiana*, 2016, Pennsylvania had the most juveniles serving LWOP in the country (approximately 532), with the vast majority in Philadelphia county (approximately 325). As of September 2020, 460 juvenile lifers (88%) had been resentenced in Pennsylvania across all counties<sup>6</sup>, and 245 had been released.

In April 2020, we released a report that examining the re-sentencing process in Philadelphia. Our full report, *Resentencing of Juvenile Lifers: The Philadelphia Experience*, is submitted with this testimony. Here we highlight findings most relevant to the conversation about SB 494. We also report preliminary data from our current research on the re-entry experiences of released juvenile lifers.

1. Released juvenile lifers pose negligible risk to public safety. At the time of our report (April, 2020), 174 juvenile-lifers had been released. Six (3.5%) were re-arrested. Four cases were dismissed; two cases resulted in convictions, one for Contempt for Violation of an Order of Agreement and one for Robbery, yielding a reconviction rate of 1.1%. The remaining 168 individuals (96.5%) have been living in the community since release without any known law enforcement contacts.

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<sup>6</sup> The remaining 12% are in various stages of the resentencing process or have opted to delay resentencing as they pursue other legal actions (e.g., innocence claims).

2. The estimated cost savings to Philadelphia, based on the first decade of release for the 174 juvenile lifers who had been released at the time of our report was \$9.9M.
3. The life circumstances of the juvenile lifers in Philadelphia is similar to that of young offender populations nationwide (Thompson & Morris, 2016). The majority (80%) of the juvenile lifers in our analysis had been exposed to one or more developmental and psycho-social risk-factors for criminal behavior (e.g., family instability, exposure to drugs/alcohol, parent/sibling criminality, exposure to violence), with 42% exposed to three or more.<sup>7</sup> The cumulative risk model (Doan, Fuller-Rowell & Evans, 2012) posits that an accumulation of risk factors (as opposed to any one individual factor, no matter how severe), increases the risk for negative behavioral, cognitive and psychological outcomes in adolescents, including juvenile offending
4. Consistent with the rehabilitative potential of juveniles convicted of serious crimes, the juvenile lifers in our study were:
  - a. Highly engaged in prison programming despite limitations in offerings available to inmates serving life sentences. During their incarceration, the majority of the juvenile lifers (approx. 90%) participated in some form of rehabilitative programming. These programs included violence prevention, self-help (e.g. coping skills), drug and alcohol education, vocational training, and anger management. Additionally, 65% (n=137) completed their GEDs.
  - b. Among the most well-adjusted groups in the prison population. The modal number of misconducts reported was 7 and, on average, the last incident reported was approximately 8 years prior to resentencing. Misconducts were mostly minor, with the most common being possession of contraband and refusing to obey an order.

We are continuing to study released juvenile lifers in Pennsylvania, focusing on factors that have been associated with successful reintegration, such as housing stability, employment and social support (Glaze & Palla, 2004; Travis & Lawrence, 2002). Since September 2020, 113 released juvenile lifers completed surveys on their re-entry experiences. Here we highlight some preliminary findings:

1. Sixty-five percent of respondents (n=74) were employed at the time of the survey. Of the 35% (n=39) who were unemployed at the time of the survey, all but five were actively seeking employment.
2. All respondents were domiciled and the majority (62%; n=70) were either living in the same housing since release (29%; n=33) or had moved only one time (33%; n=37).
3. Seventy-seven percent (n=87) of the respondents said that they had formed a close relationship with at least one family member (parent, aunt/uncle, sibling, spouse).

In sum, and consistent with the best developmental science, the Philadelphia data suggest that the vast majority of individuals who commit serious crimes as juveniles can be successfully rehabilitated and released into the community safely. The opportunity for parole by no means guarantees release, but allows for a release decision to be made at a point in the future, at which point the individual has had the benefit of developmental maturation and an opportunity to take advantage of rehabilitative services and to demonstrate whether or not he or she is capable of safely re-entering society and making a meaningful contribution.

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<sup>7</sup> These estimates are conservative; developmental history data were missing for approximately 20% of the sample, and was generally incompletely reported.

## VI. Opinion in Favor of Senate Bill 494

Senate Bill 494 is precisely the kind of legislation that should follow from the current state of the science on adolescent development and pathways to criminal behavior and desistance.

- The vast majority of juvenile crime stems from transient characteristics of youth (e.g., impulsivity; risk-taking; emotional dysregulation), which may be exacerbated by criminogenic social and environmental factors.
- The vast majority of juveniles who commit crimes (even serious crimes) will age-out of criminal behavior, either on their own or through developmentally appropriate intervention.
- Juvenile-lifers who have been released in the state of Pennsylvania are reintegrating successfully into society and only a very small number have had any justice system contact since release.
- Cost savings associated with eliminating LWOP sentences for juveniles are substantial.
- Twenty-four states, and the District of Columbia have already eliminated LWOP for juveniles.

Considering these facts, the societal, economic, and public safety benefits of life-time incarceration for juveniles are called into question. **It is our professional opinion that SB 494 should be passed.**

Respectfully submitted,



Tarika Daftary-Kapur, Ph.D.



Tina M. Zottoli, Ph.D.

Attachment: Works Cited

### Attachment: Works Cited

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# **SUPPORT\_SB494\_DenneyHouse.pdf**

Uploaded by: Denney, Khalilah

Position: FAV

To: Committee Chair, Judicial Proceedings Committee

From: The Denney House Inc.

Re: SB494 Juveniles Convicted as Adults - Sentencing - Limitations and Reduction (Juvenile Restoration Act)

Date: February 17, 2021

Position: Support

The Denney House Inc. was founded to empower youth and their families in the state of Maryland to discover their unique purpose of life and equip them with the tools to unlock their full potential. We wholeheartedly believe in redemption and that no child should be sentenced to die in prison. As such, we provide this brief testimony, simply as a way to state our support on House Bill 409, the Juvenile Restoration Act.

In the 1990s, youth at the ages of 16, 17, and 18 were given a larger wave of tough-on-crime legislation. The sentencing restricted them to ever see the streets again until they were much older. But since then, advocates have turned the tide by championing research suggesting that juvenile offenders can be rehabilitated.

We do believe that children and adults should be held accountable for their actions, particularly criminal actions that harm others. However, the punishment of children should consider the biological and developmental limitations that differ children from adults. Children's punishment should acknowledge possibility for maturity, growth and remediation. Sentencing a child to die in prison, ignores the science of adolescent development. The Juvenile Restoration Act will bring Maryland in line with other states like Virginia, West Virginia, Arkansas, Nevada, and North Dakota by abolishing life without the possibility of parole for juveniles and providing for judicial review after 20 years to everyone who committed a crime as a child in Maryland.

We ask that you make SB494 a priority, voting it favorably and send the clear message that no child should die in prison.

Thank you,

Khalilah Denney  
Founder & Executive Director

# **HRFK Testimony - SB 494 - Maryland Senate Judicial**

Uploaded by: Dold, James

Position: FAV



**TESTIMONY IN SUPPORT OF SB 494 BEFORE  
THE MARYLAND SENATE JUDICIAL PROCEEDINGS  
COMMITTEE**

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*February 17, 2021*

Dear Chairman Smith and Members of the Maryland Senate Judicial Proceedings Committee:

Human Rights for Kids respectfully submits this testimony for the official record to express our support for SB 494. We are grateful to Senator West for his leadership in introducing this bill and appreciate the Maryland Legislature's willingness to address this important human rights issue concerning the extreme sentencing of Maryland's children.

Over the years too little attention has been paid to the most vulnerable casualties of mass incarceration in America — children. From the point of entry and arrest to sentencing and incarceration our treatment of children in the justice system is long overdue for re-examination and reform.

Human Rights for Kids is a Washington, D.C.-based non-profit organization dedicated to the promotion and protection of the human rights of children. We work to inform the way the nation understands Adverse Childhood Experiences (ACEs) from a human rights perspective, to better educate the public and policymaker's understanding of the relationship between early childhood trauma and negative life outcomes. We use an integrated, multi-faceted approach which consists of research & public education, coalition building & grassroots mobilization, and policy advocacy & strategic litigation to advance critical human rights on behalf of children in the United States.

Human Rights for Kids supports SB 494 because, if it is signed into law, it will end the application of mandatory minimum sentences for children sentenced as adults and grant sentencing review after 20 years to individuals who are serving life and de facto life without parole sentences in Maryland. The continuing practice of having individuals in Maryland serve these extreme sentences for crimes they committed as children is both a human rights abuse and a violation of the constitutional prohibition on cruel and unusual punishment.

**Children Sentenced as Adults**

In the late 1980's and early 1990's states began passing laws to make it easier to transfer children into the adult criminal justice system which exposed them to harsh sentences, including the death



## The U.S. Supreme Court & Other Jurisprudence

Starting in 2005, the U.S. Supreme Court began considering the emerging juvenile brain and behavioral development science when it ruled in *Roper v. Simmons* that the Eighth Amendment forbids the imposition of the death penalty on children.<sup>1</sup> Five years later, the Court in *Graham v. Florida* struck down life without parole sentences for children convicted of non-homicide offenses, holding that the state “must impose a sentence that provides some meaningful opportunity for release based on demonstrated maturity and rehabilitation.”

Just a few years later in 2012, the Court addressed the issue of extreme sentences again in *Miller v. Alabama* where it struck down life without parole sentences for nearly-all children convicted of homicide offenses.<sup>2</sup> Sentencing courts must now consider “how children are different, and how those differences counsel against irrevocably sentencing them to a life in prison.”<sup>3</sup> In 2016, the Court decided *Montgomery v. Louisiana* which further expanded its decision in *Miller*, and held that the decision was meant to be applied retroactively under the standard set forth in *Teague v. Lane*.<sup>4</sup> The Court went on to state that life without the possibility of parole for a child violates the Eighth Amendment where the crime reflects unfortunate yet transient immaturity.<sup>5</sup> The *Montgomery* Court concluded that *Miller* barred life without parole for all but the “rarest of juvenile offenders, those whose crimes reflect permanent incorrigibility.”<sup>6</sup>

This means that even the use of “discretionary life without parole” which is what has been used in Maryland, is constitutionally suspect under the *Montgomery* framework.

But even before *Montgomery* came down jurists in other states interpreted *Miller* as applying to “discretionary” sentencing schemes. The South Carolina Supreme Court in 2014, for example, noted in *Aiken v. Byars*, that while *Miller* applied to mandatory sentences and did not expressly extend its ruling to states “whose sentencing scheme *permits* a life without parole sentence to be imposed” on a child, it was clear that “it is the failure of a sentencing court not to consider the hallmark features of youth prior to sentencing that offends the Constitution.”<sup>7</sup> The South Carolina Supreme Court held that *Miller* does more than ban mandatory life sentencing schemes for children, it also “establishes an affirmative requirement that courts fully explore the impact of the defendant's juvenility on the sentence rendered.”<sup>8</sup> Whether the sentence is mandatory or permissible, “*any* juvenile offender who receives a sentence of life without the possibility of parole *is entitled to the same constitutional protections* afforded by the Eighth Amendment's guarantee against cruel and unusual punishment.”<sup>9</sup>

After the Court ruled in *Montgomery*, more courts in states with discretionary life without parole began interpreting how the Court's decisions applied to them. In *Veal v. State*, the Georgia Supreme Court recognized that if the case had been appealed prior to *Montgomery*, they might have upheld the trial court's sentence of life without parole because *Miller* did not “purport to prohibit” life without parole sentences “for juvenile murderers, so long as sentencing courts properly exercise discretion in

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<sup>1</sup> *Roper v. Simmons*, 543 U.S. 551 (2005).

<sup>2</sup> *Miller*, 567 U.S. at 480.

<sup>3</sup> *Id.*

<sup>4</sup> *Montgomery*, 136 S. Ct. at 734.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Aiken v. Byars*, 410 S.C. 534, 576-77 (2014).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* (emphasis added)

imposing such sentences.”<sup>10</sup> However, they recognized that the “explication of *Miller* by the majority in *Montgomery*” demonstrated that their previous understanding “was wrong both as to the issue of procedural default and as to which juvenile murderers a court actually has discretion to sentence to serve life without parole.”<sup>11</sup> The Georgia Supreme Court overruled their prior holdings and held that a life without parole sentence imposed on any juvenile “who is not properly determined to be in the very small class of juveniles for whom such a sentence may be deemed constitutionally proportionate” is not only “erroneous but contrary to law and, as a result, void.”<sup>12</sup>

Similarly, in 2016, the Oklahoma Court of Criminal Appeals held that there is “no genuine question that the rule in *Miller* as broadened in *Montgomery* rendered a life without parole sentence constitutionally impermissible” regardless of the sentencer's discretion to impose a lesser term.<sup>13</sup> Unless the sentencer is fully aware of the constitutional “line between children whose crimes reflect transient immaturity and those rare children whose crimes reflect irreparable corruption” a life without parole sentence for a child is unconstitutional.<sup>14</sup> Like Maryland, Oklahoma also had used discretionary life without parole sentences on children convicted of homicide.

Recently, some state courts have found that any sentence of life without parole for a child is cruel and unusual punishment under the Eighth Amendment. In 2016, the Iowa Supreme Court categorically banned the imposition of life without parole sentences for juveniles.<sup>15</sup> The following year, the Washington Supreme Court extended the *Miller* protections to include juveniles sentenced for multiple homicides or to de facto life sentences,<sup>16</sup> before ruling that life without parole sentences for children violate the state’s prohibition on cruel and unusual punishment.

In the past year, Virginia and Ohio became the latest states to ban the inhumane sentence of life and de facto life without parole by allowing children convicted of serious crimes to have their sentences reviewed.

Today, only 5 states out of 50, including MARYLAND, have failed to meaningfully implement the Court’s decisions in *Miller* and *Montgomery*. FORTY-FIVE other states in the Union, have either passed legislation, begun re-sentencing children sentenced to life without parole, or have no children serving such sentences. Maryland is a shameful national outlier on this issue.

### **Human Rights Violations**

Because of the way children are treated in the criminal justice system, we designated Maryland one of the “Worst Human Rights Offenders” in the nation in our 2020 National State Ratings Report. Maryland was penalized 3 points in our assessment for not having laws in place that (1) allow judges to deviate from mandatory minimum sentences for children, (2) allow people sentenced as children to lengthy prison terms to have their sentences reviewed, and (3) prohibit the use of life without parole sentences for children.

For context, neighboring Virginia received credit for all 3 of these categories and West Virginia received credit for 2 of them. The states with the highest cumulative score in our assessment included

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<sup>10</sup> *Veal v. State*, 298 Ga. 691, 700 (2016).

<sup>11</sup> *Id.* at 700-01.

<sup>12</sup> *Id.* at 701 quoting *Montgomery* at 731.

<sup>13</sup> *Luna v. State*, 387 P.3d 956, 961 (Okla. Crim. App. 2016).

<sup>14</sup> *Id.*

<sup>15</sup> *State v. Sweet*, 879 N.W.2d 811, 839 (Iowa 2016).

<sup>16</sup> *State v. Ramos*, 187 Wash. 2d 420, 438-39(2017).

California, North Dakota, and Arkansas which have all banned life and de facto life sentences for children, respectively.

We would ask this Committee and the General Assembly to treat children in Maryland's justice system at least as well as children are treated in conservative-leaning states like West Virginia, Virginia, North Dakota and Arkansas.

In the appendix after this testimony, you will find a copy of our National State Ratings Map which shows how Maryland stacks up compared to other states.

### **Redemption for Maryland**

Nelson Mandela once said, "*There is no keener revelation of a society's soul than the way in which it treats its children.*" What does it say about our soul then if we allow children to be sentenced to lengthy mandatory minimums without regard for their child status or worse yet, to die in prison without hope of a second chance?

Children can and do commit serious crimes. While they must be held responsible, our response must not be focused on retribution. Instead, it must be measured and assure age-appropriate accountability that focuses on the unique capacity of children to grow, change and be rehabilitated. Maryland's current policies have firmly established the state as one of the worst human rights abusers in the nation when it comes to children in the justice system. But with the passage of SB 494, Maryland can find redemption by joining the rest of the nation in recognizing that kids are different and should be treated differently.

For these reasons, we strongly urge this committee to vote favorably upon SB 494 and end the human rights abuse and constitutional violation of sentencing children the same way adults are sentenced. Thank you for your consideration.



James. L. Dold  
CEO & Founder  
Human Rights for Kids



**(SB494) Eddie Ellis written testimony\_02.11.2021.p**

Uploaded by: Ellis, Eddie

Position: FAV

Committee Name: Judicial Proceedings Committee

Committee Chair: Senator William C. Smith

Committee Vice-Chair: Senator Jeff Waldstreicher

Hearing Date: February 17st 2021

WRITTEN Testimony for Juvenile Restoration Act (SB494)

**Position: Support**

From: Eddie B. Ellis Jr.

P.O Box 452

Olney, MD 20830

eellis@cfsy.org

My name is Eddie Ellis and I am resident of Montgomery County MD and I work for the Campaign for the Fair Sentencing of Youth. At the Campaign for the Fair Sentencing of Youth, we lead and support campaigns to ban life without parole and other extreme sentences for children. In partnership with those directly impacted by these policies, we build coalitions, educate key decision makers and influencers through the media and in-person meetings, negotiate with key stakeholders, and advance reforms that ensure youth receive second chances.

I joined the CFSY team as the Incarcerated Children's Advocacy Network (ICAN) Coordinator in early 2018. In this role, I work with over 140 ICAN members nationwide (former lifer sentenced children/others children sentenced to harsh senescence's) across the country, connecting them to each other and with local resources.

I also work with other directly impacted communities, including the family members of juvenile lifers, Survivor of violence etc. I am a native Washingtonian, was arrested and charged with murder at the age of 16 – I was later found guilty of manslaughter and sentenced to 22 years in prison. I served 15 years and finished the rest of his time on parole. I came home in 2006 and since that time I have worked on a variety of issues, including reentry, solitary confinement, and on behalf of people with disabilities who are in the system and coming home. I have

served on the board of directors of a national legal organization, and helped with client center training for lawyers, probation officers and social workers, I am on the ABA criminal just section.

I am an advocate for those in the system, a mentor, and a motivational speaker. My lived experience as a formerly incarcerated person provides invaluable insight and depth into the work that allows me to connect with and engage the community he serves.

I've been home for 14 years now, and all that I have done since I've been free is prove that we can change and it's so many more that's still incarcerated in MD that should be allowed to have a second chance at freedom. This bill does not open up the flood gates for people to just walk out of prison, but the bill will allow them to get a review from a Judge and that Judge will decide if they have done all that they need to do to be released.

This legislation will bring Maryland in line with recent U.S. Supreme Court rulings and twenty-four other states and jurisdictions, including Virginia, West Virginia, and the District of Columbia, that have passed similar legislation abolishing life without the possibility of parole for children.

The legislation accomplishes the following: 1) Abolishes the sentence of Juvenile Life Without Parole (JLWOP). 2) Permits a person who was convicted of a crime committed while the person was a minor to file a motion for a sentence reduction. Following a judicial hearing, the court may reduce the sentence if the person has been imprisoned for at least 20 years, is not a danger to the public, and the interests of justice are served by a sentence reduction. 3) Requires the reviewing court to consider the particular characteristics of youth in accord with *Miller v. Alabama*, 567 U.S. 460 (2012), when determining whether to grant a sentence reduction to a person who was a child at the time the crime was committed.

The Juvenile Restoration Act is based on the beliefs that no child is born bad, no child is beyond the hope of redemption, and no child should ever be told that they have no future but to die in prison. It balances the needs for age-appropriate accountability and public safety with the fundamental truth that people, especially children, are capable of profound positive transformation.

When a person is able to demonstrate rehabilitation, we must give them an opportunity for a second chance. This legislation takes an important step toward constitutional compliance for youth convicted of serious crimes by abolishing life without parole, providing meaningful opportunities for judicial review after serving a term of years, and setting forth the factors particular to youth that courts must consider at the review hearing.

Sincerely Eddie Ellis

# **SB 494 - Juvenile Restoration Act.pdf**

Uploaded by: Fertig, Benjamin

Position: FAV

Dear Members of the Senate Judicial  
Proceedings Committee,

This testimony is being submitted by Showing  
Up for Racial Justice Baltimore, a group of  
individuals working to move white folks as part  
of a multi-racial movement for equity and racial  
justice in Baltimore City and Baltimore County.  
We are also working in collaboration with the  
Out for Justice (OFJ). I am a resident of MD  
District **11**. I am testifying **in support of Senate Bill 494**.



This bill provides several important protections for juveniles that are convicted as adults. It prohibits a court from imposing a sentence of life without the possibility of parole, allows a juvenile to request reduced sentencing, and allows a court to impose a sentence less than the minimum term required by law.

In Maryland there are dozens of people convicted of crimes committed as children, who are forced to live their full adult life in prison without parole. Harsh sentences on children that do not offer the possibility of reform are inhumane. Established brain science that shows that juvenile minds are still forming and often lack impulse control, so juveniles are actually most likely to be rehabilitated. Additionally, as Maryland legislators, you should strive to make Maryland a forgiving and rehabilitating state, especially when it comes to those who have decades of live to change and grow.

This is especially true for Black youth, who are sentenced to life without parole at 10 times the rate of white youth. Therefore, reforming juvenile conviction policies is also a way to right the wrongs of structural racism.

It is for these reasons that I am encouraging you to **vote in support of Senate Bill 494**.  
Thank you for your time, service, and consideration.

Sincerely,  
**Benjamin Fertig**  
**2722 Quarry Heights Way, Baltimore, MD 21209**  
Showing Up for Racial Justice Baltimore

**SB-494.docx.pdf**

Uploaded by: Flowers , Willie

Position: FAV



# NAACP

## *Maryland*

### STATE CONFERENCE

**SB-494**

**JUDICIAL PROCEEDINGS COMMITTEE  
CHAIRMAN LUKE CLIPPINGER**

**February 17, 2021**

With the Juvenile Restoration Act (SB 494), Maryland currently has the opportunity to join the growing number of states who have banned the practice of sentencing children to die in prison and are committed to giving youth a second chance. Twenty-four states and jurisdictions, including our neighbors of Virginia, West Virginia, and the District of Columbia, have enacted legislation abolishing life without the possibility of parole for youth sentenced as adults. Unfortunately, Maryland has not yet taken this important step.

Race cannot be ignored when discussing these sentences. With the implementation of the Juvenile Restoration Act, Maryland will begin to reform its practices. Nationwide, African Americans constitute 60 percent of the youth serving life without parole, according to Human Rights Watch, even though they make up just 13.1 percent of the country's population. Black youth are serving the sentences at a rate that is ten times higher than white youth. This doesn't mean that black youth commit 10 times as many serious crimes. Rather, studies have found that black youth receive harsher treatment than similarly situated white youths at every stage of the criminal justice system, from the point of arrest to sentencing. As it stands, Maryland has the unfortunate distinction of ranking first in the nation with the highest proportion of Black youth sentenced to life without parole. Of those that would be immediately eligible under HB 409, 87% are Black. Those numbers are startling, and we can not afford to delay addressing these disparities.

As our country began to reckon with racial injustice, we must pledge to reform our criminal justice system. At the Maryland State Conference NAACP, we advocate for and advance a better public safety system that reduces the reliance on prisons as means of solving social problems. We reject the "tough on crime" rhetoric that fails to address the real cause of malfeasance, as well as fail to take into account the systemic injustices that have widely been unaddressed.



**With the Juvenile Restoration Act (SB 494), Maryland currently has the opportunity to join the growing number of states who have banned the practice of sentencing children to die in prison and are committed to giving youth a second chance. Twenty-four states and jurisdictions, including our neighbors of Virginia, West Virginia, and the District of Columbia, have enacted legislation abolishing life without the possibility of parole for youth sentenced as adults. Unfortunately, Maryland has not yet taken this important step.**

**Race cannot be ignored when discussing these sentences. With the implementation of the Juvenile Restoration Act, Maryland will begin to reform its practices. Nationwide, African Americans constitute 60 percent of the youth serving life without parole, according to Human Rights Watch, even though they make up just 13.1 percent of the country's population. Black youth are serving the sentences at a rate that is ten times higher than white youth. This doesn't mean that black youth commit 10 times as many serious crimes. Rather, studies have found that black youth receive harsher treatment than similarly situated white youths at every stage of the criminal justice system, from the point of arrest to sentencing. As it stands, Maryland has the unfortunate distinction of ranking first in the nation with the highest proportion of Black youth sentenced to life without parole. Of those that would be immediately eligible under SB 494, 87% are Black. Those numbers are startling, and we can not afford to delay addressing these disparities.**

**As our country began to reckon with racial injustice, we must pledge to reform our criminal justice system. At the Maryland State Conference NAACP, we advocate for and advance a better public safety system that reduces the reliance on prisons as means of solving social problems. We reject the "tough on crime" rhetoric that fails to address the real cause of malfeasance, as well as fail to take into account the systemic injustices that have widely been unaddressed. The Maryland State Conference NAACP supports the Juvenile Restoration Act and calls on all of our State Senators and Delegates to make this a priority in the 2021 legislative session. It is time for Maryland to implement fair, age-appropriate alternatives to condemning our children to die in prison.**

**Should you need additional information regarding our support on this issue, please contact Willie Flowers at [mscpresident20@gmail.com](mailto:mscpresident20@gmail.com).**

**MC CJJ Letter SB494.pdf**

Uploaded by: Frey, Leslie

Position: FAV



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Marc Elrich  
*County Executive*

Raymond L. Crowel, Psy.D.  
*Director*

February 17, 2021

SB 494

Hon. Will Smith  
Judicial Proceedings Committee  
2 East  
Miller Senate Office Building  
Annapolis, MD 21401

Dear Chairman Smith:

The Montgomery County Commission on Juvenile Justice (MC CJJ) is writing in support of SB494 – (Juvenile Restoration Act). The MC CJJ believes that this bill will support Maryland's continued fight at a fair justice for all. The MC CJJ further believes this bill will benefit imprisoned people of color, who continue to be over-represented in the Juvenile Justice system when compared to white counterparts. By increasing the parole and reduction of sentencing opportunities for youth of color who are now full-grown adults, this bill we hope will be able to be the fresh start some of these men and women have been working to achieve.

MC CJJ was established to advise the Montgomery County Executive, County Council and the Juvenile Court on matters concerning juvenile justice. Our work includes gathering and disseminating information from public and private agencies serving youth, monitoring the Juvenile Justice System, visiting facilities, and closely following State and County legislative proposals affecting juveniles. MC CJJ is comprised of citizen members who serve three-year terms without compensation, and agency members that includes Child Welfare, State's Attorney's Office, Office of the Public Defender, Montgomery County Police, Montgomery County Public schools, and Department of Juvenile Services.

Thank you for your consideration.

Sincerely,

Chris Jennison, Chair  
Commission on Juvenile Justice

**SB 494 PJC favorable testimony.pdf**

Uploaded by: Gardner, Debra

Position: FAV



Debra Gardner, Legal Director  
Public Justice Center  
201 North Charles Street, Suite 1200  
Baltimore, Maryland 21201  
410-625-9409, ext 228  
gardnerd@publicjustice.org

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## SB 494

### Juveniles Convicted as Adults - Sentencing - Limitations and Reduction (Juvenile Restoration Act)

Hearing before the Senate Judicial Proceedings Committee, February 17, 2021

#### Position: SUPPORT

The Public Justice Center (PJC) supports SB 494 as a matter of simple justice. Maryland's current practice of sentencing children to life sentences without the possibility of parole or release has been widely recognized as inhumane, unnecessary for public safety, and expensive. Moreover, the burden of falls disproportionately, shockingly so in our state, on Black youth. This practice must end now.

Neuroscience has shown that youth lack the same capacity as adults both to appreciate the consequences of their acts and to control their impulses. Yet we punish them as hardened criminals. Scientific research has also shown that very few individuals convicted for crimes committed in their teens who are released after decades in prison commit another crime. So the risk of allowing the possibility of release is minimal.

Finally, studies have also shown that Black children are perceived to be older, more mature, and more dangerous than similar white children. As a result, a staggering 82 % of youth serving life without parole in Maryland, the highest percentage of any state, are Black. This is not a distinction to be proud of.

During this pandemic, we need to reduce our prison population as much as possible to ensure the life and safety of those inside, as well as the staff and the communities in which they reside. It is thus critical to give the people who would be eligible under this bill the chance for freedom.

The PJC is a non-profit legal advocacy organization dedicated to racial equity and ending poverty. Its Prisoners Rights Project seeks basic justice through reform in our criminal justice system and an end to all unnecessary detention and incarceration.

The PJC urges a FAVORABLE REPORT on SB 494. If you have any questions, please feel free to contact Debra Gardner, Legal Director, at [gardnerd@publicjustice.org](mailto:gardnerd@publicjustice.org) or 410 625 9409 ext 228.

*The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.*

# **SB 494 - Juvenile Restoration Act BH.pdf**

Uploaded by: Hauck, Barbara

Position: FAV

Dear Members of the Senate Judicial  
Proceedings Committee,

This testimony is being submitted by Showing  
Up for Racial Justice Baltimore, a group of  
individuals working to move white folks as part  
of a multi-racial movement for equity and racial  
justice in Baltimore City and Baltimore County.  
We are also working in collaboration with the  
Out for Justice (OFJ). I am a resident of MD

District 43. I am also a longtime member of Baltimore's vibrant theater community and the Artistic  
Director at the Fells Point Corner Theatre. I am testifying **in support of Senate Bill 494.**

**SURJ**  
**BALTIMORE**  
showing up for racial justice

This bill provides several important protections for juveniles that are convicted as adults. It prohibits a court from imposing a sentence of life without the possibility of parole, allows a juvenile to request reduced sentencing, and allows a court to impose a sentence less than the minimum term required by law.

In Maryland, there are dozens of people convicted of crimes committed as children, who are forced to live their full adult life in prison without parole. Harsh sentences on children that do not offer the possibility of reform are inhumane. Established brain science that shows that juvenile minds are still forming and often lack impulse control, so juveniles are actually most likely to be rehabilitated. Additionally, as Maryland legislators, you should strive to make Maryland a forgiving and rehabilitating state, especially when it comes to those who have decades of live to change and grow.

This is especially true for Black youth, who are sentenced to life without parole at 10 times the rate of white youth. Therefore, reforming juvenile conviction policies is also a way to right the wrongs of structural racism.

It is for these reasons that I am encouraging you to **vote in support of Senate Bill 494.**

Thank you for your time, service, and consideration.

Sincerely,  
Barbara Hauck (she/her)  
3420 Harford Road  
Baltimore, MD 21218  
Showing Up for Racial Justice Baltimore

**SB 494 - JRA - ALONZO TURNER-BEY.pdf**

Uploaded by: HAZELTON, MARTINA

Position: FAV



Support SENATE BILL #494

Beap; POSITIVE C.H.A.N.G.E. Est 2009

I AM ALONZO E. TURNER-BEY  
I WAS RECENTLY RELEASE (OCT 16 2020)  
AFTER SERVING 31 YEARS 6 MONTHS 15 DAYS  
FOR A CRIME, I COMMITTED AS A JUVENILE  
I WAS SENTENCE TO LIFE PLUS 3 YEARS  
IN PRISON,

I Am Submitting This Written Request  
That This Committee PLEASE PASS THIS  
PIECE OF LEGISLATION SENATE BILL #494  
BECAUSE, IT IS VERY MUCH NEEDED IN OUR  
STATE (MARYLAND). IF WE LOOK TO OUR  
NEIGHBORING STATES (VIRGINIA, WEST VIRGINIA,  
WASHINGTON D.C, OHIO AND EVEN MISSISSIPPI)  
ALL HAVE PASSED BILLS AND CREATED LAWS  
THAT STATES CLEARLY NO LONGER WILL WE  
LOCK OUR CHILDREN UP FOR THE REST  
OF THEIR LIFE AND ALL OFFERS A SECOND  
CHANCE AT RELEASE IN MANY DIFFERENT  
FORMS, UNLIKE MARYLAND.

TO REMOVE THE GOVERNOR FROM THE  
PAROLE PROCESS IS GREAT. BUT, IT IS  
NOT ENOUGH. BECAUSE, WE ALL KNOW  
MARYLAND HAS A BROKEN PAROLE SYSTEM  
EXAMPLE: YOU ALL HAVE THE PICTURES  
OF THE JUVENILES SERVING LIFE. I PUT  
OUT OVER THE PAST 3 YEARS THROUGH MY  
ORGANIZATION POSITIVE C.H.A.N.G.E.  
LET US ALL LOOK AT THE ENTIRE  
TOP LINE OF JUVENILE PLEAS.

Now Look At Mr. Gary Miller, He Came  
To Prison In 1965 As A Juvenile. In 2010  
He Refused To Continue To Appear Before  
The Maryland Parole Board. Because After Being  
Locked Up For 45 Years And Having Over 17 Parole  
Hearings And The Last 11 Hearings Miller Was Given  
A One Year Rehearing Each Year, Yes 11 One Year Hits  
With Promise Of Release. And Even As We Debate  
This Bill To Remove The Governor Mr. Miller  
Is Still In Prison Serving Life. Because The  
Parole System In Maryland Is Broken. Therefore,  
This Bill Is The Only Way To Restore Hope  
To Mr. Miller And Other Juvenile Likers And  
Those Serving Long Term Sentences In Maryland

Therefore I Am Requesting you All  
To Support This Bill And Vote This Bill  
Out Of Committee SENATE Bill 494  
And Allow Judges To See If Each  
Of These Juveniles Should Be Given A Second  
Chance And When? This Bill Allows This  
Only After Serving 20 Years.

Let's Give Some Hope Back To Our  
Children Serving Life And Long Term  
Sentences... In Maryland.

Address: 12114 PELHAM CT  
WALDOEF, MD 20602

Ph # 202-631-9700  
Email alonzoturnerbay@gmail

Thank you  
Alonzo E. Turner Bay  
Positive Change  
Founder & President

**SB 494 - JRA - BEVERLY HOWARD.pdf**

Uploaded by: HAZELTON, MARTINA

Position: FAV

February 14, 2021

Beverly Howard  
222 Auburn Station Drive  
Auburn, GA 30011

**Testimony in Support of SB494  
Juveniles Convicted as Adults – Sentencing – Limitations and Reduction  
(Juvenile Restoration Act)  
Senate Judicial Proceedings Committee**

Good afternoon,

Chairman Smith and members of the Senate Judicial Proceedings Committee. Thank for the opportunity to offer proponent testimony for Senate Bill 494.

My name is Beverly Howard, I strongly support SB494 Relating to Juveniles Convicted as Adults – Sentencing – Limitations and Reduction (Juvenile Restoration Act), Maryland courts should consider mitigating circumstances before imposing the hardest possible penalty for juveniles.

Unfortunately, we live with the trauma of losing my niece, and my son committing a crime.

In 1997, my 13 years old niece LaKisha was stabbed to death in front of her mother, by a 14 year old girl. LaKisha was on her way to get her picture taken for a special academic program.

My son was incarcerated in 2004 at the age of 16 years old and sentenced to life in prison with the possibility of parole. He acknowledges his crime, demonstrates rehabilitation and deserves a second chance.

In October 2019, the Maryland Parole Commission recommended him for parole. To date there is no future communication on the status of his case. So we wait, hopefully, not another 3-4 years, since this appears to be the norm in Maryland.

When we describe our criminal justice system as an enormous machine – one designed to convey young black and brown, men and women into prison and keep them there no matter what age.

Unlike our neighbors in West Virginia, Virginia, New Jersey, and the District of Columbia, Maryland has yet to end the practice of sentencing children to die in prison, it is unjust.

The U.S. Supreme Court ruled it is unconstitutional to impose a life sentence on youthful offenders, and I echo the Supreme Court on this issue. We can do better.

Thank you for your time, please vote in favor of SB494.

Thank you,  
*Beverly Howard*

**SB 494 - JRA - MARTINA HAZELTON.pdf**

Uploaded by: HAZELTON, MARTINA

Position: FAV

February 17, 2021 @ 1:00pm (Senate Hearing)

Senate Judiciary Committee  
Maryland General Assembly  
State House  
100 State Circle  
Annapolis, MD 21401

RE: SB 494 – Juveniles Convicted as Adults – Sentencing – Limitations and Reduction (Juvenile Restoration Act) SUPPORT

Please accept my written testimony in support of Senate Bill 494 (SB 494). I am testifying on behalf of Family Support Network and from a personal perspective as my husband is a juvenile lifer. He entered the Department of Corrections at the age of 16. In 1993, he was sentenced to two consecutive life sentences plus 23 years. His first parole hearing is scheduled to be held in 2030, at that point he would have served 37 years and would be 54 years of age. All avenues of post-conviction relief have been pursued to no avail in fact his petition for reconsideration was denied without a hearing. Currently, Circuit Court Judges have the discretion to consider reconsideration relief and all other avenues must be submitted based on findings of error. A very narrow margin of success exists in the other avenues which is why this legislation is so necessary and needed right now.

I give this testimony as a first-hand witness to why a judicial review for juveniles is so critical. My husband's offense included himself and 4 other co-defendants. Co-defendant #1 turned state's evidence and after having served one year was released in exchange for his testimony. Co-defendant #2 died in prison from cancer. Co-defendant #3 pled guilty and was sentenced to one life term and is currently incarcerated. Co-defendant #4 who was the primary in the offense was sentenced to three life terms plus 50 years and his sentenced was reduced and he was released on December 17, 2020. Co-Defendant #4 who is the primary in this case has been released while myself and co-defendant #3 who are the least culpable in this offense continue to sit in prison with no recourse. Our sentencing judge retired and our cases were assigned to different judges which has allowed the present disparity in how each of our cases have progressed through the system. **The Prince George's State's Attorney is in support of my release but, the Judge still denied my petition while my Co-Defendant #4 is a free man.** Under fundamental fairness, this is not fair, equitable and quite frankly should not be allowed to happen. Juvenile Restoration Act (JRA) would provide each of us equal consideration in court which does not currently occur.

As the wife of a parolable lifer, it is heart-wrenching to see my husband that wants nothing more than to be given a second chance. He wants nothing more than to demonstrate growth, maturation and change that have taken place in him over the last 28 years. This system as it stands has told him there is no real way for him to tell the courts who he is today versus who he was in 1993. He remains stuck along with the hundreds of other juvenile lifers warehoused across the state of Maryland - there is no exit for you! There is no genuine or meaningful second chance for you!

It is my desire that you consider the legislation before you as a remarkable, bold and brave step in the right direction of fixing a process that has tossed juveniles like trash never to be thought of again. Specifically, black and brown juveniles have been discarded by Maryland as this state leads the nation in its level of incarcerated black men ages 18 to 24. This is not acceptable. It did not take one bad law to create mass incarceration and it will not take one good piece of legislation to eliminate mass incarceration that unfairly affects black and brown people. It is going to take a host of legislative efforts with long- and short-term impacts. JRA creates immediate opportunity for hundreds of juveniles. If there is no mercy and second chances for juveniles – who is more worthy? I hope that you will unequivocally support this bill and move it forward with a favorable vote.

Respectfully,

*Martina Hazelton*

Martina Hazelton  
Co-Founder, Family Support Network

**SB 494 - JRA - PUBLIC JUSTICE CENTER.pdf**

Uploaded by: HAZELTON, MARTINA

Position: FAV





Debra Gardner, Legal Director  
Public Justice Center  
201 North Charles Street, Suite 1200  
Baltimore, Maryland 21201  
410-625-9409, ext 228  
gardnerd@publicjustice.org

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## SB 494

### Juveniles Convicted as Adults - Sentencing - Limitations and Reduction (Juvenile Restoration Act)

Hearing before the House Judiciary Committee, January 21, 2021

#### Position: SUPPORT

The Public Justice Center (PJC) supports SB 494 as a matter of simple justice. Maryland's current practice of sentencing children to life sentences without the possibility of parole or release has been widely recognized as inhumane, unnecessary for public safety, and expensive. Moreover, the burden of falls disproportionately, shockingly so in our state, on Black youth. This practice must end now.

Neuroscience has shown that youth lack the same capacity as adults both to appreciate the consequences of their acts and to control their impulses. Yet we punish them as hardened criminals. Scientific research has also shown that very few individuals convicted for crimes committed in their teens who are released after decades in prison commit another crime. So the risk of allowing the possibility of release is minimal.

Finally, studies have also shown that Black children are perceived to be older, more mature, and more dangerous than similar white children. As a result, a staggering 82 % of youth serving life without parole in Maryland, the highest percentage of any state, are Black. This is not a distinction to be proud of.

During this pandemic, we need to reduce our prison population as much as possible to ensure the life and safety of those inside, as well as the staff and the communities in which they reside. It is thus critical to give the people who would be eligible under this bill the chance for freedom.

The PJC is a non-profit legal advocacy organization dedicated to racial equity and ending poverty. Its Prisoners Rights Project seeks basic justice through reform in our criminal justice system and an end to all unnecessary detention and incarceration.

The PJC urges a FAVORABLE REPORT on SB 494. If you have any questions, please feel free to contact Debra Gardner, Legal Director, at [gardnerd@publicjustice.org](mailto:gardnerd@publicjustice.org) or 410 625 9409 ext 228.

*The Public Justice Center is a 501(c)(3) charitable organization and as such does not endorse or oppose any political party or candidate for elected office.*

**SB 494 - JRA - WCI RESIDENTS 02.15.2021.pdf**

Uploaded by: HAZELTON, MARTINA

Position: FAV

WE, the undersigned individuals who are currently being ware-housed at the Western Correctional Institution (WCI), attach our signature hereto in support of BILL 494; of which will soon be presented on the floor of the Senate Judiciary Committee. WE, also & furthermore, support any other and all future proposals/ Bills that will grant Appropriate Relief, thus hereby signing:

- 1.) Stewart Burns #312-651
- 2.) Mary Eason 180571
- 3.) Joseph Nickers 370683
- 4.) Adrian Carter 2583871
- 5.) Snow Ashford 285890
- 6.) Dennis Crowe Sr 193901
- 7.) David Appleby 252-141
- 8.) Herbert Wilson By # 240-376/1486016
- 9.) DeAngelo Jefferies 253-857/1586006
- 10.) Reginald Bellamy 435-034
- 11.) Rene Buis 267181
- 12.) Daryl Chase #342352
- 13.) GEORGE JENKINS # 347-579
- 14.) Nelson Wick Nelson Elick 4#3628
- 15.) George J. Adlamaryk #251676
- 16.) Hales Wilson 212-610
- 17.) Manuel Jahn #326638
- 18.) Bruce Smullen #302691
- 19.) Alexander Dandy #369338
- 20.) Jamaku Ector #303439
- 21.) [Signature] #405325
- 22.) Felts Wood #267922
- 23.) [Signature] 370712
- 24.) Roddell Akli 380-2269
- 25.) Nicholas Moran 309-647
- 26.) Thomas Brown 281-792
- 27.) NORMAN FRANCIS 415-214
- 28.) Derrick Lawson 347-070
- 29.) Robert Peterson 234-530
- 30.) Donald White #291-199
- 31.) CLIFTON ANDERSON #337667
- 32.) Cornelius Biddell # 439665
- 33.) [Signature] 31509
- 34.) Ronald N. Whitemby #176-082
- 35.) [Signature] #402235
- 36.) Donald Maskey #403982
- 37.) Terence S. Brown 4158317
- 38.) Samuel D. Smith 312-253
- 39.) [Signature] 422-245
- 40.) [Signature] 422-294
- 41.) Allen Mike Dovol 226257
- 42.) A. Hayes 425490
- 43.) [Signature] 1936695
- 44.) James T. Swan #371548
- 45.) Elliott McClain #346-537
- 46.) Shawn Sizemore 473641
- 47.) Clifton Badgett 267-879
- 48.) Jim Ann Cook 234-649
- 49.) [Signature] 402497
- 50.) Kare Sorens #356035
- 51.) Wm Pardee 233448
- 52.) Perry Everett 208959
- 53.) Marty Nelson 315622
- 54.) [Signature] 441-590
- 55.) William Smith 308-674
- 56.) Taron Wright / Teron Wright 290.985
- 57.) Mark Sule 945767
- 58.) Terrence [Signature] 455359
- 59.) Coy Wier 2067191 317450
- 60.) [Signature] Eater 302224/2105702
- 61.) J. B. Rowe 171-909, 402333
- 62.) Marcus Carter 313-244 1120476
- 63.) EARL FRISBY 298262
- 64.) [Signature] 562 57/1710080
- 65.) [Signature] 230459/1432883
- 66.) [Signature] MARTIN 229-121
- 67.) [Signature] 187848
- 68.) George W. Scarborough
- 69.) [Signature] von Mohr 370370
- 70.) Milton [Signature] 370405  
Eric Hargelton 236-080

- 71.) ~~Robert T. Bosley~~ Robert T. Bosley
- 72.) ~~Hermond Jackson~~
- 73.) ~~Johnston~~
- 74.) ~~De'Andre Clark~~ De'Andre Clark
- 75.) ~~James Donzell James~~
- 76.) ~~Timothy Tolar~~ Timothy Tolar
- 77.) ~~Bobbe Temple 335452~~
- 78.) ~~W. S. 439-055~~
- 79.) ~~401-887 K.J. Anderson~~
- 80.) ~~324960 Joe Bellamy~~
- 81.) ~~Wayne Sawoy #310-719~~
- 82.) ~~Reginald Versable #448 P1~~
- 83.) ~~Ronald H. Haskins / RONALD HASKINS / 285-369~~
- 84.) ~~George H. Haskins~~
- 85.) ~~William Vandervall / WILLIAM VANDERVALL 459323~~
- 86.) ~~Yvonne Brown 431621~~
- 87.) ~~Anthony Bryant - 396-068~~
- 88.) ~~Darre Carrad 266352~~
- 89.) ~~Kabara Darden Bey 317-949~~
- 90.) ~~Kenneth Sallan 457855~~
- 91.)
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- 99.)
- 100.)

**SB 494 - Juvenile Restoration Act.docx.pdf**

Uploaded by: Holt, Arthur

Position: FAV

Dear Members of the Senate Judicial  
Proceedings Committee,

This testimony is being submitted by Showing  
Up for Racial Justice Baltimore, a group of  
individuals working to move white folks as part  
of a multi-racial movement for equity and racial  
justice in Baltimore City and Baltimore County.  
We are also working in collaboration with the  
Out for Justice (OFJ). I am a resident of MD

District **30A**. I have served as a substitute teacher in Maryland public schools. I have witnessed  
first-hand how easily it is for many marginalized youth to end up in prison when what they really need is  
compassionate attention. I am testifying **in support of Senate Bill 494**.

This bill provides several important protections for juveniles that are convicted as adults. It prohibits a  
court from imposing a sentence of life without the possibility of parole, allows a juvenile to request  
reduced sentencing, and allows a court to impose a sentence less than the minimum term required by  
law.

In Maryland there are dozens of people convicted of crimes committed as children, who are forced to  
live their full adult life in prison without parole. Harsh sentences on children that do not offer the  
possibility of reform are inhumane. Established brain science that shows that juvenile minds are still  
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Additionally, as Maryland legislators, you should strive to make Maryland a forgiving and rehabilitating  
state, especially when it comes to those who have decades of live to change and grow.

This is especially true for Black youth, who are sentenced to life without parole at 10 times the rate of  
white youth. Therefore, reforming juvenile conviction policies is also a way to right the wrongs of  
structural racism.

It is for these reasons that I am encouraging you to **vote in support of Senate Bill 494**.  
Thank you for your time, service, and consideration.

Sincerely,

**Arthur Holt**

**8 Fisk Circle**

**Annapolis, MD 21401**

Showing Up for Racial Justice Baltimore

**SURJ**  
**BALTIMORE**  
showing up for racial justice

# **SB 494 - Juvenile Restoration Act.pdf**

Uploaded by: Hood, Amelia

Position: FAV

Dear Members of the Senate Judicial  
Proceedings Committee,

This testimony is being submitted by Showing  
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individuals working to move white folks as part  
of a multi-racial movement for equity and racial  
justice in Baltimore City and Baltimore County.  
We are also working in collaboration with the  
Out for Justice (OFJ). I am a resident of MD  
District 43. I am testifying **in support of Senate Bill 494.**



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This is especially true for Black youth, who are sentenced to life without parole at 10 times the rate of white youth. Therefore, reforming juvenile conviction policies is also a way to right the wrongs of structural racism.

It is for these reasons that I am encouraging you to **vote in support of Senate Bill 494.**  
Thank you for your time, service, and consideration.

Sincerely,  
Amelia Hood, MA  
336 E 27<sup>th</sup> St  
Baltimore, MD 21218  
Showing Up for Racial Justice Baltimore



**SB494 Favorable- SOMD4RE (1).pdf**

Uploaded by: Ichile-Mckenzie, Ongisa

Position: FAV

**To: Maryland General Assembly, Senate Judicial Proceedings Committee**  
**From: Ongisa Ichile-Mckenzie- Director, Southern Marylanders for Racial Equality**  
**Re: SB 494- Juveniles Convicted as Adults**  
**Hearing Date: February 17, 2021**

**We submit this written testimony to request a favorable vote for SB 494. The fact that Maryland is the only state in our region to sentence youth to life imprisonment is appalling. We should be leaders who set the example for other states legislatively, but we are lagging behind in fundamental ways.**

**Our organization, Southern Marylanders for Racial Equality, is dedicated to racial equity in many aspects of life. In our region, which includes Charles, Calvert and St. Mary's counties, there is an obvious disparity in the justice system. Black children make up the vast majority of the arrests, charges, detentions, etc.- to the figure of 88% of the children we see funneled into the system. That is why we must take a stand and fix this grave issue.**

**As you likely will have heard by the end of today's hearing, juvenile brains aren't fully formed. It must follow, then, that they cannot be held for an entire lifetime for an act committed when they were children. The research also shows that after 15-20 years in prison, the return/recidivism rate for these prisoners is about 1%. That means that they can serve time, and then be safely reintegrated into society. They can contribute, instead of languishing in an expensive, exploitative prison facility.**

**Please make the ethically sound decision; a decision that has already been made in over 24 states, and all of the surrounding states in our region. Please vote favorable on SB 494.**

**Sincerely,**

A handwritten signature in black ink, appearing to read 'Ongisa', with a long horizontal flourish extending to the right.

**Ongisa Ichile-Mckenzie**  
**Director, Southern Marylanders for Racial Equality**

# **SB 494 - Juvenile Restoration Act.pdf**

Uploaded by: Keipper, Lindsay

Position: FAV

Dear Members of the Senate Judicial Proceedings Committee,



This testimony is being submitted by residents of District 46 who are also community leaders in Showing Up for Racial Justice Baltimore. SURJ is a group of community members working to move white folks as part of a multi-racial movement for greater racial justice in Baltimore and the State of Maryland. We are also working in collaboration with Out for Justice (OFJ). We are testifying **in support of Senate Bill 494**.

For decades now, medical professionals have been presenting research that demonstrates the scientific reality of what our common sense already told us: adolescents do not have fully developed brains and are more prone to impulsivity and less capable of making sound decisions as adults. A series of Supreme Court cases over the past 15 years- *Roper v Simmons*, *Graham v Florida*, *Miller v Alabama*, and *Montgomery v Louisiana*- have held that juveniles should not be punished in the same way as adults, both because they may not be as culpable for crimes committed when their brains were immature, and because they present a strong possibility of rehabilitation due to their youth.

Maryland's complex system of juvenile justice attempts to balance rehabilitation against other criminal justice goals in determining whether juveniles should be tried as adults or as children. Unfortunately it's somewhat all or nothing: if a juvenile is tried in adult court and found guilty, they are bound by the same sentencing scheme as adults. This means that they are still subject to the possibility of life without parole sentences as well as mandatory minimums. These laws bind the hands of judges who may feel that based on the specific circumstances of the juvenile and their crimes, a different sentence is warranted than the one provided for adults.

Senate Bill 494 would untie the hands of judges by allowing them to skirt mandatory minimums for juveniles convicted as adults if they deem it appropriate, and to reconsider the sentences of those who have been incarcerated for twenty years or more on offenses committed as juveniles. In addition, it would bring us in line with the 25 jurisdictions (24 states plus the District of Columbia) which have banned life without parole sentences for juveniles entirely, recognizing that it is unfair and inhumane to condemn someone under the age of 18 to die in prison without giving them any chance of redemption.

Furthermore, in a legislative year when the racial biases of the criminal justice system are at the forefront of all our minds, it is worth noting that there is a vast racial disparity in criminal sentencing generally, and life without parole sentencing in particular. In 2009, a whopping 69.8% of prisoners serving life without parole in Maryland were Black<sup>1</sup>, despite the Black population of Maryland being about 30% (as of the 2010 US Census). The same data shows that Black youth comprised 78.9% of the

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<sup>1</sup> Ashley Nellis and Ryan S. King, *The Sentencing Project No Exit: The Expanding Use of Life Sentences in America*, 14-15, table 5 (2009).

<https://www.sentencingproject.org/wp-content/uploads/2016/01/No-Exit-The-Expanding-Use-of-Life-Sentences-in-America.pdf>

juvenile life without parole population.<sup>2</sup> Unfortunately, history has proven that facially race-neutral policies like life without parole sentencing end up being applied more often to Black folks and other people of color. Structural racism can only be taken on by striking down the disproportionately-applied policies themselves. Ending juvenile life without parole is thus one way to attack racial bias within the criminal justice system.

It is for these reasons that I am encouraging you to **vote in support of Senate Bill 494**. Thank you for your time, service, and consideration.

Sincerely,

SURJ District 46 Community Leaders

*Lindsay Keipper*

*Sarah Goldman*

*Christina Pham Linhoff*

*Ben Goldberg*

*Liz Simon-Higgs*

*Brian Seel*

*Lilly Chappa*

*Natalia Skolnik*

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<sup>2</sup> *Id.* at 22-23, table 9.

# **SURJ Juveniles sentenced as adults SB 494 2021 2 1**

Uploaded by: Kleinman, Jan

Position: FAV

Dear Members of the Senate Judicial  
Proceedings Committee,

This testimony is being submitted by Showing  
Up for Racial Justice Baltimore, a group of  
individuals working to move white folks as part  
of a multi-racial movement for equity and racial  
justice in Baltimore City and Baltimore County.  
We are also working in collaboration with the  
Out for Justice (OFJ). I am a resident of MD

District 43. As a parent, I have lived through my children's teenage years, and know they make  
mistakes. I made mistakes as a teenager myself. However, we all learned from them and are better  
adults because of those lessons. I am testifying **in support of Senate Bill 494.**

This bill provides several important protections for juveniles that are convicted as adults. It prohibits a  
court from imposing a sentence of life without the possibility of parole, allows a juvenile to request  
reduced sentencing, and allows a court to impose a sentence less than the minimum term required by  
law.

In Maryland there are dozens of people convicted of crimes committed as children, who are forced to  
live their full adult lives in prison without parole. Harsh sentences on children that do not offer the  
possibility of reform are inhumane. Established brain science shows that juvenile minds are still forming  
and often lack impulse control. This means juveniles have abundant capacity to be rehabilitated.  
Additionally, as Maryland legislators, you should strive to make Maryland a forgiving and rehabilitating  
state, especially when it comes to those who have decades of life to change and grow, and contribute  
their talents to better our whole society.

This is especially true for Black youth, who are sentenced to life without parole at 10 times the rate of  
white youth. Therefore, reforming juvenile conviction policies is also a way to right the wrongs of  
structural racism.

It is for these reasons that I am encouraging you to **vote in support of Senate Bill 494.**  
Thank you for your time, service, and consideration.

Sincerely,  
Jan Kleinman  
2700 Remington Avenue, Apt 504  
Baltimore, MD 21211  
Showing Up for Racial Justice Baltimore

**SURJ**  
**BALTIMORE**  
showing up for racial justice

**Meadows - Written testimony 494 - SUPPORT.pdf**

Uploaded by: Meadows, Lila

Position: FAV



## **IN SUPPORT OF SENATE BILL 494**

**To: Senate Judicial Proceedings Committee**

**From: Lila Meadows, University of Maryland School of Law, 500 W. Baltimore Street  
Baltimore, Maryland 21201**

**Date: February 17, 2021**

**Position: SUPPORT**

Senate Bill 494 will allow incarcerated men and women who are serving lengthy sentences for crimes committed as juveniles to petition the court for sentencing review after serving at least 20 years in prison. SB 494 is not an automatic release valve. It is not a “get out of jail free” card. The bill provides relief only to those individuals who can demonstrate rehabilitation and that they are no longer a threat to public safety. The bill requires judges, experts in sentencing, to evaluate the nature of the crime, participation in rehabilitative programs, including educational attainment, vocational training, and cognitive programs, the individual’s prison adjustment record, as well as any victim impact statement, in open court before making a decision about sentence modification.

Our current framework for sentencing modification is inadequate to comply with the requirements for youth sentencing set out by recent Supreme Court case law. Recognizing that youth are fundamentally different than adults due to neurological development, the Supreme Court held that courts must consider youth, influence of outside pressures, increased impulsivity, inexperience navigating the criminal legal system, and critically, the special capacity juveniles have for change before imposing the harshest sentences. This was a watershed change in how we think about sentencing children, and a decision the court made retroactive, yet individuals already serving extreme sentences in Maryland have had few pathways to benefit from the implications of the ruling. Maryland Rule 4-345 currently requires an individual to file a petition for sentence reconsideration within 90 days of sentencing. The court can immediately deny the petition without a hearing, grant the petition after a hearing in open court, or hold the petition and consider it at some point within 5 years of the initial sentence being imposed. For those who are serving long sentences for serious crimes, five years is typically not enough time for individuals to establish a pattern of change that allows judges to feel comfortable modifying a sentence. By setting the threshold for review at least 20 years, Senate Bill 494 requires individuals to serve a significant period of time in light of the offense and gives judges a longer period in which to consider an individual’s track record in prison.

In December 2020, one of my clients was the second juvenile lifer released through the new Sentencing Review Unit (SRU) in Baltimore City. At the time I approached the SRU, my client had served 37 years for a felony murder in which he was not the principal and was in isolation after contracting COVID-19. He walked into prison in October 1983 at 16 years old and in December 2020 walked out at 53 years old following a sentence modification hearing in which the court considered his youth at the time of the crime and his resulting rehabilitation, the same factors that Senate 494 would require courts to consider under this legislation. My client was afforded this opportunity only because his trial attorney failed to file a motion for modification of sentence 37 years ago, an error that is considered ineffective assistance of counsel and one that is rare.

My client was lucky – lucky to have been convicted in Baltimore City which has made this type of relief a priority and lucky to have the opportunity to file a belated modification under Rule 4-345 that the state could consent to. I cannot emphasize how rare this is and had that not been the case, he would still be incarcerated today. There are hundreds of juvenile lifers in our state who deserve to have their sentence considered in light of their youth but who do not have a viable way to appear before a court for a sentence modification hearing. Whether they receive that opportunity should not be a function of where they were convicted and whether they've exhausted all other legal avenues.

Senate Bill 494 ensures that every juvenile lifer will have the opportunity for a sentence review after serving a substantial period of time and that the court will be required to take into consideration the factors laid out by the Supreme Court. Opponents of the bill claim that there are enough post-conviction mechanisms available to defendants. Those mechanisms turn almost entirely on the defendant being able to demonstrate legal error or ineffective assistance of counsel in their trial or plea. With the exception of the motion for reconsideration of sentence which must be ruled on within 5 years and the opportunity to have the sentence reviewed by a three-judge panel, not a single post-conviction mechanism provides an opportunity for individuals convicted as juveniles to have their sentence reviewed in light of their youth at the time of the crime. For the majority of Maryland's more than 300 juvenile lifers, their chance for sentence modification passed long before the Supreme Court recognized the need for sentencing decisions to take into account youth and the opportunity for rehabilitation.

There are more than 300 individuals serving life sentences for crimes they committed as juveniles. They are overwhelming Black. Maryland leads the nation in disparities among individuals serving life sentences – almost 80% of men and women serving life sentences are Black compared to only 30% of the population. Reevaluating excessive sentences largely imposed in the 1980s and 1990s is a matter of racial justice. The task for reconsidering these sentences cannot fall to the Maryland Parole Commission alone. Senate Bill 494 places some of that responsibility where it belongs – in the hands of the judiciary which makes initial sentencing determinations, and which should retain revisory authority over the sentences they impose. The law already provides for a mechanism for sentencing review; Senate Bill 494 is not suggesting a legal mechanism that is out of step with our current practices. Instead, it applies an existing mechanism in a way that allows Maryland to comply with the mandates of the Supreme Court.

I urge you to support Senate Bill 494.

*This testimony is submitted on behalf of Lila Meadows at the University of Maryland Carey School of Law and not on behalf of the School of Law; the University of Maryland, Baltimore; or the University of Maryland System.*

**SB494\_SUPPORT\_JermaineMerriweather (1).pdf**

Uploaded by: Merriweather, Jermaine

Position: FAV

Bill No: SB494  
Title: Juvenile Restoration Act  
Committee: Judicial Proceedings Committee  
Hearing Date: 2/17/21  
Position: SUPPORT

Name: Jermaine Merriweather

**Testimony in Support of SB 494**

Juveniles Convicted as Adults - Sentencing - Limitations and Reduction (**Juvenile Restoration Act**)  
**Judicial Proceedings Committee**

My name is Jermaine Merriweather and at the age of 15 years old I went to prison and was sentenced to three life sentences plus 37 years for a very serious crime. I come before this legislative body, a grown and mature man. I served almost 28 years in prison, before I was released by a judge who believed I was deserving of a second chance. Unfortunately, the opportunity that I was given is not currently available to everyone, although, I know that there are many more people behind the prison walls that has worked equally, if not harder, as I have, to change their lives. I'm here today to show you all that rehabilitation is possible. I proved by my behavior that I have changed, and I am here today as a living testament that kids do change. I've been home a little over a month and I'm working and being a productive member of society. I thank you all for your time and consideration for this bill. I humbly ask that you vote favorably on SB494.

**SUPPORT\_SB494\_JerryMerriweather.pdf**

Uploaded by: Merriweather, Jerry

Position: FAV

Bill No:SB474  
Title: Juvenile Restoration Act  
Committee: Judicial Proceedings Committee  
Hearing Date: 2/21/21  
Position: SUPPORT  
Name: Jermy Merriweather

My name is Jermy Merriweather, and I am currently living in Charlotte, North Carolina. I was released from prison in 2014. Since my release I have attended college where I obtained several academic acknowledgements starting with the Dean's List as well as the President's List, on my way to receiving and accepting the esteemed honor to join my school's Honor Society of Phi Theta Kappa. After receiving this humbling recognition; I was selected to travel abroad to continue my studies but due to my parole limitations I was not able to do so but the honor and privilege speaks volumes in so many ways. I served 22 years of a 60 years sentence, a sentence that I wasn't sure would afford me the opportunity to show and prove my growth as a man and show society that I wasn't who I once was labeled to be; "incurable".

I recently joined ICAN, a network of formerly incarcerated children that provides support for its members and empowers them to create positive changes in our communities. The ICAN network also supports professional skill-building opportunities, and connects members to the reintegration resources necessary to rebuild our lives and advocate for change.

Dear recipients of this plea, please do try to understand that mistakes and poor decisions are an intricate part of life, it is that learning curve that some maneuver better than others whether it's due to financial or environmental circumstances. The road of life is not without its share of potholes but learning how to bypass the roads with the most potholes is an essential step in one's rehabilitation, but this only comes from mental growth and one's ability to assess what is right and what he/she knows to be right. This is the reason why so many of our youth have succumb to peer pressure because the receptors and the decision-making ranges of the brain for dopamine, a neurotransmitter that is responsible for the sensation of pleasure and reward, are more active at that stage but the maturity of self-control is more gradual, and is not yet complete until the early stages of adulthood. I SUPPORT this Bill because I strongly believe that there should be numerous avenues for one to obtain their freedom. I went up for my initial parole hearing after serving 15 years of my sentence, at which time I was recommended to return back before the Board after 3 years, but the Commissioner saw fit to increase that time frame from 3 years to 5 citing due to the nature of my offense. The key factor that rests with the court system is their ability to assess the actual role of the person unlike the parole board which does not consider such factors; only the crime itself. The Bill will grant these youth offenders the opportunity to show and prove their value and worth in a society that so many have made changes to be a part of and successful. I thank you for your time and consideration!

# **Juvenile Restoration - SB 0494.pdf**

Uploaded by: Moyd, Esquire, Olinda

Position: FAV

## MARYLAND ALLIANCE FOR JUSTICE REFORM

Working to end unnecessary incarceration and build strong, safe communities



February 15, 2021

Chairman William C. Smith, Jr.  
Judicial Proceedings Committee  
2 East  
Miller Senate Office Building  
Annapolis, MD 21401

**RE: Senate Bill SB 0494 – Favorable  
Written Testimony - Olinda Moyd, Esq.**

Dear Chairman Smith and Committee members:

The Maryland Alliance for Justice Reform supports the passage of HB 409.

The first thing that this bill does is to abolish the sentence of juvenile life without parole. The State of Maryland should not sentence children to a life in prison without the possibility of parole. Each time that we do so, we send the message that we believe that they are beyond redemption and should never be given a second chance. People can change and people do change.

Children are not irredeemable and societies outside of the US recognize that children have a greater capacity for change and rehabilitation. It is impossible to know when a person who is a teenager will grow into adulthood and become an outstanding citizen. Mandatory life sentences for children precludes consideration of their immaturity, impetuosity and failure to appreciate risks and consequences. It prevents taking into account the family and home environment that surrounds them – and from which they cannot usually extricate themselves – no matter how brutal, traumatizing or dysfunctional. As they grow older, young people change – invariably for the better – even when they commit the worst of crimes. Children often fall prey to peer pressure and other outside influences. But as we mature, we inevitably began to understand decision-making concepts and develop the strength and maturity it takes to choose the right path.

Relying on this fundamental, commonsense and scientifically supported truth, the Supreme Court's decision in *Miller v. Alabama* (2012) barred mandatory life-without-parole sentences for young people who committed their crimes when they were under the age of 18. *Miller* restored some hope to the more than 2,000 individuals serving mandatory life sentences for crimes committed before they were old enough to vote or serve in the military. SB 0494 is in line with the meaning and spirit of the recent



Page 2  
O. Moyd

Supreme Court decisions which support that children are different than adults and should be given a meaningful opportunity to demonstrate rehabilitation.

The second thing that this bill does is to provide hope for persons sentenced as children who deserve a second chance after they have served 20 years, are no danger to the community and it is in the interest of justice to release them. The act of offering these individuals the opportunity to file a motion for sentence reduction is an act of redemption. We have created a system where the door to enter the system is wide and easy to walk through, but where the opportunity to exit is narrow and extremely limited. The few who have trickled out of the system prove that they are no longer a danger and are capable of contributing to the community – given their low recidivism rate.

There are over 400 people who are serving life or life equivalent sentences for crimes committed as children and have already served in excess of 20 years and who would be immediately eligible for review under SB 0494. All of them have aged in prison and many of them are now over 50 years old. Eighty-seven percent of persons who are immediately eligible are Black. When we consider the racial inequities engrained in our judicial system we must create avenues to correct the wrongs of our past simply by giving children exposed to excessive sentencing a second chance.

It is essential that Maryland enact legislation that creates fair and age-appropriate sentences for children and catch up with other states who have already taken progressive steps in the right direction.

We ask that you move Maryland forward by voting to pass SB 0494.

Thank you.

Olinda Moyd, Esq.

**SB 494 - Juvenile Restoration Act.docx.pdf**

Uploaded by: Murray, Kerriann

Position: FAV

Dear Members of the Senate Judicial  
Proceedings Committee,

This testimony is being submitted by Showing  
Up for Racial Justice Baltimore, a group of  
individuals working to move white folks as part  
of a multi-racial movement for equity and racial  
justice in Baltimore City and Baltimore County.  
We are also working in collaboration with the  
Out for Justice (OFJ). I am a resident of MD  
District 10. I am testifying **in support of Senate Bill 494.**



This bill provides several important protections for juveniles that are convicted as adults. It prohibits a court from imposing a sentence of life without the possibility of parole, allows a juvenile to request reduced sentencing, and allows a court to impose a sentence less than the minimum term required by law.

In Maryland there are dozens of people convicted of crimes committed as children, who are forced to live their full adult life in prison without parole. Harsh sentences on children that do not offer the possibility of reform are inhumane. Established brain science that shows that juvenile minds are still forming and often lack impulse control, so juveniles are actually most likely to be rehabilitated. Additionally, as Maryland legislators, you should strive to make Maryland a forgiving and rehabilitating state, especially when it comes to those who have decades of live to change and grow.

This is especially true for Black youth, who are sentenced to life without parole at 10 times the rate of white youth. Therefore, reforming juvenile conviction policies is also a way to right the wrongs of structural racism.

It is for these reasons that I am encouraging you to **vote in support of Senate Bill 494.**  
Thank you for your time, service, and consideration.

Sincerely,  
Kerriann Murray  
221 Northway Rd, Reisterstown, MD 21136  
Showing Up for Racial Justice Baltimore

# **CFSY - One-pager on MD Juvenile Restoration Act (2**

Uploaded by: Nelson, Kimberly

Position: FAV



The **CAMPAIGN** for the  
**FAIR SENTENCING**  
of **YOUTH**

TITLE: Juvenile Restoration Act

CONTACT: Preston Shipp (pshipp@fairsentencingofyouth.org)

This legislation will bring Maryland in line with recent U.S. Supreme Court rulings and twenty four other states and jurisdictions, including Virginia, West Virginia, and the District of Columbia, that have passed similar legislation abolishing life without the possibility of parole for children.

The legislation accomplishes the following:

- 1) Abolishes the sentence of Juvenile Life Without Parole (JLWOP).
- 2) Permits a person who was convicted of a crime committed while the person was a minor to file a motion for a sentence reduction. Following a judicial hearing, the court may reduce the sentence if the person has been imprisoned for at least 20 years, is not a danger to the public, and the interests of justice are served by a sentence reduction.
- 3) Requires the reviewing court to consider the particular characteristics of youth in accord with *Miller v. Alabama*, 567 U.S. 460 (2012), when determining whether to grant a sentence reduction to a person who was a child at the time the crime was committed.

The Juvenile Restoration Act is based on the beliefs that no child is born bad, no child is beyond the hope of redemption, and no child should ever be told that they have no future but to die in prison. It balances the needs for age-appropriate accountability and public safety with the fundamental truth that people, especially children, are capable of profound positive transformation. When a person is able to demonstrate rehabilitation, we must give them an opportunity for a second chance. This legislation takes an important step toward constitutional compliance for youth convicted of serious crimes by abolishing life without parole, providing meaningful opportunities for judicial review after serving a term of years, and setting forth the factors particular to youth that courts must consider at the review hearing.

# **KNelson support for SB494 JRA.pdf**

Uploaded by: Nelson, Kymberly

Position: FAV

Bill Number: SB494

Title: **Juvenile Restoration Act**

Committee: Judiciary/Judicial Proceedings

Date: February 15, 2021

### **Support for House Bill SB494 Juvenile Restoration Act**

Dear Honorable Members of the Legislative Committee:

My name is Kymberly Nelson. I reside in Prince George's County, Maryland. I am the Aunt of an Inmate who is currently incarcerated at the Jessup Correctional Institution.

**I am in support of the House Bill SB494** - Juvenile Restoration Act. Due to many factual reports on the human brain of adolescents regarding development, I have to agree with the Supreme Court statutes. The Supreme Court has held that because juveniles are less able to foresee risks and anticipate consequences and are especially ripe for rehabilitation, they should be treated differently than adults in the criminal legal system. Yet in Maryland, juveniles are subject to a sentence of life in prison based on a legal doctrine that rests on foreseeability. This has created a grave injustice.

My nephew was second to the oldest of seven children. At the young tender age of six, he took the leadership role in his home. He had two younger siblings, a younger brother who was four, and his younger sister was two. They were all being neglected by their parents due to drug abuse that the rest of the family was oblivious to initially. One morning I noticed my nephew walking to his bus stop by himself. That troubled me. So the next day, I went to walk him to the bus stop. When I arrived at the house, his parents were asleep. My nephew opened the door and let me in. He had on a dirty school uniform and went in the kitchen to warm up some rice for himself and his siblings which were 4 and 2 at the time.

Soon after, my nephew and his siblings moved into our household. Even after he moved in with us, he was still trying his hardest to be the parental figure for his siblings. They were all severely traumatized. He would wet the bed. He became somewhat withdrawn. He had abandonment issues and communicated to me all the terrible things that he witnessed while he was with his parents. Even though his home life wasn't easy for him. School was. He was very intelligent. His teachers and guidance counselor were particularly fond of him. They often bragged about how smart he was and how helpful he was. Some years later, his mom rehabilitated herself. She got a job, an apartment and she regained custody of her kids. She didn't live in the best neighborhood and my nephew became heavily influenced by his environment. With a lack of positive role models accompanied by low self-esteem, he started to use marijuana and PCP to cope with the emptiness he felt. He started using drugs around 13-14 to my knowledge. With drug use, he lacked good judgment and critical thinking skills.

He committed a tragic crime and was arrested at sixteen years old and sentenced at seventeen to Life in Prison all suspended except thirty-five years. To date, he has been incarcerated longer than he was alive at the time he was arrested. Since his incarceration, he has received his GED, successfully completed an Auto Mechanic Program. He hasn't been in any trouble. He has a constant desire to learn. He reads all kinds of books. We discuss the books that he and I have read. He talks about wanting to become an Entrepreneur when he is released and starting a nonprofit to help the youth.

**This is why I am in support of SB494.** If you commit a crime you have to be punished but the amount of time one is punished, should be fair and just. There are things that I have done as a juvenile that I wouldn't dare do today as an adult. Even though Juveniles commit crimes and the courts charge them as adults, the fact is, they are not adults. You have to give juveniles the opportunity to mature, reform, rehabilitate and redeem themselves as productive Adults. Sixteen years is a short life. When you think of yourself at sixteen, and all the mistakes that you have made, you look back and say I was just a kid. Juvenile lifers don't get that same respect. They were kids who committed a crime and served adult time.

People serving life sentences don't generally elicit much public sympathy. They were generally convicted of heinous crimes, usually first-degree murder. We understand that the victim's family have suffered and may continue to suffer. But educating the victim's family on all the proven brain studies for juveniles may be helpful in softening the blow for them. I also don't believe that that a decision should be solely based on the victim's family because they may want to see that juvenile lifer die in jail but we all know that isn't fair and just as the law is concerned.

In conclusion, this bill is very important to the families of Juvenile Lifers. We would love to be able to see my nephew outside of Prison, functioning and thriving as a productive citizen. We want to be able to see him fulfill his greatest potential.

Thank you for your time, consideration, and understanding.



**MD Catholic Conference\_SB 494\_FAV.pdf**

Uploaded by: O'Day, Garrett

Position: FAV



ARCHDIOCESE OF BALTIMORE † ARCHDIOCESE OF WASHINGTON † DIOCESE OF WILMINGTON

**February 17, 2021**

**SB 494**

**Juveniles Convicted as Adults – Sentencing – Limitations and Reduction  
(Juvenile Restoration Act)**

**Senate Judicial Proceedings Committee**

**Position: Support**

The Maryland Catholic Conference offers this testimony in SUPPORT of Senate Bill 494. The Conference represents the public policy interests of the three (arch)dioceses serving Maryland, the Archdioceses of Baltimore and Washington and the Diocese of Wilmington, which together encompass over one million Marylanders.

Senate Bill 494 would prohibit a court from imposing a sentence of life without parole on a person who was less than eighteen years of age at the time the offense was committed. Additionally, it would allow a court to review a sentence for an offense committed under the age of eighteen after an individual has served twenty years of their sentence. In doing so, the court must consider certain factors, which include age at the time of the offense, the nature of the offense, good behavior, academic achievement, family circumstances and demonstrated rehabilitative nature.

The U.S. Supreme Court has ruled on the constitutionality of mandatory sentences of life without parole for those who commit crimes under the age of eighteen. First, in 2010, the Court held that life sentences without parole for youthful offenders are unconstitutional for non-homicide crimes. *Graham v. Florida*, 560 U.S. 48 (2010). Next, it held that mandatory life sentences without parole for youthful offenders are unconstitutional even for homicide crimes. *Miller v. Alabama*, 567 U.S. 460 (2012). Specifically, the Court noted certain inherent characteristics of youthful offenders, such as “diminished capacity” and “greater prospects for reform”. *Id.* at 471. Most recently, the Court ruled that the *Miller* holding should be applied retroactively to allow those sentenced to mandatory life without parole to mitigate their sentences. *Montgomery v. Louisiana*, 577 U.S. \_\_ (2016).

The United States Conference of Catholic Bishops has echoed the Supreme Court on this issue, reasoning that “Abandoning the parole system, as some states have done, combined with the absence of a clear commitment to rehabilitation programs within prisons, turns prisons into warehouses where inmates grow old, without hope, their lives wasted.” (*Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice*, USCCB, 2000). Pope Francis has also expressly labeled life imprisonment a “hidden death penalty”. (*Address to the International Association of Penal Law*, Oct. 2014).

These examples of established case law and Catholic social teaching help to formulate our position that society should avoid the imposition of life-without-parole sentencing, particularly for youthful offenders. Such sentences destroy all hope for incarcerated children and ignore the inherent possibilities for rehabilitation. It is therefore important that the State of Maryland recognize the vulnerability of youthful offenders and provide for them proper hope for rehabilitation. It is for these reasons that we urge your support and favorable report on Senate Bill 494.

# **SB 494 - Juvenile Restoration Act.pdf**

Uploaded by: Palmisano, Erica

Position: FAV

Dear Members of the Senate Judicial  
Proceedings Committee,

This testimony is being submitted by Showing  
Up for Racial Justice Baltimore, a group of  
individuals working to move white folks as part  
of a multi-racial movement for equity and racial  
justice in Baltimore City and Baltimore County.  
We are also working in collaboration with the  
Out for Justice (OFJ). I am a resident of MD  
District 12. I am testifying **in support of Senate Bill 494.**



This bill provides several important protections for juveniles that are convicted as adults. It prohibits a court from imposing a sentence of life without the possibility of parole, allows a juvenile to request reduced sentencing, and allows a court to impose a sentence less than the minimum term required by law.

In Maryland there are dozens of people convicted of crimes committed as children, who are forced to live their full adult life in prison without parole. Harsh sentences on children that do not offer the possibility of reform are inhumane. Established brain science that shows that juvenile minds are still forming and often lack impulse control, so juveniles are actually most likely to be rehabilitated. Additionally, as Maryland legislators, you should strive to make Maryland a forgiving and rehabilitating state, especially when it comes to those who have decades of live to change and grow.

This is especially true for Black youth, who are sentenced to life without parole at 10 times the rate of white youth. Therefore, reforming juvenile conviction policies is also a way to right the wrongs of structural racism.

It is for these reasons that I am encouraging you to **vote in support of Senate Bill 494.**  
Thank you for your time, service, and consideration.

Sincerely,  
Erica Palmisano  
5580 Vantage Point Rd, Apt 5, Columbia, MD 21044  
Showing Up for Racial Justice Baltimore

**MAYSB - SB 494 FAV - Juvenile Restoration Act.pdf**

Uploaded by: Park, Liz

Position: FAV



*"Being here for Maryland's Children, Youth, and Families"*

**Testimony submitted to Senate Judicial Proceedings Committee**

**February 17, 2021**

**SB 494 - Juveniles Convicted as Adults - Sentencing - Limitations and Reduction  
Support**

The Maryland Association of Youth Service Bureaus, which represents a network of Bureaus throughout the State of Maryland, Supports SB494 Juveniles Convicted as Adults - Sentencing - Limitations and Reduction. Youth Service Bureaus provide prevention, intervention and treatment services to youth and their families. SB 494 will ensure that youth convicted as an adult can have the possibility of receiving a sentence less than the minimum term required by law, will be protected from receiving a sentence of life without the possibility of parole or release, and will allow those individuals who have been convicted as an adult for an offense committed as a minor the opportunity to file a motion to reduce the duration of the individual's sentence. MAYSB believes this bill supports the State's efforts to have a juvenile justice system that is developmentally informed and urges a favorable finding.

A developmentally informed approach to juvenile justice recognizes the need to hold youth accountable for their actions while also offering them the resources and opportunities to be rehabilitated. It recognizes that youth are still maturing and that their brains are not fully developed until after age 24. Youth who commit violent crimes that lead to their being charged as an adult should be held accountable for their actions and the harm they have done to others. They should not, however, be left without the possibility of rehabilitation and consideration for parole. Twenty-four states, including our neighbors of Delaware and West Virginia and the District of Columbia, have banned life sentences without the possibility of parole for juveniles. Maryland should follow their lead and recognize the science behind brain development. Maryland should be a leader in advocating that all children are capable of, and worthy of, redemption and deserve an opportunity for a second chance, regardless of their race, socio-economic background, or the crime of which they have been accused.

A developmentally informed system is also fair and works to ensure that all youth receive fair and equal treatment. This bill will assist the State of Maryland in addressing racial and ethnic disparities (RED) found in the juvenile justice system. Data in Maryland shows that youth of color are disproportionately impacted at each decision point in the juvenile justice system. The Data Resource Guide 2020 for the Department of Juvenile

Services indicates that of the total complaints received by DJS in 2020 (14,913) 71% were youth of color (10,691). For Youth whose cases were formalized, (5806) 78% were youth of color (4528). When one looks at youth transferred to the adult court (232 youth), 60% (136 youth) were youth of color. This bill will help increase the opportunity for fair treatment for youth of color at the time of sentencing as currently they are more likely to move further into the juvenile system and more likely to receive harsher sentences.

MAYSB believes that following a developmental informed approach to juvenile justice is important and allows youth the opportunity to be held accountable for their actions while also offering them the resources to develop and be rehabilitated. At its core this model recognizes that the thinking and maturity of juveniles is not equal to that of adults and works to offer them opportunities to change and learn from their mistakes.

We respectfully ask you to support this bill.

Respectfully Submitted:

Liz Park, PhD  
MAYSB Chair  
[lpark@greenbeltmd.gov](mailto:lpark@greenbeltmd.gov)

# **SB 494 - Juvenile Restoration Act.pdf**

Uploaded by: Pereschuk, Alicia

Position: FAV



Dear Members of the Senate Judicial  
Proceedings Committee,

This testimony is being submitted by Showing  
Up for Racial Justice Baltimore, a group of  
individuals working to move white folks as part  
of a multi-racial movement for equity and racial  
justice in Baltimore City and Baltimore County.  
We are also working in collaboration with the  
Out for Justice (OFJ). I am a resident of MD  
District 43 and a social worker. I am testifying **in support of Senate Bill 494.**



This bill provides several important protections for juveniles that are convicted as adults. It prohibits a court from imposing a sentence of life without the possibility of parole, allows a juvenile to request reduced sentencing, and allows a court to impose a sentence less than the minimum term required by law.

In Maryland there are dozens of people convicted of crimes committed as children, who are forced to live their full adult life in prison without parole. Harsh sentences on children that do not offer the possibility of reform are inhumane. Established brain science that shows that juvenile minds are still forming and often lack impulse control, so juveniles are actually most likely to be rehabilitated. Additionally, as Maryland legislators, you should strive to make Maryland a forgiving and rehabilitating state, especially when it comes to those who have decades of live to change and grow.

This is especially true for Black youth, who are sentenced to life without parole at 10 times the rate of white youth. Therefore, reforming juvenile conviction policies is also a way to right the wrongs of structural racism.

It is for these reasons that I am encouraging you to **vote in support of Senate Bill 494.**  
Thank you for your time, service, and consideration.

Sincerely,  
Alicia Pereschuk  
404 W 29<sup>th</sup> St  
Baltimore MD 21211  
Showing Up for Racial Justice Baltimore

**SB0494\_Juvenile\_Restoration\_Act\_MLC\_FAV.pdf**

Uploaded by: Plante, Cecilia

Position: FAV



**TESTIMONY FOR SB0494**  
**JUVENILES CONVICTED AS ADULTS – SENTENCING – LIMITATIONS AND**  
**REDUCTION (JUVENILE RESTORATION ACT)**

**Bill Sponsor:** Senator West

**Committee:** Judicial Proceedings

**Organization Submitting:** Maryland Legislative Coalition

**Person Submitting:** Cecilia Plante, co-chair

**Position:** FAVORABLE

I am submitting this testimony in favor of SB0494 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of activists - individuals and grassroots groups in every district in the state. We are unpaid citizen lobbyists, and our Coalition supports well over 30,000 members.

Our members believe in second chances, especially for those who committed crimes as minors and have received life sentences, or sentences that will essentially keep them behind bars for most of their lives. We also believe that the punishment should fit the crime, and that there are crimes that deserve a long sentence.

These two conflicting ideas are handled in this bill. For those juveniles who are newly sentenced, it allows for leniency by allowing judges to hand out sentences that are below the required minimum and it specifically prohibits life sentences. This still allows for a range of sentences that would be appropriate to the crime, but also allows the judge to lean towards leniency when necessary.

For those who have been incarcerated with sentences of 20 years or more, it allows the incarcerated person to file a motion to reduce their sentence. It also allows for that motion to be denied. We feel that this strikes a good balance between the desires of the victims related to the severity of the crime, and the idea that somewhere along the way, the convicted person can rehabilitate themselves.

We support this bill and recommend a **FAVORABLE** report in committee.

# **SB 494 - Juvenile Restoration Act.pdf**

Uploaded by: Powell, Holly

Position: FAV

Dear Members of the Senate Judicial  
Proceedings Committee,

This testimony is being submitted by Showing  
Up for Racial Justice Baltimore, a group of  
individuals working to move white folks as part  
of a multi-racial movement for equity and racial  
justice in Baltimore City and Baltimore County.  
We are also working in collaboration with the  
Out for Justice (OFJ). I am a resident of MD  
District 3. I am testifying **in support of Senate Bill 494.**



This bill provides several important protections for juveniles that are convicted as adults. It prohibits a court from imposing a sentence of life without the possibility of parole, allows a juvenile to request reduced sentencing, and allows a court to impose a sentence less than the minimum term required by law.

In Maryland there are dozens of people convicted of crimes committed as children, who are forced to live their full adult life in prison without parole. Harsh sentences on children that do not offer the possibility of reform are inhumane. Established brain science that shows that juvenile minds are still forming and often lack impulse control, so juveniles are actually most likely to be rehabilitated. Additionally, as Maryland legislators, you should strive to make Maryland a forgiving and rehabilitating state, especially when it comes to those who have decades of live to change and grow.

This is especially true for Black youth, who are sentenced to life without parole at 10 times the rate of white youth. Therefore, reforming juvenile conviction policies is also a way to right the wrongs of structural racism.

It is for these reasons that I am encouraging you to **vote in support of Senate Bill 494.**  
Thank you for your time, service, and consideration.

Sincerely,  
**Holly Powell**  
**2308 Cambridge Street**  
**Baltimore, Maryland 21224**  
Showing Up for Racial Justice Baltimore

# **SB 494 - Juvenile Restoration Act.pdf**

Uploaded by: Rehr, Nathan

Position: FAV

Dear Members of the Senate Judicial  
Proceedings Committee,

This testimony is being submitted by Showing  
Up for Racial Justice Baltimore, a group of  
individuals working to move white folks as part  
of a multi-racial movement for equity and racial  
justice in Baltimore City and Baltimore County.  
We are also working in collaboration with the  
Out for Justice (OFJ). I am a resident of MD

District **45**. I am an active member of my community association and a health professional who is  
interested in eliminating the health disparities that occur with racial discrimination in our society. I am  
testifying **in support of Senate Bill 494**.



This bill provides several important protections for juveniles that are convicted as adults. It prohibits a court from imposing a sentence of life without the possibility of parole, allows a juvenile to request reduced sentencing, and allows a court to impose a sentence less than the minimum term required by law.

In Maryland there are dozens of people convicted of crimes committed as children, who are forced to live their full adult life in prison without parole. Harsh sentences on children that do not offer the possibility of reform are inhumane. Established brain science that shows that juvenile minds are still forming and often lack impulse control, so juveniles are actually most likely to be rehabilitated. Additionally, as Maryland legislators, you should strive to make Maryland a forgiving and rehabilitating state, especially when it comes to those who have decades of live to change and grow.

This is especially true for Black youth, who are sentenced to life without parole at 10 times the rate of white youth. Therefore, reforming juvenile conviction policies is also a way to right the wrongs of structural racism.

It is for these reasons that I am encouraging you to **vote in support of Senate Bill 494**.  
Thank you for your time, service, and consideration.

Sincerely,

**Nathan Rehr**

**450 E. Federal Street Baltimore, MD 21202**

Showing Up for Racial Justice Baltimore

# **SB 494 - Juvenile Restoration Act.pdf**

Uploaded by: Rochkind, Jonathan

Position: FAV



Dear Members of the Senate Judicial Proceedings Committee,

This testimony is being submitted by Showing Up for Racial Justice Baltimore, a group of individuals working to move white folks as part of a multi-racial movement for equity and racial justice in Baltimore City and Baltimore County. We are also working in collaboration with the Out for Justice (OFJ). I am a resident of MD District 43. I am testifying **in support of Senate Bill 494.**



This bill provides several important protections for juveniles that are convicted as adults. It prohibits a court from imposing a sentence of life without the possibility of parole, allows a juvenile to request reduced sentencing, and allows a court to impose a sentence less than the minimum term required by law.

In Maryland there are dozens of people convicted of crimes committed as children, who are forced to live their full adult life in prison without parole. Harsh sentences on children that do not offer the possibility of reform are inhumane. Established brain science that shows that juvenile minds are still forming and often lack impulse control, so juveniles are actually most likely to be rehabilitated. Additionally, as Maryland legislators, you should strive to make Maryland a forgiving and rehabilitating state, especially when it comes to those who have decades of live to change and grow.

This is especially true for Black youth, who are sentenced to life without parole at 10 times the rate of white youth. Therefore, reforming juvenile conviction policies is also a way to right the wrongs of structural racism.

**This kind of harsh treatment of our children makes all of our communities less safe, not more. Locking up our kids is not a solution to the real problems with safety many of our communities have.**

It is for these reasons that I am encouraging you to **vote in support of Senate Bill 494.** Thank you for your time, service, and consideration.

Sincerely,

Jonathan Rochkind  
755 Melville Ave  
Baltimore MD 21218

Showing Up for Racial Justice Baltimore

# **SB 494 - Juvenile Restoration Act.pdf**

Uploaded by: Rosenthal, Anne

Position: FAV

Dear Members of the Senate Judicial  
Proceedings Committee,

This testimony is being submitted by Showing  
Up for Racial Justice Baltimore, a group of  
individuals working to move white folks as part  
of a multi-racial movement for equity and racial  
justice in Baltimore City and Baltimore County.  
We are also working in collaboration with the  
Out for Justice (OFJ). I am a resident of MD  
District 40. I am testifying **in support of Senate Bill 494.**



This bill provides several important protections for juveniles that are convicted as adults. It prohibits a court from imposing a sentence of life without the possibility of parole, allows a juvenile to request reduced sentencing, and allows a court to impose a sentence less than the minimum term required by law.

In Maryland there are dozens of people convicted of crimes committed as children, who are forced to live their full adult life in prison without parole. Harsh sentences on children that do not offer the possibility of reform are inhumane. Established brain science that shows that juvenile minds are still forming and often lack impulse control, so juveniles are actually most likely to be rehabilitated. Additionally, as Maryland legislators, you should strive to make Maryland a forgiving and rehabilitating state, especially when it comes to those who have decades of live to change and grow.

This is especially true for Black youth, who are sentenced to life without parole at 10 times the rate of white youth. Therefore, reforming juvenile conviction policies is also a way to right the wrongs of structural racism.

It is for these reasons that I am encouraging you to **vote in support of Senate Bill 494.**  
Thank you for your time, service, and consideration.

Sincerely,  
Anne Rosenthal  
810 Cathedral St. Baltimore, MD 21201  
Showing Up for Racial Justice Baltimore

# **The Sentencing Project Maryland Senate Bill 494 .**

Uploaded by: Rovner, Josh

Position: FAV



**THE  
SENTENCING  
PROJECT**

RESEARCH AND ADVOCACY FOR REFORM

# **Testimony of Josh Rovner**

**Senior Advocacy Associate  
The Sentencing Project**

**In support of Senate Bill 494, the  
Juvenile Restoration Act**

**Before the Senate Judicial  
Proceedings Committee**

**February 17, 2021**

Established in 1986, The Sentencing Project works for a fair and effective U.S. criminal justice system by promoting reforms in sentencing policy and addressing unjust racial disparities and practices. We are grateful for this opportunity to submit testimony endorsing Senate Bill 494. We thank Senators West, Sydnor and Carter for their leadership on this bill, and we are especially heartened to see a prompt hearing for the bill early in the present legislative session.

We have supported prior iterations of this bill only to see each one fail in the General Assembly while state after state after state legislates the end of life without parole for people who were under 18 years of age at the time of their crime.

SB 494 provides a straightforward abolition of life without parole sentences for juveniles, aligning Maryland with national trends in juvenile sentencing, requirements of Supreme Court rulings, and current adolescent brain research. It is long overdue.

## **MANY STATES HAVE ELIMINATED LIFE WITHOUT PAROLE FOR JUVENILES**

SB 494 would end Maryland's indefensible use of life without parole for juveniles (JLWOP).

When The Sentencing Project submitted testimony for HB 337 in February 2015 – a bill that would have offered a chance at parole after 15 years, 13 states and the District of Columbia had banned juvenile life without parole. Many of these states responded to U.S. Supreme Court's decisions in *Graham v. Florida* (2010)<sup>1</sup> and *Miller v. Alabama* (2012),<sup>2</sup> and *Montgomery v. Louisiana* (2016).<sup>3</sup>

Today, that total is 24 states and the District of Columbia.<sup>4</sup> In five additional states, no one serves the sentence.<sup>5</sup> Included in the list of 24 states that have banned JLWOP is Virginia, which banned JLWOP in 2020; the District of Columbia, which banned JWLOP in 2016 (and now does so for people under 25); West Virginia, which banned JLWOP in 2014; and Delaware, which banned JLWOP in 2013.

SB 494 would place Maryland neatly in the middle of our region's reforms. The District of Columbia and West Virginia allow a new sentence after 15 years. Virginia allows a new sentence after 20 years. Delaware requires a minimum sentence of 25 years prior to a parole request.

Moreover, in response to *Montgomery*, hundreds of people previously sentenced to life without parole in their youth have or will have their sentence reconsidered because they were issued in error. (Pennsylvania, which allows JLWOP, has resentenced hundreds of its prisoners.) Mistakes are being

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<sup>1</sup> 130 S. Ct. 2011 (2010).

<sup>2</sup> 132 S. Ct. 2455 (2012).

<sup>3</sup> 577 U.S. \_\_\_\_ (2016).

<sup>4</sup> The following states, plus the District of Columbia, have banned the use of life without parole for juvenile offenders: Alaska, Arkansas, California, Colorado, Connecticut, Delaware, Hawaii, Iowa, Kansas, Kentucky, Massachusetts, Nevada, New Jersey, North Dakota, Ohio, Oregon, South Dakota, Texas, Utah, Vermont, Virginia, Washington, West Virginia, and Wyoming.

<sup>5</sup> Maine, Missouri, New York, New Mexico, and Rhode Island. Data on file.

corrected, and Maryland finds itself an outlier in regional and national trends. Passing SB 494 will provide for sentences that offer a meaningful opportunity for release that people incarcerated in their youth deserve and the courts require.

## **PROPORTIONALITY AND JUVENILE SENTENCING**

In *Graham*, the Supreme Court addressed the issue of when a juvenile could receive a state’s harshest punishment – life without the possibility of parole. (Under *Roper v. Simmons*,<sup>6</sup> the death penalty is unconstitutional for juveniles.) The Court specified that life without parole sentences must be limited to persons sentenced for the most serious offenses, and that “juvenile offenders cannot with reliability be classified among the worst offenders.”<sup>7</sup>

Given that Maryland is among the 25 states and the District of Columbia to ban the death penalty,<sup>8</sup> allowing juveniles to receive life without parole sentences means that juveniles and adults are eligible to receive identically harsh sentences. Only a total ban on life without parole for juveniles will return to Maryland the proportional penalties that undergird the recent rulings.

## **WHAT “ANY PARENT KNOWS” ABOUT THE TEENAGED BRAIN**

Common sense and one’s own life experiences demonstrate that adolescents are different from adults and, thus, ought to be treated differently under the law. Adolescence is marked by immature decision-making, poor judgment, and impulsive behavior. These are not permanent attributes; teenagers have strong capacity for change, and lifetime sentences with no opportunity for release ignore this capacity.

In *Roper*, Justice Kennedy emphasized that, “as any parent knows,” the differences between adolescents and adults limit adolescents’ culpability.<sup>9</sup> The extent to which adolescents are responsible for their behavior undergirds the Supreme Court’s rulings on juvenile justice. For example, in *JDB v. North Carolina* (2011), the Court wrote, “Time and again, this Court has drawn these common-sense conclusions for itself ... [C]hildren characteristically lack the capacity to exercise mature judgment and possess only an incomplete ability to understand the world around them.”<sup>10</sup>

Due to these characteristics, this state’s laws – like all states’ laws – treat adolescents differently than adults. Children in Maryland, after all, cannot legally purchase cigarettes or alcohol. Maryland limits the right to drive a car through age 18. People under 18 cannot get married in Maryland without parental consent, nor can juveniles serve on juries. Not one juvenile voted for anyone in this

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<sup>6</sup> 543 U.S. 551 (2005).

<sup>7</sup> *Graham* at 2026, internal citations omitted.

<sup>8</sup> Death Penalty Information Center (n.d.) States with and without the death penalty – 2020.

<http://www.deathpenaltyinfo.org/states-and-without-death-penalty>

<sup>9</sup> *Roper* at 569.

<sup>10</sup> *JDB v. North Carolina*, 131 S. Ct. 2394 at 2403.

legislature. Americans cannot join the military until they attain 18 years of age. The law asserts these limitations to protect youth from their own immaturity and society as a whole for the consequences of that immaturity.

Brain science research has buttressed our understanding of the pitfalls of adolescence. Typically, teenagers are impulsive. They are often poor decision-makers, especially in times of stress or when in the presence of other adolescents. Juveniles have weak impulse control and struggle at weighing risks. These hallmark attributes of youth are not unique to those who commit crimes, but instead derive from the way the brain develops post-puberty. Many of the attributes listed above are controlled, in adults, by the brain's pre-frontal cortex – the area behind the forehead. This is one of the last regions of the adolescent brain to fully mature. This development typically continues through age 25.

As such, it is not surprising that criminologists have found an age-crime curve that drops precipitously following late adolescence.<sup>11</sup> Lengthy sentences for juvenile offenders are unlikely to have any impact on public safety. Remarkably, 114 people over the age of 50 are presently serving life or life-equivalent sentences.<sup>12</sup>

A meaningful chance for release will ensure that those incarcerated persons who have no public safety risk can rejoin society and attempt to rebuild their lives. A juvenile, even one who is convicted of a serious crime, should have the chance to understand the nature of his or her crime and to consider a better path. Not all will do so. SB 494 gives them that chance.

## **THE LIVES OF JUVENILE LIFERS**

Under the status quo, previous legislatures have determined that a juvenile's personal background should have no bearing on their sentence. SB 494 remedies that mistake, requiring the court to consider not only the defendant's age, but their circumstances at the time of the offense and their progress while incarcerated. The injustice of current sentencing schemes is revealed by the racial chasm this bill would address: nearly nine of ten people (87%) eligible for relief under this bill are Black.<sup>13</sup>

New sentences are only available for those people who are no longer considered to be a danger to the public. This is a common-sense reform to roll back mass incarceration in Maryland.

While the backgrounds of those currently serving juvenile life sentences vary, they are typically very difficult and marked by frequent exposure to violence; they were often victims of abuse themselves.

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<sup>11</sup> From Juvenile Delinquency to Young Adult Offending. (2014, March 4). Retrieved February 9, 2016, from <http://www.nij.gov/topics/crime/Pages/delinquency-to-adult-offending.aspx>

<sup>12</sup> Data provided by the Campaign for the Fair Sentencing of Youth.

<sup>13</sup> Data provided by the Campaign for the Fair Sentencing of Youth.



The Supreme Court made it clear that these circumstances are relevant at the time of sentencing, and SB 494 will make those circumstances relevant in Maryland.

Justice Kagan, in 2012's *Miller v. Alabama*, ruled that Alabama and Arkansas had erred because their mandatory sentencing structures did not “tak[e] into account the family and home environment.”<sup>14</sup> The portions of SB 494 that list factors to be considered at the time of resentencing address this other flaw in Maryland's status quo. In 2012, The Sentencing Project published a survey of people sentenced to life in prison as juveniles<sup>15</sup> and found the defendants in such cases usually faced difficult and chaotic lives prior to their crimes.

- 79% witnessed violence in their homes
- 40% had been enrolled in special education classes
- Fewer than half were attending school at the time of their offense
- 47% were physically abused
- 80% of girls reported histories of physical abuse and
- 77% of girls reported histories of sexual abuse

Under SB 494, Maryland would eliminate the hopelessness and pointlessness of life without parole sentences. Nothing in the bill requires the premature release of individuals who, in the eyes of the state, would threaten public safety.

We applaud SB 494 and are eager to see it advance in this Committee.

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<sup>14</sup> *Miller* at 2468.

<sup>15</sup> Nellis, A. (2012). “The Lives of Juvenile Lifers: Findings from a National Survey.” Available at [http://sentencingproject.org/doc/publications/jj\\_The\\_Lives\\_of\\_Juvenile\\_Lifers.pdf](http://sentencingproject.org/doc/publications/jj_The_Lives_of_Juvenile_Lifers.pdf)

**OPD Testimony - SB 494.pdf**

Uploaded by: Saccenti, Brian

Position: FAV



## POSITION ON PROPOSED LEGISLATION

BILL: Senate Bill 494 (Juvenile Restoration Act)  
POSITION: Support  
DATE: February 15, 2021

The Maryland Office of the Public Defender respectfully requests that the Committee issue a favorable report on Senate Bill 494.

**If passed, this bill would add Maryland to the growing number of states that have joined the rest of the world in rejecting sentences of life without parole for juvenile offenders.**

The United States stands alone among the nations of the world in sentencing juvenile offenders to life in prison without parole. This may finally be coming to an end. The Supreme Court has banned the imposition of juvenile-life-without-parole (JLWOP) sentences except in the very rare cases where the child is found to be “irreparably corrupt” – even though it has expressed grave doubts about the ability of judges to accurately make such predictions.<sup>1</sup> Twenty-nine (29) states and the District of Columbia have either abolished (23 states plus D.C.) or have no one serving (6 states) JLWOP sentences.<sup>2</sup> Maryland should join the fast-growing number of jurisdictions that have rejected this harsh punishment for children.

**This bill builds on Maryland’s success in safely reducing the prison population by giving judges opportunities to release non-dangerous inmates who have served a substantial period of time.**

Permitting judicial modification of sentence is an effective way of safely reducing the prison population by releasing non-dangerous offenders, with a long and successful history in Maryland. In 2017, the Justice Reinvestment Act allowed

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<sup>1</sup> *Graham v. Florida*, 560 U.S. 48, 77-79 (2010); *Montgomery v. Alabama*, 136 S.Ct. 718, 734 (2016).

<sup>2</sup> Campaign for the Fair Sentencing of Youth, *States that Ban Life Without Parole for Children*, <https://cfsy.org/media-resources/states-that-ban-life/> (updated 2/24/2020).

judges to modify or reduce previously imposed mandatory sentences for certain drug felonies. Between 2012 and 2017, almost 200 individuals serving lengthy sentences for serious crimes were released following the Court of Appeals decision in *Unger v. State*, 427 Md. 383 (2012), most of them through negotiated modifications of sentence. The OPD, law school clinics, and the private bar assisted many of the eligible individuals in developing plans for a successful re-entry into society.

The reason that judges (occasionally with the support of prosecutors and even the victims or their representatives) are sometimes willing to reduce sentences when given the opportunity to do so is because, with the passage of time, people convicted even of serious crimes can and usually do change and become much better people. This is especially true of young offenders, whose brains, personalities, and moral compasses are still developing. The rehabilitated adults who would be eligible for sentence modifications under this bill usually bear little resemblance to the kids who committed the crimes.

This bill will also help to address the appalling racial disparity in our prison population. A report found that 84% of Maryland's juvenile lifers were Black – this in a state where Black people comprise only about 30% of the population. We are tied only with Alabama for having the highest percentage of juvenile lifers who are Black in the country.<sup>3</sup>

**Releasing non-dangerous individuals who have served decades in prison does not pose a risk to public safety.**

The individuals eligible for relief under the bill share characteristics that make it much less likely that they will reoffend. Research demonstrates that recidivism is much lower among released inmates in their 40s and beyond, and inmates who have served at least 15 years in prison. In Maryland, only about 4% of people released in light of the *Unger* decision recidivated. A study of 860 murderers paroled in California over a fifteen-year period found that only *five* – less than one percent – were reincarcerated for new felonies since being released, and none of them recidivated for life-term crimes.

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<sup>3</sup> ACLU & Maryland Restorative Justice Initiative, Report, *Still Blocking the Exit*, at p. 9 (2015) [https://www.aclu-md.org/sites/default/files/field\\_documents/stillblockingtheexit\\_final.pdf](https://www.aclu-md.org/sites/default/files/field_documents/stillblockingtheexit_final.pdf).

**To the contrary, such releases will make Maryland safer.**

Passing the Juvenile Restoration Act would make us safer in four ways.

1. It would permit the State to take money and resources it now wastes on imprisoning non-dangerous individuals and reallocate it to programs and initiatives that actually make us safer.
2. It would reduce the demands on prison staff by reducing the sheer number of inmates they need to supervise.
3. It would reduce violence within prisons, by incentivizing inmates to stay out of trouble and take full advantage of opportunities to better themselves. This would make prisons safer for inmates and correctional staff alike.
4. It would enable reformed inmates to use their experience to make their communities better and safer. Lifers released in Maryland have become active volunteers in their houses of worship and their neighborhoods. Many feel called to mentor young people to keep them from going down the wrong path. They get jobs, care for elderly relatives, and otherwise lead positive and productive lives.

\* \* \*

For these reasons, the Maryland Office of the Public Defender urges a favorable report on Senate Bill 494.

# **SB 494 JLAC testimony.pdf**

Uploaded by: Saccenti, Brian

Position: FAV

## **Written Testimony in Support of Senate Bill 494**

February 15, 2021

The Juvenile Lifer Advocacy Clinic at the University of Maryland Carey School of Law respectfully submits this testimony to express our support for SB 494. We urge the General Assembly to enact SB 494 because we believe it will help to ensure that the law accurately considers the developmental differences between juveniles and adults and addresses some of the racial disparities in Maryland sentencing practices.

### **SB 494 Eliminates Juvenile Life Without Parole**

In a series of recent cases, the Supreme Court has held that life without the possibility of parole sentences for juveniles (sometimes referred to as JLWOP sentences) constitute cruel and unusual punishment and therefore violate the Eighth Amendment for all except those rare juveniles who have committed homicide and are “permanently incorrigible” (a.k.a. “irreparably corrupt”). In these cases, the Court emphasized the need for consideration of a juvenile’s characteristics, in terms of development, maturity, and life experiences. The Court observed that a life without parole sentence “is an especially harsh punishment for a juvenile” and if applied, should be applied very narrowly to juveniles who are a permanent danger to society. Given the emerging research on juvenile development and rehabilitation, however, it appears impossible for a judge to accurately determine whether a child will still pose a risk to public safety decades later.

Science confirms that children are inherently different than adults. The prefrontal cortex of the brain, which controls impulses and risk assessment, does not fully develop until around 25 years of age. This is reflected in our general treatment of youth. As a country, we do not let children have a voice in the criminal justice system. We do not let them vote for judges or new policies that appear on a ballot. Nor do we allow people under the age of 18 to serve on a jury. We prevent children from having a voice in the criminal justice system, while still allowing them to face the full force of prosecution and punishment. If you are too young to drink, smoke, vote, or sign a contract, you are too young to be condemned to serve the rest of your life behind bars.

### **SB 494 Gives Courts the Ability to Reduce Lengthy Sentences for Reformed Juvenile Offenders, and Thereby Begin to Remedy the Extreme Racial Disparity in Such Sentences.**

This bill would permit juvenile offenders who have served 20 years or more to ask the court to reduce their sentences. Many of these sentences were imposed in the 1980s and 1990s, and were influenced by the now discredited “superpredator” theory. At the height of the “tough on crime” era, Black teenagers were portrayed as dangerous, remorseless, and incapable of rehabilitation. Although the “superpredator” theory has been disproven, the extreme punishments imposed on young people as a result of this myth remain intact. Life without parole sentences are disproportionately imposed on African-American youth compared to white youth. The per capita

rate of Black youth serving life without parole in our country is ten times that of white youth.<sup>1</sup> Maryland in particular suffers from severe racial disparity in its criminal justice system. A 2019 report by the Justice Policy Institute revealed that Maryland has the largest Black prison population in the U.S., and almost 80% of individuals who have served 10 years or more are black.<sup>2</sup> Lengthy prison sentences continue to more harshly affect the African-American community in Maryland and prevent reformed individuals from rejoining society. This bill gives courts an opportunity to fix this.

For these reasons, we respectfully urge you to issue a favorable report on SB 494.

*This testimony is submitted by student attorneys Cole Abell, Elizabeth Harris and Emily Perison (under the supervision of adjunct professor Brian Saccenti) on behalf of the Juvenile Lifer Advocacy Clinic at the University of Maryland Carey School of Law, and not on behalf of the School of Law; the University of Maryland, Baltimore; or the University of Maryland System.*

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<sup>1</sup> Campaign for the Fair Sentencing of Youth, "About the Issue," <https://cfsy.org/about-the-issue/>

<sup>2</sup> JPI Report, 7

[http://www.justicepolicy.org/uploads/justicepolicy/documents/Rethinking\\_Approaches\\_to\\_Over\\_Incarceration\\_MD.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/Rethinking_Approaches_to_Over_Incarceration_MD.pdf)



**SB 494 - Juvenile Restoration Act\_MarthaSchmitz.pd**

Uploaded by: Schmitz, Martha

Position: FAV

Dear Members of the Senate Judicial  
Proceedings Committee,

This testimony is being submitted by Showing  
Up for Racial Justice Baltimore, a group of  
individuals working to move white folks as part  
of a multi-racial movement for equity and racial  
justice in Baltimore City and Baltimore County.  
We are also working in collaboration with the  
Out for Justice (OFJ). I am a resident of MD  
District 42B. I am testifying **in support of Senate Bill 494.**



This bill provides several important protections for juveniles that are convicted as adults. It prohibits a court from imposing a sentence of life without the possibility of parole, allows a juvenile to request reduced sentencing, and allows a court to impose a sentence less than the minimum term required by law.

In Maryland there are dozens of people convicted of crimes committed as children, who are forced to live their full adult life in prison without parole. Harsh sentences on children that do not offer the possibility of reform are inhumane. Established brain science that shows that juvenile minds are still forming and often lack impulse control, so juveniles are actually most likely to be rehabilitated. Additionally, as Maryland legislators, you should strive to make Maryland a forgiving and rehabilitating state, especially when it comes to those who have decades of live to change and grow.

This is especially true for Black youth, who are sentenced to life without parole at 10 times the rate of white youth. Therefore, reforming juvenile conviction policies is also a way to right the wrongs of structural racism.

It is for these reasons that I am encouraging you to **vote in support of Senate Bill 494.**  
Thank you for your time, service, and consideration.

Sincerely,  
Martha Schmitz  
14 Greentree Drive, Phoenix, MD 21131  
Showing Up for Racial Justice Baltimore

# **SB 494 - Juvenile Restoration Act.pdf**

Uploaded by: Shillenn, Rebecca

Position: FAV

Dear Members of the Senate Judicial  
Proceedings Committee,

This testimony is being submitted by Showing  
Up for Racial Justice Baltimore, a group of  
individuals working to move white folks as part  
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It is for these reasons that I am encouraging you to **vote in support of Senate Bill 494**.  
Thank you for your time, service, and consideration.

Sincerely,  
Rebecca Shillenn  
5401 Elsrode Avenue, Baltimore 21214  
Showing Up for Racial Justice Baltimore

# **CFSY (PS) Testimony in Support of MD SB 494 (2021)**

Uploaded by: Shipp, Preston

Position: FAV



The **CAMPAIGN** for the  
**FAIR SENTENCING**  
of **YOUTH**

**BILL: SB 494**

**TITLE:** Juveniles Convicted as Adults – Sentencing – Limitations and Reduction (Juvenile Restoration Act)

**DATE:** February 17, 2021

**POSITION: SUPPORT**

**COMMITTEE:** Senate Judicial Proceedings Committee

**CONTACT:** Preston Shipp (pshipp@fairsentencingofyouth.org)

Chair Smith, Vice Chair Waldstreicher, and distinguished members of the Judicial Proceedings Committee:

The Campaign for the Fair Sentencing of Youth respectfully submits this testimony for the official record to express our **SUPPORT for SB 494**. We are grateful to Senator West for his leadership in introducing the bill, to Senators Carter and Sydnor for their co-sponsorship, and to the Committee members for their time and consideration. We are excited that Maryland has this opportunity to become the 25th state in the country to abolish life without the possibility of parole for people who were under the age of 18 when they committed their crimes. We urge the Committee members to vote in favor of SB 494 because it will provide opportunities to people who, despite their youth, became involved in the adult criminal justice system to demonstrate that they have invested in rehabilitation and are suitable for a second chance at life outside prison walls. This is a crucial step in upholding the constitutional and human rights of young people in Maryland and an opportunity for Maryland to join the 24 other states, plus the District of Columbia, that have all banned the practice of sentencing children to die in prison.

The Campaign for the Fair Sentencing of Youth (“CFSY”) is a national coalition and clearinghouse that coordinates, develops, and supports efforts to implement age-appropriate alternatives to the extreme sentencing of America’s youth with a focus on abolishing life-without-parole and life-equivalent sentences for all children. We collaborate with policymakers, national and community organizations, and individuals directly impacted by these policies to develop solutions that keep communities safe while providing opportunities for children to reintegrate into society after demonstrating rehabilitation.

Prior to working for the CFSY, I spent several years working as a prosecutor in the Tennessee Attorney General’s Office. Serving as a prosecutor gave me a unique perspective on the criminal justice system. I have seen things the system does well, and I have witnessed aspects where

there is a great deal of room for improvement. One of the most glaring areas in need of reform is juvenile sentencing.

## **Background**

The United States is the only country in the world in which a child may be condemned to die in prison. In the 1980s and 1990s, tough-on-crime rhetoric was widely employed at the federal level and trickled down to the states. The term “superpredator” was coined to describe a new kind of mythical young criminal incapable of remorse or rehabilitation. As a result of this flawed logic and demonization of children, which has since been debunked and repudiated by its former proponents, policies were enacted that led increasing numbers of children to be tried as adults and given extreme sentences, including life in prison without the possibility of parole. Under this framework, we betray some of our best and most cherished values, such as our belief in redemption and second chances and our concern for the well-being and positive development of all children. Rather than invest in the rehabilitation of children who caused harm, we effectively told them with these policies that it did not matter what they did over the next ten, fifteen, twenty, or thirty years. There was no hope for them. They were thrown away based on the worst moment of their young lives without regard for the great potential that young people have to make positive change.

## **United States Supreme Court Decisions**

Fortunately, throughout the last decade, the United States Supreme Court has repeatedly concluded that children are constitutionally different from adults for the purpose of criminal sentencing, and our policies must take these fundamental differences into account. In *Roper v. Simmons* (2005), the Court struck down the death penalty for children, finding that it violated the Eighth Amendment’s prohibition against cruel and unusual punishment.<sup>1</sup> The Court emphasized empirical research demonstrating that children are developmentally different than adults and have a unique capacity to grow and change as they mature.<sup>2</sup> In *Graham v. Florida* (2010), the Court struck down life-without-parole sentences for non-homicide offenses, holding that states must give children a “realistic opportunity to obtain release.”<sup>3</sup> In *Miller v. Alabama* (2012), the Court struck down life-without-parole sentences for most homicide offenses, and ruled that sentencing courts must “take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison” any time a child faces a potential life-without-parole sentence.<sup>4</sup>

In 2016, the Supreme Court ruled in *Montgomery v. Louisiana* that its decision in *Miller v. Alabama* applies retroactively to individuals serving life without parole for crimes they committed while under age eighteen. As the Supreme Court explains in *Montgomery*, the *Miller* decision “did more than require a sentencer to consider a juvenile offender’s youth before imposing life without parole; it established that the penological justifications for life without

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<sup>1</sup> *Roper v. Simmons*, 543 U.S. 551 (2005).

<sup>2</sup> *Id.*

<sup>3</sup> *Graham v. Florida*, 130 S. Ct. 2011 (2010).

<sup>4</sup> *Miller v. Alabama*, 132 S.Ct. 2455 (2012).

parole collapse in ‘light of the distinctive attributes of youth.’”<sup>5</sup> Additionally, considering youth-related mitigating factors at the time of sentencing may be insufficient to protect against unconstitutional sentences if judges improperly evaluate an individual’s capacity for rehabilitation. The Court held that “[e]ven if a court considers a child’s age before sentencing him or her to a lifetime in prison, that sentence still violates the Eighth Amendment for a child whose crime reflects “unfortunate yet transient immaturity.””<sup>6</sup> For the vast majority of children, therefore, life without parole is an unconstitutional sentence. The Court noted, “*Miller* did bar life without parole, however, for all but the rarest of juvenile offenders, those whose crimes reflect permanent incorrigibility . . . *Miller*’s conclusion that the sentence of life without parole is disproportionate for the vast majority of juvenile offenders raises a grave risk that many are being held in violation of the Constitution.”<sup>7</sup> By preserving life-without-parole sentences for children, states expose themselves to *Miller* and *Montgomery* violations each time a child is charged with murder. Based on juvenile brain science and the demonstrated potential all children have for rehabilitation, the CFSY believes it is impossible for courts to accurately predict that a fourteen-, fifteen-, sixteen-, or seventeen-year-old child is “irreparably corrupt.”

SB 494 takes three crucial steps toward constitutional compliance for youth convicted of serious crimes by abolishing life without the possibility of parole for children, providing a meaningful opportunity for judicial review after service of twenty years, and setting forth the factors particular to youth to be considered at the time of the review.

### **Adolescent Developmental Research**

As the United States Supreme Court has noted, empirical research has demonstrated that adolescent brains are not fully developed. Parents and educators have long known from personal experience that the adolescent brain does not fully mature until the mid-to-late twenties. Compared to adults, youth are less capable than adults in long-term planning, regulating emotion, impulse control, and evaluating the risks and consequences of their conduct.<sup>8</sup> Additionally, youth as a whole are more vulnerable, more susceptible to peer pressure, and more heavily influenced by their surrounding environment, which they rarely can control.<sup>9</sup> The majority of our laws reflect adolescents’ diminished decision-making capacity. We do not permit people under the age of 18 to vote, serve on juries or in the military, get married, enter into contracts, or purchase alcohol or tobacco. Yet our criminal laws uniquely treat them as adults.

Additionally, because the adolescent brain is still developing, children possess a unique capacity for positive change. The majority of children who commit crimes outgrow their illicit behavior,<sup>10</sup> which means long prison sentences without parole eligibility prematurely abandon hope for

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<sup>5</sup> *Montgomery v. Louisiana*, No. 14-280, slip op. at 16 (2016), [http://www.supremecourt.gov/opinions/15pdf/14-280\\_4h25.pdf](http://www.supremecourt.gov/opinions/15pdf/14-280_4h25.pdf)

<sup>6</sup> *Id.* at 16-17.

<sup>7</sup> *Id.* at 20.

<sup>8</sup> Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty, Laurence Steinberg and Elizabeth Scott, *American Psychologist*, December, 2003.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*



many youth who would likely mature into contributing members of society. A recent study found that among former juvenile-lifers who have been released pursuant to changes in the law, the rate of recidivism is a mere 1 percent.<sup>11</sup> All around the country, we see people, who were once told as children that they had no hope for the future but to die in prison, experiencing dramatic transformation and living abundant, successful lives when they are given the opportunity of a second chance. Many individuals who were sentenced to lengthy prison terms as youth currently contribute meaningfully to society by mentoring at-risk youth and helping individuals transition back to society after incarceration. CFSY's Incarcerated Children's Advocacy Network ("ICAN") was created by and is composed of formerly incarcerated youth that are living testimonies of young people's capacity for change.<sup>12</sup>

### **Demographics of Youth Serving Life Without Parole**

By sentencing youth under eighteen to life in prison without parole, we as a society are condemning children to die in prison. We throw them away for the rest of their lives for their worst adolescent acts rather than allowing them to demonstrate their capacity to grow and change. These children are regularly victims themselves long before becoming perpetrators of violence. Nationally, almost 80 percent of these youth witnessed violence in their homes and over half experienced violence weekly in their own neighborhoods.<sup>13</sup> Half were physically abused and 20 percent were sexually abused.<sup>14</sup>

In addition to failing to protect these children before they commit crimes, the criminal justice system also fails to treat these children fairly at sentencing. Nationally, African-American youth are sentenced to life in prison without parole at a per capita rate of ten times that of their white counterparts for the same crime.<sup>15</sup> In Maryland, the racial disparity is particularly egregious: 82 percent of the people serving juvenile life without parole are Black, the highest proportion in the nation. And 87 percent of the people who have served in excess of twenty years for crimes they committed as children, and would therefore be immediately eligible for sentencing review under SB 494, are Black.

While most expect that the harshest penalty is reserved for the most severe offenders, almost two-thirds of youth sentenced to life in prison without parole were involved in the criminal justice system for the first time.<sup>16</sup> A quarter of those serving this sentence were convicted of felony murder, in which they had no intention to kill anyone.<sup>17</sup>

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<sup>11</sup><https://medium.com/philadelphia-justice/new-study-finds-1-recidivism-rate-among-released-philly-juvenile-lifers-607f19d6d822>

<sup>12</sup> Incarcerated Children's Advocacy Network, <http://fairsentencingofyouth.org/incarcerated-childrens-advocacy-network/>

<sup>13</sup> Ashley Nellis, The Sentencing Project (2012). *The Lives of Juvenile Lifers*. Available at [http://sentencingproject.org/doc/publications/jj\\_The\\_Lives\\_of\\_Juvenile\\_Lifers.pdf](http://sentencingproject.org/doc/publications/jj_The_Lives_of_Juvenile_Lifers.pdf)

<sup>14</sup> *Id.*

<sup>15</sup> Human Rights Watch (2008). Submission to the Committee on the Elimination of Racial Discrimination. <http://www.hrw.org/en/reports/2008/02/06/submission-committee-elimination-racial-discrimination-0>

<sup>16</sup> Amnesty International & Human Rights Watch (2005), *The Rest of Their Lives: Life without Parole for Child Offenders in the United States*. Available at <http://www.hrw.org/reports/2005/us1005/TheRestofTheirLives.pdf>

<sup>17</sup> *Id.*

## **National and International Perspective**

Sentencing children to die in prison directly violates Article 37 of the United Nations Convention on the Rights of the Child, which prohibits the use of “capital punishment and life without the possibility of release” as sentencing options for people younger than 18.<sup>18</sup> The United States is the only country in the world that has not yet ratified this treaty.<sup>19</sup> One of the main reasons for its refusal to do so is that it still sanctions life-without-parole sentences for children.

Maryland currently has the opportunity to join the growing number of states who have banned the practice of sentencing children to die in prison and are committed to giving youth a second chance. In the last eight years, states as diverse as Texas,<sup>20</sup> West Virginia,<sup>21</sup> Hawaii,<sup>22</sup> Wyoming,<sup>23</sup> Delaware,<sup>24</sup> Massachusetts,<sup>25</sup> Connecticut,<sup>26</sup> Vermont,<sup>27</sup> Nevada,<sup>28</sup> Utah,<sup>29</sup> South Dakota,<sup>30</sup> Iowa,<sup>31</sup> Oregon, the District of Columbia,<sup>32</sup> Virginia,<sup>33</sup> and, as of January, Ohio,<sup>34</sup> have eliminated the practice of sentencing children to die in prison. Maryland can look to these states as examples of how to hold youth accountable for serious crimes in age-appropriate ways, acknowledging children’s potential to make dramatic positive change.

National organizations have expressed strong opposition to life-without-parole sentences for juveniles. The American Bar Association passed a resolution calling for states to eliminate life without parole as a sentencing option for youth, both prospectively and retroactively, and to “provide youthful offenders with meaningful periodic opportunities for release based on demonstrated maturity and rehabilitation.”<sup>35</sup> The American Correctional Association, American Probation and Parole Association, and the National Association of Counties have passed similar resolutions.<sup>36</sup> Organizations including the American Psychological Association, the National

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<sup>18</sup> U.N. Convention on the Rights of the Child, <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

<sup>19</sup> *Id.*

<sup>20</sup> S.B. 2, 83rd Leg., Special Sess. (Texas 2013).

<sup>21</sup> HB, 4210, 81st Legislature, 1st Sess. (W. Virg. 2013).

<sup>22</sup> H.B. 2116, 27th Leg. (Hawaii 2014).

<sup>23</sup> H.B. 23, 62nd Leg., Gen. Sess. (Wy. 2013).

<sup>24</sup> S.B. 9, 147th Gen. Assemb., Reg. Sess. (Del. 2013).

<sup>25</sup> H 4307, 188th Gen. Court (Mass. 2014).

<sup>26</sup> S.B. 796, 2015 Reg. Sess. (Conn. 2015).

<sup>27</sup> H. 62, 2015 Reg. Sess. (Vt. 2015).

<sup>28</sup> A.B. 267, 78<sup>th</sup> Leg., Gen. Sess. (Nv. 2015).

<sup>29</sup> H.B. 405, 61<sup>st</sup> Leg., Gen. Sess. (Ut. 2016).

<sup>30</sup> S.B. 140, 2016 Reg. Sess. (SD. 2016).

<sup>31</sup> *Iowa v. Sweet*, No. 14-0455 (Iowa May 27, 2016).

<sup>32</sup> Comprehensive Youth Justice Amendment Act of 2016, B 21-0683; pending U.S. Congressional Review.

<sup>33</sup> H.B. 35, 2020 Reg. Sess. (Va. 2020)

<sup>34</sup> S.B. 256, 133rd Gen. Assemb. (Ohio 2020)

<sup>35</sup> Resolution 107C, American Bar Association (Feb. 2015). Available at <http://fairsentencingofyouth.org/resolutions-against-life-without-parole/>

<sup>36</sup> Resolution 2014-1, American Correctional Association (Aug. 2014); Resolution, National Association of Counties (July 2014); Resolution, American Probation and Parole Association (Feb. 2015). All available at <http://fairsentencingofyouth.org/resolutions-against-life-without-parole/>

Association of School Psychologists, the National Association of Social Workers, and the National Parent Teacher Association support ending life without parole for youth.<sup>37</sup>

### **Costs to Society and Victims**

In addition to the human rights and constitutional concerns for Maryland to enact SB 494, the state must also consider the financial impact and loss of human capital. In the United States, it costs approximately \$2.5 million to incarcerate a child for the duration of his or her life.<sup>38</sup> In contrast, a child with a high school education who is paroled after serving ten years could potentially contribute \$218,560 in tax revenue.<sup>39</sup> With a college degree, a formerly incarcerated child can potentially contribute \$706,560 in tax revenue over his or her lifetime.<sup>40</sup> These estimates do not include the contributions that these individuals will make to the local economy, support for their families, and the impact they can have on future generations as role models for at-risk youth. Criminal justice reform is sound policy that protects public safety while allowing formerly incarcerated youth to tangibly repay society with positive contributions.

Finally, the CFSY has deep concern for those who bear the greatest costs of any criminal justice policy, survivors and the loved ones of victims who have died due to violence. Our hearts go out to those who have been hurt by youth, and we work closely with survivors and victims' family members who engage in restorative justice efforts to promote healing. We recognize that in many communities, families may have both loved ones hurt by violence and loved ones incarcerated for committing violent acts. We strongly encourage that the costs saved be redirected to improve support services for victims and their families and improve violence prevention programs.

### **Personal Perspective**

As I mentioned earlier, prior to serving as Senior Policy Counsel for the CFSY, I spent several years working as a prosecutor in the Tennessee Attorney General's Office. In fact, I went to law school for the sole purpose of becoming a career prosecutor. Several years into my career, I was invited by one of my old university professors to teach a law class in conjunction with an innovative new college prison program. This marked my first opportunity to regularly engage, outside of a courtroom, with people who were incarcerated. I was amazed at what I discovered. Several of the people in my class were serving lengthy sentences, including life without the possibility of parole, for offenses they committed when they were under the age of 18. And while each one of them was profoundly gifted and had invested in their own rehabilitation, they often had no meaningful opportunity to demonstrate their transformation and suitability for a

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<sup>37</sup> Official Supporters to the Statement of Principles for the Campaign for the Fair Sentencing of Youth. Available at <http://fairsentencingofyouth.org/about/who-we-are/>

<sup>38</sup> *The Mass Incarceration of the Elderly*, ACLU, June 2012. Available at: [https://www.aclu.org/files/assets/elderlyprisonreport\\_20120613\\_1.pdf](https://www.aclu.org/files/assets/elderlyprisonreport_20120613_1.pdf)

<sup>39</sup> *The Fiscal Consequences of Adult Educational Attainment*, National Commission on Adult Literacy. Retrieved from: <http://www.nationalcommissiononadulthoodliteracy.org/content/fiscalimpact.pdf>

<sup>40</sup> *Id.*

second chance. Such is the nature of life without the possibility of parole and other extreme sentences that we impose against teenagers.

Over the past fourteen years, I have taught several more times in the prison program. One of the most basic, but life-changing lessons that has consistently been brought home to me is that people are more than their worst mistake. Young people in particular have profound rehabilitative potential. Because their brains are still developing, they can experience dramatic positive transformation, move beyond their worst moment, and live healthy, productive lives. I never imagined when I started my career as a prosecutor that I would one day be an advocate for juvenile sentencing reforms such as SB 494. But I have come to understand that for justice to be done, when we recognize that a person has been rehabilitated, especially a person who was sentenced as a child, we must provide them with a meaningful opportunity to demonstrate their suitability for release.

As someone who has prosecuted hundreds of cases, I continue to place great value on public safety and concern for the rights and healing of survivors of youth violence and families of victims. But justice is not a zero-sum game in which we are able to only concern ourselves with one side of the equation. These priorities must be balanced with other cherished values, such as our beliefs in redemption and second chances and our concern for the well-being and positive development of all children. The need for age-appropriate sentencing does not offend our commitments to victims and public safety, given how many of these young offenders were themselves victims of violence and the overwhelming success they enjoy when they receive a second chance.

I have seen the importance of hope and the value of a chance at redemption both in the students in the college prison program and in the members of the CFSY's Incarcerated Children's Advocacy Network. My friends and colleagues Eddie Ellis, Eric Alexander, Xavier McElrath-Bey, Catherine Jones, Abd'Allah Lateef, Angel Alejandro, Marshan Allen, Ashlee Sellars, Sarah Bryant, and so many other formerly incarcerated individuals serve as shining examples of how children, even those who have committed or been involved in violent crimes, can transcend their darkest moments and go on to make beautiful contributions to society by mentoring at-risk youth, helping individuals transition back to society after incarceration, serving as schoolteachers and substance abuse counselors, leading restorative justice initiatives, and raising loving families. These fine people, once regarded as deserving nothing more than a prison cell based on the harm they caused, are living testimonies of the profound capacity for change that young people enjoy. We need juvenile sentencing policies like those set forth in SB 494 that do not consign a child to permanent punishment, but instead leave room for their promise.

I am grateful for the opportunity to represent the Campaign for the Fair Sentencing of Youth in supporting SB 494. Maryland can look to states such as Arkansas, Nevada, North Dakota, Ohio, West Virginia and Wyoming as examples of how to hold youth accountable for serious crimes in age-appropriate ways, acknowledging their potential to make dramatic positive change. SB 494 balances the needs to protect the community from safety threats, to ensure justice for victims, and to rehabilitate incarcerated individuals to rejoin society as productive contributors. I have

learned that no act as a teenager should destine a person to die in prison with no meaningful opportunity to see who the person goes on to become and whether the person has experienced rehabilitation.

### **Closing**

SB 494 is about hope. It is rooted in the beliefs that no child is born bad, all children, without exception, are deserving of our compassion and concern, and no child should ever be told that they have no hope but to die in prison. While recognizing that children are the most vulnerable members of our society and simultaneously our most valuable resource for building a bright future, and must therefore be held accountable in age-appropriate ways that focus on rehabilitation, SB 494 also ensures that the rights and well-being of victims are respected and the community is protected from safety threats. We are all of us more than our worst moment, so we must have in place sentencing policies, particularly for children, that create opportunities for redemption. We ask you to support SB 494 and give these youth the opportunity to demonstrate that they can change for the better.

Thank you,

Preston Shipp  
Senior Policy Counsel  
The Campaign for the Fair Sentencing of Youth

**SB 494 - Juvenile Restoration Act.docx.pdf**

Uploaded by: Simmons, Christina

Position: FAV

Dear Members of the Senate Judicial  
Proceedings Committee,

This testimony is being submitted by Showing  
Up for Racial Justice Baltimore, a group of  
individuals working to move white folks as part  
of a multi-racial movement for equity and racial  
justice in Baltimore City and Baltimore County.  
We are also working in collaboration with the  
Out for Justice (OFJ). I am a resident of MD

District 42A. I recently graduated from Towson University with a Bachelors in Family and Human  
Services with a track in Services to Children and Youth. I am testifying **in support of Senate Bill 494.**



This bill provides several important protections for juveniles that are convicted as adults. It prohibits a court from imposing a sentence of life without the possibility of parole, allows a juvenile to request reduced sentencing, and allows a court to impose a sentence less than the minimum term required by law.

In Maryland there are dozens of people convicted of crimes committed as children, who are forced to live their full adult life in prison without parole. Harsh sentences on children that do not offer the possibility of reform are inhumane. Established brain science shows that juvenile minds are still forming and often lack impulse control, so juveniles are actually most likely to be rehabilitated. Additionally, as Maryland legislators, you should strive to make Maryland a forgiving and rehabilitating state, especially when it comes to those who have decades of life to change and grow.

This is especially true for Black youth, who are sentenced to life without parole at 10 times the rate of white youth. Therefore, reforming juvenile conviction policies is also a way to right the wrongs of structural racism.

It is for these reasons that I am encouraging you to **vote in support of Senate Bill 494.**  
Thank you for your time, service, and consideration.

Sincerely,  
Christina Simmons  
304 Stevenson Lane,  
Towson, MD 21204  
Showing Up for Racial Justice Baltimore

# **SB 494 - Juvenile Restoration Act.pdf**

Uploaded by: Smeton, Jonathan

Position: FAV



Dear Members of the Senate Judicial  
Proceedings Committee,

This testimony is being submitted by Showing  
Up for Racial Justice Baltimore, a group of  
individuals working to move white folks as part  
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We are also working in collaboration with the  
Out for Justice (OFJ). I am a resident of MD  
District 43. I am testifying **in support of Senate Bill 494**.



This bill provides several important protections for juveniles that are convicted as adults. It prohibits a court from imposing a sentence of life without the possibility of parole, allows a juvenile to request reduced sentencing, and allows a court to impose a sentence less than the minimum term required by law.

In Maryland there are dozens of people convicted of crimes committed as children, who are forced to live their full adult life in prison without parole. Harsh sentences on children that do not offer the possibility of reform are inhumane. Established brain science that shows that juvenile minds are still forming and often lack impulse control, so juveniles are actually most likely to be rehabilitated. Additionally, as Maryland legislators, you should strive to make Maryland a forgiving and rehabilitating state, especially when it comes to those who have decades of live to change and grow.

This is especially true for Black youth, who are sentenced to life without parole at 10 times the rate of white youth. Therefore, reforming juvenile conviction policies is also a way to right the wrongs of structural racism.

It is for these reasons that I am encouraging you to **vote in support of Senate Bill 494**.  
Thank you for your time, service, and consideration.

Sincerely,  
Jonathan Smeton  
3140 Ellerslie Avenue, Baltimore, MD 21218  
Showing Up for Racial Justice Baltimore

# **TPM SB494 Support.pdf**

Uploaded by: Syrrakos, Holly

Position: FAV



**SB 494 – SUPPORT**  
**JUVENILES CONVICTED AS ADULTS - SENTENCING -**  
**LIMITATIONS AND REDUCTION**  
**(Juvenile Restoration Act)**  
Senate Judicial Proceedings Committee

*Dear Chair Smith and Members of the Senate Judicial Proceedings Committee:*

Takoma Park Mobilization is a grassroots organization with 2,300 members that advocates at every level of government, to ensure equal treatment and justice for all. We are in SUPPORT of SB 494.

The passage of SB 494 ends juvenile life without parole sentences and instead, would make parole possible for those sentenced as juveniles who have served 20 years.

As of today, there are approximately **400 people in Maryland prisons** who were sentenced as children and would be immediately eligible for an opportunity to have their sentences reviewed if HB 409 is passed. **87% of these people are Black; 114 of them are over 50 years old. Among those sentenced to life without parole while they were still children, 82% are Black— the worst racial disparity of its kind in the entire U.S.** We believe that these numbers in themselves indicate that a change in the law is necessary.

There are however, additional considerations to be taken seriously. Recent research about the brain has shown that individuals under the age of 18 are not fully developed physically, intellectually or emotionally. They are more prone to act based upon peer pressure and less likely to be able to process possible consequences when making decisions. In 2012, the Supreme Court banned mandatory life-without-parole sentences for juveniles with their decision in *Miller v. Alabama*. The court viewed these sentences as a violation of the Eighth Amendment ban on cruel and unusual punishment and required that an avenue for reassessment be provided if harsh sentences have been imposed. The majority of the courts in the U.S. have taken this into account with laws around juvenile sentencing. It is time that Maryland follow suit.

Twenty-five states and the District of Columbia have banned life-without-parole sentences for juveniles, and in six additional states, there are no juvenile offenders serving these sentences. Maryland is out of step with most of the rest of the country in this regard.

The Juvenile Restoration Act is supported by case law, science, data, research, and is bipartisan in its support—it is good public policy. It gives a second chance to Maryland's youth, some of who were never given a first chance. When child offenders demonstrate their rehabilitation, the state should permit them an opportunity to reintegrate into society. All Marylanders benefit when we build a more equitable criminal justice system.

**We urge a favorable report on SB 494.**

*Submitted for Takoma Park Mobilization by Holly Syrrakos, [hollyrockus@gmail.com](mailto:hollyrockus@gmail.com),  
301-312-2525  
February 17, 2021*

**SB 494 - Juvenile Restoration Act.docx.pdf**

Uploaded by: Todd, Tamara

Position: FAV

Dear Members of the Senate Judicial  
Proceedings Committee,

This testimony is being submitted by Showing  
Up for Racial Justice Baltimore, a group of  
individuals working to move white folks as part  
of a multi-racial movement for equity and racial  
justice in Baltimore City and Baltimore County.  
We are also working in collaboration with the  
Out for Justice (OFJ). I am a resident of MD  
District 10. I am testifying **in support of Senate Bill 494.**



This bill provides several important protections for juveniles that are convicted as adults. It prohibits a court from imposing a sentence of life without the possibility of parole, allows a juvenile to request reduced sentencing, and allows a court to impose a sentence less than the minimum term required by law.

In Maryland there are dozens of people convicted of crimes committed as children, who are forced to live their full adult life in prison without parole. Harsh sentences on children that do not offer the possibility of reform are inhumane. Established brain science that shows that juvenile minds are still forming and often lack impulse control, so juveniles are actually most likely to be rehabilitated. Additionally, as Maryland legislators, you should strive to make Maryland a forgiving and rehabilitating state, especially when it comes to those who have decades of live to change and grow.

This is especially true for Black youth, who are sentenced to life without parole at 10 times the rate of white youth. Therefore, reforming juvenile conviction policies is also a way to right the wrongs of structural racism.

It is for these reasons that I am encouraging you to **vote in support of Senate Bill 494.**  
Thank you for your time, service, and consideration.

Sincerely,  
Tamara Todd  
221 Northway Rd, Reisterstown, MD 21136  
Showing Up for Racial Justice Baltimore

**WDC Testimony SB494 (FINAL).pdf**

Uploaded by: Tomasello, Beth

Position: FAV



MONTGOMERY COUNTY, MARYLAND  
WOMEN'S DEMOCRATIC CLUB

P.O. Box 34047, Bethesda, MD 20827

[www.womensdemocraticclub.org](http://www.womensdemocraticclub.org)

**Senate Bill 494-Juveniles Convicted as Adults-Sentencing-Limitations and Reductions  
(Juvenile Restoration Act)  
Judicial Proceedings Committee – February 17, 2021  
SUPPORT**

Thank you for this opportunity to submit written testimony concerning an important priority of the **Montgomery County Women's Democratic Club (WDC)** for the 2021 legislative session. WDC is one of the largest and most active Democratic Clubs in our County with hundreds of politically active women and men, including many elected officials.

WDC urges the passage of Senate Bill 494. We thank you for your attention to our support for this important legislation, and we thank Senator Christopher West for his leadership in sponsoring it.

Recent brain science has confirmed what most parents know: children's decision-making is less calculated, more impulsive, and more immature than that of adults. Children are also more readily swayed by the environment they find themselves in. Accordingly, in a series of cases known as the *Miller* Trilogy, the U.S. Supreme Court found that children are less culpable than adults for crimes they commit.<sup>1</sup> Thus, when we consider punishment for child offenders, Eighth Amendment law requires us to be less extreme in our sentencing and, except in the most limited circumstances, demands that we provide an avenue for reassessment if harsh sentences have been imposed.

Under Maryland law, both allowable sentences and avenues for reassessing harsh sentences fall well short of what is constitutionally required. SB494 does two essential things to address these failings: it ends life without parole sentences for child offenders, and it provides a process for seeking resentencing for those child offenders who have served 20 or more years. For these reasons, we ask that you SUPPORT its passage.

Applying *Miller* retroactively, the Supreme Court held in *Montgomery v. Louisiana* that sentencing a child to life without parole requires the extraordinary finding that the child who committed the crime is "the rare juvenile offender who can receive that...sentence."<sup>2</sup> In *Miller*, the Court drew a line between children whose crimes reflect transient immaturity and those rare children whose crimes reflect irreparable corruption.<sup>3</sup> In reality, it is virtually impossible to predict which children who have committed crimes are irreparably corrupt; their brains are still developing, and, for many of them, brain development has been inhibited or derailed by trauma.<sup>4</sup> We should not invite prosecutors to seek and courts to ratify conclusions that ignore what the science tells us.

As Justice Kennedy pointed out in *Graham v. Florida*, a life sentence without parole is especially harsh for a child. Given their ages at sentencing, children receiving life sentences will serve "on average more years and a greater percentage" of their life in prison than an adult with a life sentence.<sup>5</sup> Shamefully, Maryland's criminal system fails

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<sup>1</sup> See, *Roper v. Simmons*, 543 U.S. 407 (2005), *Graham v. Florida*, 560 U.S. 48 (2010), and *Miller v. Alabama*, 567 U.S. 460 (2012).

<sup>2</sup> *Montgomery v. Louisiana*, 136 S. Ct. 718,734 (2016).

<sup>3</sup> *Miller supra* note 2, at 479.

<sup>4</sup> For a discussion of brain development in children, see Cindy C. Cottle Ph.D., *Moving Forward: Advanced Concepts in Adolescent Brain Development* (Mar. 9, 2018).

<sup>5</sup> *Graham v. Florida*, 560 U.S. 48, 50 (2010). As for the punishment, life without parole is "the second most severe penalty permitted by law," *Harmelin v. Michigan*, 501 U.S. 957, 1001, 111 (2001), and is especially harsh for a juvenile offender, who will on average *Keeping Members Better Informed, Better Connected, and More Politically Effective*



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in two ways: children can still be sentenced to life without parole; and the current parole system in Maryland has resulted in a *de facto* life without parole sentence for child (and adult) offenders who demonstrably are ready to re-enter society. SB494 would assure that Maryland is following the spirit of Constitutional law by prohibiting a sentence of life without parole for children and providing an avenue for relief for children sentenced to life in a system that effectively treats the sentence as life without parole.

National statistics show that child offenders placed in adult prisons are 36 times more likely to commit suicide, five times more likely to be sexually assaulted, and 200 times more likely to be physically assaulted by incarcerated adults and prison officers. If child offenders survive incarceration and can demonstrate that they are rehabilitated, the system should acknowledge this extraordinary feat and allow them a chance to return to society.

Paul's story (not his real name) is illustrative. Paul was first considered for parole after 10 years in prison, having qualified with "good time" credits. The result of that first parole hearing was that his parole consideration was set for a new hearing – 10 years later. The only comments on this lengthy extension: two boxes checked – one for "vocational training" and one for "therapy". His record has no documentation of the next hearing, but the parole commissioners noted on the decision form for a hearing 13 years later that Paul had no infractions since the prior hearing, had participated in several work programs, and showed remorse for his crime. The Parole Commission recommended that he seek anger management and vocational programs "if and when available." The Commission failed to explain why Paul needed an anger management program even though he had committed no infractions of any kind for years. The Parole Commission set another hearing for three years later. At that hearing, they noted that Paul was "very legitimately remorseful" and had successfully completed many programs. Nevertheless, they recommended a risk assessment rather than parole.

Getting a risk assessment involved a two-year wait for a test that evaluated Paul at the time he committed the crime and tried to predict, based on biased factors in this static analysis, the likelihood he would commit a crime again at some point in the future.<sup>6</sup> Such a process is confounding and alienating. Paul received little feedback and insufficient credit for his efforts to demonstrate rehabilitation. At an approximate cost of \$44,600 per year, the state has had to pay nearly \$1 million to keep Paul locked up beyond the time he was initially eligible for parole.<sup>7</sup> While it may have made sense to keep Paul incarcerated for some of that time, he received little guidance as to what more he needed to do, and the system did nothing to construct a plan that would allow him to meet requirements for release. Paul's story demonstrates why it is necessary for Maryland law to create a mechanism to allow juveniles to turn to the courts for resentencing. We need a procedural mechanism for the courts to reconsider sentences so that the state provides the opportunity for parole that the Constitution anticipates but that Maryland's parole process makes virtually impossible.

Maryland's unwillingness to parole those convicted of crimes committed as juveniles serves no valid public safety purpose. A recent study of former juvenile lifers released in Philadelphia revealed that only 1.14% of the several

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serve more years and a greater percentage of his life in prison than an adult offender, *see, e.g., Roper v. Simmons*, 543 U.S. 551 at 572 (2005)

<sup>6</sup> A different risk assessment test is being used now, with different psychologists applying it. The test is half static and half "dynamic." With two psychologists replacing the one doing the prior test, the wait was expected to be shorter, but with COVID this has not happened. Whether such tests provide useful guidance is far from certain.

<sup>7</sup> See Vera - The Price of Prisons: Prison Spending in 2015, <https://www.vera.org/publications/price-of-prisons-2015-state-spending-trends/price-of-prisons-2015-state-spending-trends/price-of-prisons-2015-state-spending-trends-prison-spending> (last visited January 5, 2020).





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hundred released individuals had been re-convicted of any crime after almost two years<sup>8</sup> The refusal to parole child offenders is inconsistent with their sentences, ignores their achievements, serves no public safety imperative, and as such is simply unconstitutional as applied.<sup>9</sup>

Most importantly, sentencing children to life sentences without parole—coupled with the difficulty of gaining parole even for those who are eligible—perpetuates one of the worst racial injustices in our criminal system. According to the Campaign for the Fair Sentencing of Youth, there are approximately 400 people in Maryland's prisons who were sentenced as children and who would be immediately eligible for an opportunity to have their sentences reviewed if SB494 is passed. 87% of these people are Black; 114 of them are over 50 years old. Among those in Maryland sentenced to life without parole while they were still children, 82% are Black - the worst racial disparity of its kind in the entire United States.<sup>10</sup>

Retaining life without parole sentences for child offenders (either as a matter of statute or as a *de facto* result of Maryland's parole system) puts Maryland out of step with the 24 states and District of Columbia that have already abolished life without parole sentences for child offenders. Maryland's retention of these life without parole sentences and our unwillingness to grant parole to child offenders is also a reason why Human Rights for Kids ranked Maryland at the very bottom (tied with Alabama, Mississippi, Georgia, Tennessee, and Wyoming) in its 2020 State Report Card of juvenile justice.<sup>11</sup>

Maryland's General Assembly needs to remove this stain of injustice without delay.

WDC has made passage of the Juvenile Restoration Act one of its highest priorities this year because we believe that sentencing children to die in prison with no hope of release is unconscionable and a deep failing on our part as Marylanders. That the overwhelming majority of the children we so readily discard in this way are Black is part of the shameful history we need to address. Maryland law should codify, and the justice system should uphold, the basic principle that punishment and demonstrated rehabilitation provide a path to redemption, particularly for child offenders who are the most amenable to rehabilitation. That we do not offer such a path to our child offenders is a disgrace we have accepted for far too long.

**We ask for your support for SB494 and strongly urge a favorable Committee report.**

Respectfully,

Diana Conway  
President

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<sup>8</sup> <https://www.msuddecisionmakinglab.com/philadelphia-juvenile-lifers>

<sup>9</sup> The Supreme Court has said that child offenders should have a reasonable opportunity for parole; specifically, that child offenders must be able to obtain release upon demonstrated maturity and rehabilitation, unless they are the highly unusual offender who is decid<https://cfsy.org/media-resources/facts-infographics/edly-incorrigible>. *Miller v. Alabama*, 567 U.S. 460, 567 (2012) and *Graham v. Florida*, 560 U.S. 48, 72 (2010)

<sup>10</sup> <https://cfsy.org/media-resources/facts-infographics/>

<sup>11</sup> Human Rights for Kids, 2020 National State Ratings Report, <https://humanrightsforkids.org/national-state-ratings-report/> (last visited Jan. 10, 2021).

**SB 494 - Support - MYJC .pdf**

Uploaded by: Tompsett, Thomas

Position: FAV



To: The Honorable William C. Smith  
From: Maryland Youth Justice Coalition  
Re: Senate Bill 494: Juvenile Restoration Act  
Date: February 15, 2021  
Position: Support

Dear Senator Smith and Members of the Committee.

The Maryland Youth Justice Coalition (MYJC) supports Senate Bill 494: Juvenile Restoration Act (SB 494). MYJC coalition members include the ACLU of Maryland, Advocates for Children and Youth (ACY), Campaign for Youth Justice, CLIA, Human Rights for Kids, the Maryland Catholic Conference, the Maryland Office of the Public Defender, and NARAL – Pro-Choice Maryland.

The U.S. Supreme Court has consistently ruled that life without parole for children under eighteen (18) years of age is unconstitutional in the vast majority of cases because of their “diminished culpability and heightened capacity for change.” Unfortunately, Maryland continues the antiquated practice of sentencing children to life without parole. Twenty-four other states, including neighboring states, such as Virginia, West Virginia, the District of Columbia, and New Jersey, have abolished this sentencing practice for a more complete approach at punishment, deterrence, and rehabilitation when sentencing a juvenile. More alarming, the practice of sentencing juvenile offenders to life without parole disproportionately impact children of color. Nationally, Black children are serving life without parole at a per capita rate ten times that of White children.

Senate Bill 494 seeks to end this antiquated sentencing practice in Maryland. Under the bill, juveniles sentenced as adults to life in prison will receive a sentencing review after serving twenty (20) years in prison. At this hearing, the Court, when determining whether to grant release or continue incarceration, must consider the child’s family and home environment at the time of the offense, the extent of the child’s participation in the crime, the child’s potential for rehabilitation, and his or her demonstration of maturity and reform while incarcerated.





Opponents of the bill will contend that it makes Maryland less safe and that a sentence review “revictimizes” the injured party and/or his or her family. This hyperbole is simply untrue. The bill will not make Maryland less safe as research shows that incarcerating youths for longer than fifteen (15) to twenty (20) years has diminished public safety returns. A 2020 study from Montclair State University found that individuals sentenced to life without parole as children in Pennsylvania who were released in the last five years saw a recidivism rate of approximately 1 percent (1%), a stark comparison to Maryland’s overall recidivism rate of that remains around forty percent (40%). As for the victim, SB 494 maintains the same judicial process that welcomes and encourages victim participation.

In closing, children are capable of profound positive transformation. When a person can demonstrate rehabilitation, society must, in turn, give him or her an opportunity for a second chance. Therefore, for all the reasons stated above, MYJC asks the committee for a favorable report on SB 494.

Should you have any questions about this testimony, please contact Mariama Boney, Interim Executive Director for Advocates for Children and Youth (ACY), at [mboney@acy.org](mailto:mboney@acy.org).



**SB0494\_FAV\_MPRC.pdf**

Uploaded by: Traore, Jene

Position: FAV

## MARYLAND PRISONERS' RIGHTS COALITION

### TESTIMONY – SUPPORT JUVENILE RESTORATION ACT- SB0494/HB0409

Chair Smith, Vice Chair Waldstreicher, and Committee Members

Thank you for the opportunity to voice our **SUPPORT** for SB0494/HB0409.

As you are all aware, SB0494/HB0409 strives to bring Maryland in line with recent U.S. Supreme Court rulings and twenty-four other states and jurisdictions, including Virginia, West Virginia, and the District of Columbia, that have passed similar legislation abolishing life without the possibility of parole for children.

This legislation would put Maryland in line with her neighbors by not just abolishing the sentence of Juvenile Life Without Parole (JLWOP) but also by permitting a person who was convicted of a crime committed while the person was a minor to file a motion for a sentence reduction after serving at least 20 years, is not a danger to the public, and the interests of justice are served by a sentence reduction. This legislation would also require the reviewing court to consider the particular characteristics of youth in accord with *Miller v. Alabama*, 567 U.S. 460 (2012), when determining whether to grant a sentence reduction to a person who was a child at the time the crime was committed.

The MPRC fully supports SB0494/HB0409, because as research has shown, children do not have the cognitive development in decision making that an adult over the age of 28 has. Their decisions very often impulsive and malleable. Their grasps of consequences is at best infantile. Just think about your children – nieces – nephews, how they react/respond to various challenges, distresses, or situations. Do their actions mirror how you would respond to those same situations? Additionally, research has found that the criminal justice system disproportionately incarcerates brown and black children as a whole. Currently, Maryland has over 300 juveniles who are serving life sentences. This has to stop! This bill offers our juveniles an opportunity for correction, an opportunity to receive a second chance, and an opportunity to work towards a sustainable goal. Most of all it would offer them hope. This legislation does not absolve our young people of their crimes, nor does it minimize the consequences. Rather, as stated, it allows the opportunity for correction.

By not allowing any meaningful second chance to our incarcerated youth, our communities will continue to pay incredible amounts in both human and financial costs. We must pass this legislation and offer a second chance!

For these reasons, **we urge this committee to pass** SB0494/HB0409!

# **Vartkessian testimony in support of SB0494.pdf**

Uploaded by: Vartkessian, Elizabeth

Position: FAV



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February 15, 2021

The Honorable William C. Smith, Jr., Chair  
The Honorable Members of the Judicial Proceedings Committee  
2 East  
Miller Senate Office Building  
Annapolis, Maryland 21401

**Re: Testimony in SUPPORT of SB0494, Juveniles Convicted as Adults - Sentencing - Limitations and Reduction (Juvenile Restoration Act)**

Chair Smith, Vice Chair Waldstreicher, and the Honorable members of the Judicial Proceedings Committee,

I am writing today in **support** of SB0494, Juveniles Convicted as Adults - Sentencing Limitations and Reduction (Juvenile Restoration Act), which I believe is a vital step forward for Maryland in ensuring equity to those within the criminal legal system.

**Qualifications and Background**

I write to you as a Baltimore City resident, as the Executive Director of the Baltimore-based nonprofit, Advancing Real Change (ARC), Inc., and as a mitigation specialist with more than 15 years of experience. My work as a mitigation specialist includes conducting investigation into the life history of defendants in death penalty and juvenile cases. With respect to investigations involving youth accused of murder, I have conducted mitigation investigation at trial, resentencing, and for sentence modification cases since 2011. In the last 10 years I have worked on such cases in Connecticut, Florida, Maryland, Michigan, Washington D.C., and West Virginia.

I am a national expert on best practices of mitigation investigation, the development of sentencing evidence, and its effective presentation. I have taught defenders representing youth in Louisiana and Michigan and provided in-depth training to offices in Washington D.C. and West Virginia. I have also collaborated closely with colleagues at the National Association of Criminal Defense Lawyers, the American Civil Liberties Union, the Defender Services Office Training Division of the Administrative Offices of the United States Courts, and other professional organizations in presenting education and training programs for defense counsel, mental health professionals, and investigators in the role of mitigation in criminal cases.

I have published articles in peer reviewed journals, law reviews, and have contributed to numerous edited volumes dedicated to research on capital punishment. I have also published on topics related to mitigation evidence in felony sentencing generally.



I hold a DPhil (Ph.D.) in Law from the University of Oxford St. Hilda's College, a MSc. in Comparative Social Policy from the University of Oxford St. Antony's College, and BAs in Political Science and Philosophy from the George Washington University. I was among the inaugural recipients of the J.M.K Innovation Prize and my work was the subject of Baltimore City Council Resolution 18-0018R.

While ARC, Inc. is a local organization, I believe that it is our national experience that is most relevant to the legislature. Our organization works throughout the country to conduct mitigation investigations in cases where youths with a lack of funds are appointed counsel and are at serious risk of receiving an extreme sentence. We also work directly on sentencing modification cases such as those originating from Washington DC's Incarceration Reduction Amendment Act (IRAA) and other local legislative reforms across the country. Many of these jurisdictions have grappled with the same decisions Maryland must now face.

### **Mitigation in general**

Mitigating factors stem from the diverse frailties of humankind<sup>1</sup> and are presented to judges and juries in order to take full account of the individual facing punishment. Mitigation values and respects the uniqueness of each person whose life is at stake when the potential outcome is execution or a lifetime in prison. Mitigation aims to provide decision-makers information regarding all relevant facets of a person's development and functioning to assess moral culpability. Part of that process is to take into account the potential for growth in order to engage in principled and humane sentencing.

In order to provide judges, prosecutors, victims, community members, and other stakeholders with the most accurate and comprehensive information about a defendant, the mitigation specialist undertakes an investigation into the person's life history. The investigation spans multiple generations in order to understand the patterns of behavior, functioning, community, and culture that have shaped the life of the client. Such an investigation often unearths a complex pattern of trauma, structural inequalities resulting in an inability for the provision of basic needs, and a lack of access to meaningful support or interventions. These patterns are viewed through a developmental lens.

Another way of understanding mitigation is that it often reminds people of what they already know to be true, for instance, that one's childhood matters a great deal to their successful functioning in life. If we did not believe that was a fact, we would not spend so much time making sure our own children had clean drinking water, a safe place to live, healthy food to eat, access to medical providers, good schools to attend, and all the other things we spent so much time fighting for in order to give our children the best chance in life.

We are also well aware that things over which we have no control can have the gravest impact on our children, and we respond to these circumstances accordingly. If we did not think that childhood experiences mattered, we would not seek counseling for children who experienced sexual abuse. If we did not think childhood experiences mattered, we would not

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<sup>1</sup> *Woodson v. North Carolina*, 428 U.S. 280 (1976).

be concerned with bullying, with kids dodging bullets to go to the playground, or with many of the other damaging experiences that could forever change the trajectory of a young life.

Yet when a youth is accused of committing a crime the first question asked is not, “What happened to that child to put them in a position to think that this behavior was the best response to their situation?” but “How can we punish this child so significantly that we never have to think about them again?”

The ethos of mitigation evidence – understanding the factors that impacted the development of a person, their trajectory, and their capacity for growth – is at the heart of this bill.

### **Mitigation in youth cases**

Trauma is endemic in the cases we see – our child and adult clients have survived horrendous experiences. For instance, one client witnessed a close friend being shot in the head right next to him. Our client waited for hours before the police arrived to that particular crime scene. A mother I visited from that neighborhood described how the body of our client’s friend, a boy himself, lay in the street for hours with the child’s mother screaming in agony until eventually someone from the neighborhood brought out a sheet to cover his body. Our client experienced this violent death of a friend and witnessed the lack of concern for his community waiting for hours for a coroner to arrive. Though no one said it explicitly, the actions of officials said what our client had started to internalize – his life did not matter as much as other children. In the aftermath of this experience, our client spoke with no one about how to process the event, another tacit acknowledgment that concern for his growth and development was not a priority compared to other children who lived in zip codes with greater prosperity.

Another client was raised by a mother who was so deeply gripped by addiction that she would leave her son and his siblings for days without food. These children were so hungry that they would take turns going into a bodega and taking whatever they could reach to help feed each other. This drew the attention of social services, so in order to minimize the chances that the kids would leave the house when she was gone, their mother would put our client in a cupboard without water, food, or access to a toilet. As the brother of the group the mother treated him more harshly than his sisters.

Yet another client was raped and sodomized by counselors at youth detention facility in Washington D.C., where he was sent at age 10. The counselors there would use a broom stick to rape him. Our client would run away whenever he had the chance – and each time he would be arrested and returned to his abusers who would violate and humiliate him. At no point did any adult ask why he fled this facility time and time again. Instead, this behavior marked him as unable to follow rules, a risk to others, hard to manage, and worthy of less investment than other better behaved children.

While these specific stories come from what I have learned in investigations I have conducted, they are typical of the life experiences many mitigation specialists unearth in their investigations. I do not share these stories to minimize the harm that our clients have caused,

which have been devastating for the victims and their loved ones. I share these stories to say that when we speak of the trauma our clients have suffered, we are talking about experiences that many adults would not be able to overcome without significant support and yet there is a tendency to react as though these children should somehow have been able to do more for themselves to rise above it.

As horrific as these stories are, it is important to understand that even extreme trauma can be successfully addressed with the proper support<sup>2</sup> and is not a permanent condition that makes the person destined to act out. The largest long-term study about the adverse experiences in childhood, conducted by Kaiser Permanente and the Center for Disease Control and Prevention and aptly called The Adverse Childhood Experiences Study (ACEs), bears this out.<sup>3</sup> As the legislature weighs this bill it is important to note that risk assessments, which are often relied upon to make sentencing determinations, often fail to take trauma into account. Moreover, most risk assessments are not normed on inmate populations and can have significant biases for already marginalized groups. As such, they are poor predictors of an individual's capacity for change and for an individual's future behavior.<sup>4</sup>

What we have also seen time and time again is that our clients who went to prison as youth have grown into adults capable of much good. Our clients have achieved extraordinary things during their incarceration – some have written books, obtained GEDs and gone on to take college classes through correspondence courses, learned trades such as becoming talented barbers or mechanics, developed knowledge of and connection to religion, and formed meaningful healthy relationships with family, friends, and members of the prison community.

Many of our clients went to prisons that did not provide much, if any, access to educational programming, mental health treatment or counseling, or positive role models, yet each one has grown into a man committed to positive actions. As we have collaborated with our clients to create reentry plans built on a deep understanding of their life history that accounts for their unique potential and needs, we participate in the creation of the conditions for successful reentry to the community.

Our clients who have returned to the community have taken full advantage of their maturation and the second chance afforded to by changes to the law. To the person, each client has used their potential to help others. One such client started a social impact production company that trains currently and formerly incarcerated people as storytellers and advocates. Another client was featured in his local newspaper after securing a job at a restaurant that often employs formerly incarcerated people. That job permitted the client to earn a sufficient salary so he could continue to work on a business plan involving a transportation company to help families visit their incarcerated loved ones. Both men had

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<sup>2</sup> Van der Kolk, B. A. (2015). *The body keeps the score: Brain, mind, and body in the healing of trauma*. Penguin Books.

<sup>3</sup> Reavis, J. A., Looman, J., Franco, K. A., & Rojas, B. (2013). Adverse childhood experiences and adult criminality: How long must we live before we possess our own lives?. *The Permanente Journal*, 17(2), 44.

<sup>4</sup> Kamorowski, J. (2019). *Anatomy of Risk: Cumulative Disadvantage and Risk Assessment Instruments* (Doctoral dissertation).

been convicted of crimes committed around the age of 16. The communities they returned to would have lost much had they been kept in prison.

### **Conclusion**

Much of the discussion around decisions such as *Miller v. Alabama* (2012)<sup>5</sup> and *Montgomery v. Louisiana* (2016)<sup>6</sup> is centered around the idea that children can change. I suggest that the reality is starker than that: children *do* change, whether we acknowledge it or not. The question is whether those who have grown into adults capable of returning to our communities will be permitted to do so.

Thank you for the opportunity to provide these comments on SB0494. I hope for your favorable consideration of this bill.

Best,



Elizabeth Vartkessian, Ph.D.  
Executive Director  
Advancing Real Change, Inc.

---

<sup>5</sup> *Miller v. Alabama*, 567 U.S. 460 (2012).

<sup>6</sup> *Montgomery v. Louisiana*, 136 S. Ct. 718 (2016).

# **Players Coalition Maryland SB 494 Written Testimon**

Uploaded by: Wang, Tiffany

Position: FAV



**Maryland Juvenile Restoration Act**  
**Senate Bill 494**

Chairman Smith, Vice Chair Waldstreicher, and members of the Senate Judicial Proceedings Committee. Thank you for the opportunity to provide written testimony in support of Senate Bill 494, the Juvenile Restoration Act, on behalf of PC Advocacy Initiative, an Ohio nonprofit corporation doing business as Players Coalition and recognized as a tax-exempt organization pursuant to Section 501(c)(4) of the Internal Revenue Code ("Players Coalition").

Players Coalition, directly and in connection with its affiliate organization, PC Charitable Foundation, an Ohio nonprofit corporation recognized as a tax-exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code, works with professional athletes, coaches and owners across leagues to improve social justice and racial equality in our country. We work to make an impact at the federal, state, and local levels and have active members here in Maryland.

The United States is the only country in the world that sentences kids to die in prison. We know that the human brain does not fully develop until an individual is in his or her mid-twenties. Compared to adults, kids are less capable of long-term planning, regulating emotion, impulse control, and evaluating risk and reward. We also know that kids who commit crimes are often victims of crime themselves. Nationally, almost 80 percent of juvenile offenders witnessed violence in their homes and over half experienced violence weekly in their own neighborhoods. Many of these kids have not received the support and protection they needed and deserved. Incarcerating them for the rest of their lives stacks one atrocity onto another.

Players Coalition supports SB 494 because the bill will abolish the sentence of life without the possibility of parole for kids, and grant judicial review after 20 years for people who received extreme sentences while they were still children. The Supreme Court of the United States has acknowledged that children are fundamentally different from adults and deserve special consideration in our criminal justice system. Noting that kids have "diminished culpability and heightened capacity for change," the Court has held that life without the possibility of parole is unconstitutional in the vast majority of cases due to young people's remarkable potential to experience positive transformation and rehabilitation. However, in Maryland, 13 people are serving life without the possibility of parole, and over 300 more are serving sentences so long that they have no meaningful opportunity to demonstrate that they have been rehabilitated. These extreme sentences are disproportionately imposed against kids of color, with a Black child ten times more likely to be sentenced to life without parole than a white child. In Maryland specifically, 87 percent of the people who would be immediately eligible for judicial review under SB 494 are Black. Passing SB 494 is crucial as we reckon with the ways that race leads to disparate outcomes in the criminal justice system.



Furthermore, the data shows that when an individual who received a life sentence for a crime committed as a child is afforded a second chance at life outside prison, the rate of recidivism is astonishingly low – around a mere 1%. Research has also shown that incarcerating kids for longer than 15 to 20 years has diminished returns for public safety. It is worth noting that SB 494 does not guarantee release from prison to anyone, but it does give these individuals a pathway to redemption. SB 494 is supported by case law, adolescent brain science, data regarding recidivism rates, the prior experience of 24 other states, and common sense. Kids are fundamentally, constitutionally different from adults and, when they cause harm, must be held accountable in age-appropriate ways that leave room for rehabilitation and second chances. SB 494 is good public policy. It conforms to our most cherished values of compassion and redemption. It recognizes that children are simultaneously the most vulnerable members of our society and our most valuable resource for building a bright future. Therefore, no child is disposable. No child should be sentenced to die in prison.

On behalf of Players Coalition, we ask that you support SB 494. Thank you for the opportunity to provide written proponent testimony.

Sincerely,

Aveion Cason (NFL player, retired)

Jeremy Ebobisse (MLS, Portland Timbers)

Torrey Smith (NFL player, retired)

**Senator West-SB494-FAV.pdf**

Uploaded by: West, Christopher

Position: FAV



**CHRIS WEST**  
Legislative District 42  
Baltimore County

Judicial Proceedings Committee

Vice Chair, Baltimore County  
Senate Delegation



**THE SENATE OF MARYLAND**  
ANNAPOLIS, MARYLAND 21401

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James Senate Office Building  
11 Bladen Street, Room 303  
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February 17, 2021

Senate Judicial Proceedings Committee  
The Honorable William C. Smith  
2 East Miller Senate Building  
Annapolis, Maryland 21401-1991

**RE: SB 494 – Juveniles Convicted as Adults – Sentencing – Limitations and Reduction  
(Juvenile Restoration Act)**

Dear Chairman Smith and Members of the Committee:

First permit me to proudly acknowledge that both Senator Sydnor and Senator Carter have joined me as co-sponsors of this bill. It is always a privilege to work alongside Senators Sydnor and Carter on important legislation.

Senate Bill 494, the Juvenile Restoration Act, affords reasonable protections to minors who are convicted as adults. First, the bill provides that mandatory minimum sentencing requirements do not apply to minors. Second, the bill states that a court may not impose on a minor convicted as an adult a sentence of life imprisonment without the possibility of parole or release. Finally, the bill provides to an inmate who was convicted as an adult for an offense committed when the inmate was still a minor and who has been in prison for at least 20 years an opportunity to file a motion in the sentencing court seeking to reduce the duration of the inmate's sentence. A judge may not modify the sentence unless the judge finds, after a hearing, that **“the individual is not a danger to the public”** and that **“the interests of justice will be better served by a reduced sentence”**.

This bill carefully protects the interests of both the State and the victim. The judge will be required to hold a hearing, where of course the State will be represented by the State's Attorney. The State's Attorney will inform the victim of the family of the victim of the motion, and will extend to either the victim or the victim's representative an opportunity to be heard at the hearing.

At the hearing, the bill provides that the court will consider a number of factors before reaching a decision. Among them are the inmate's age at the time of the crime, the nature of the offense, the extent of the inmate's role in the crime and whether and to what extent an adult was involved in the crime, the history and characteristics of the inmate, the inmate's family and community circumstances at the time of the crime, including any history of trauma, abuse or involvement in the child welfare system, the behavior of the inmate while in confinement, whether the inmate

has completed an educational, vocational or other program, whether the inmate has demonstrated maturity, rehabilitation and fitness to re-enter society and to abide by our laws.

The decision of the court must be in writing and must explicitly address the factors that I just listed.

In the event the court denies or grants in part the motion to reduce the sentence, the inmate may not file another motion to reduce sentence for at least three years. In the event that a second motion is again denied or granted in part, once again the inmate may not file another motion to reduce sentence for at least three more years. After three tries, the inmate is precluded from filing a fourth motion.

Any human being who reaches his 37<sup>th</sup> birthday is a different person than he was at the age of 17. Quite literally he is a different person because all of the cells in his body when he was 17 have died and been replaced by new cells. But beyond this, a person's brain doesn't fully mature until he is 25 years old, and with maturity comes different thinking, different attitudes and a different approach to life. If we were to reflect on our own lives, I'm quite sure that at the age of 37, we would look back at our lives at 17 and conclude that a lot of changes had occurred in the meantime.

The opponents of Senate Bill 494 are going to argue that if this bill is passed, there will be no finality for the family of the victim, that it will never be over. They will claim that if this bill is defeated, the victim's family will achieve finality and will be able to live the remainder of their lives secure in the knowledge that the perpetrator of the crime will never be released. But this is not the case. Consider all of the post-conviction options available to a prisoner right now. Many of these are merely remedies that are available shortly after the trial, but some of them are available as the years pass. Most significantly, the first parole hearing of a convicted felon is set as early as 11 ½ years after his incarceration. And if he is not successful at that hearing, he can return over and over as the years pass and ask the parole board for relief. The only way to truly achieve finality for the family of the victim is to eliminate all possible post-conviction remedies and literally lock the prisoner up and throw away the key. As a society, we try to be just and merciful, and just locking people up in every single case and throwing away the key is not what we do. It's not who we are.

Of course the victims have rights. They are notified every time a prisoner applies for relief, and they have the right to be heard by the reviewing authority. And as embittered as the grieving families are, I suspect that in some cases, they have the capacity to hold out the hope that the person who committed an atrocious crime against their loved one will see the light and will transform himself into a different, better person.

Thus, Senate Bill 494 will provide an opportunity for people who have committed crimes when they were 17 years old or younger and who have served most of their lives behind bars to appear before the sentencing court and ask the court to consider whether they have so reformed their lives that they should be released from jail because their continued incarceration is no longer necessary for the protection of the public. People can change. Redemption is possible. When that happens, as a society we should rejoice. Keeping someone in prison who committed a

youthful crime and who has spent decades in jail but has transformed his life and is no longer a threat to society is hard to defend.

I hope the Committee will issue a favorable report on this bill.

# **SB494\_StrongFutureMaryland\_FAV.pdf**

Uploaded by: Wilkerson, Alice

Position: FAV



**Testimony in Support of Senate Bill 494 (Senator West)  
Juvenile Restoration Act  
FAVORABLE**

February 17, 2021

Dear Chairman Smith and Members of the Judicial Proceedings Committee:

On behalf of Strong Future Maryland, we write in strong support of Senate Bill 494. Strong Future Maryland works to advance bold, progressive policy changes to address systemic inequality and promote a sustainable, just and prosperous economic future for all Marylanders. We urge you to support this legislation as part of building a just future for our state and bringing Maryland in line with recent U.S. Supreme Court rulings and twenty-four other states and jurisdictions, including Virginia, West Virginia, and the District of Columbia, which have passed legislation similar to the Juvenile Restoration Act.

Maryland's juvenile justice system is in need of significant reform in order to transition from a youth incarceration system to a justice system focused on setting up children and youth for successful reentry. According to [this 2020 Human Rights for Kids study](#), Maryland ranks in the bottom six and is categorized as one of the "worst human rights offenders," a classification designated for states that have "made little to no effort to protect the human rights of children in the justice system and is likely in violation of international human rights standards." In addition to this national study, a [recent story from Capital News Service](#) reports that in 2019, Black youth represented 77% of juvenile detention centers, white youth less than 18%, Latinx 6-7%. For context, census data shows that 41% of children in Maryland are white, while 31.6% are Black. Our juvenile justice system, like our criminal justice system has disproportionately incarcerated children of color.

Some jurisdictions in Maryland are working to address these issues. State's Attorney Aisha Braveboy is leading significant efforts in Prince George's County through the Youth Justice Reform Unit. But this kind of reform cannot be left up to individual jurisdictions, and State's Attorneys to address. The Juvenile Restoration Act is based on the beliefs that no child is irredeemable and no child should be locked away without the possibility of a second chance. Numerous studies have been written about the development of children and youth's brains in terms of decision making and impulse control. We know that it is unfair to hold children and youth to the same standards as adults. This legislation is an important step forward in making Maryland's juvenile justice system more just and protecting the rights of children. Strong Future Maryland urges the committee to vote favorably on SB494.

*John B. King Jr.*  
*Founder and Board Chair*

*Alice Wilkerson*  
*Executive Director*

**SB 494 - Juvenile Restoration Act.docx.pdf**

Uploaded by: Wilkins, Katherine

Position: FAV

Dear Members of the Senate Judicial  
Proceedings Committee,

This testimony is being submitted by Showing  
Up for Racial Justice Baltimore, a group of  
individuals working to move white folks as part  
of a multi-racial movement for equity and racial  
justice in Baltimore City and Baltimore County.  
We are also working in collaboration with the  
Out for Justice (OFJ). I am a resident of MD  
District **12**. I am testifying **in support of Senate Bill 494**.



This bill provides several important protections for juveniles that are convicted as adults. It prohibits a court from imposing a sentence of life without the possibility of parole, allows a juvenile to request reduced sentencing, and allows a court to impose a sentence less than the minimum term required by law.

In Maryland there are dozens of people convicted of crimes committed as children, who are forced to live their full adult life in prison without parole. Harsh sentences on children that do not offer the possibility of reform are inhumane. Established brain science that shows that juvenile minds are still forming and often lack impulse control, so juveniles are actually most likely to be rehabilitated. Additionally, as Maryland legislators, you should strive to make Maryland a forgiving and rehabilitating state, especially when it comes to those who have decades of live to change and grow.

This is especially true for Black youth, who are sentenced to life without parole at 10 times the rate of white youth. Therefore, reforming juvenile conviction policies is also a way to right the wrongs of structural racism.

It is for these reasons that I am encouraging you to **vote in support of Senate Bill 494**.  
Thank you for your time, service, and consideration.

Sincerely,

**Katherine Wilkins**

**10651 Gramercy Pl, Unit 257, Columbia, MD 21044**

Showing Up for Racial Justice Baltimore

# **SB 494 - Juvenile Restoration Act.pdf**

Uploaded by: Yoder, Daryl

Position: FAV



Dear Members of the Senate Judicial  
Proceedings Committee,

This testimony is being submitted by Showing  
Up for Racial Justice Baltimore, a group of  
individuals working to move white folks as part  
of a multi-racial movement for equity and racial  
justice in Baltimore City and Baltimore County.  
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It is for these reasons that I am encouraging you to **vote in support of Senate Bill 494.**  
Thank you for your time, service, and consideration.

Sincerely,  
Daryl Yoder

309 Glenmore Ave.

Catonsville, MD 21228

Showing Up for Racial Justice Baltimore

**MD SB 494\_ZOTTOLI SUBMISSION.pdf**

Uploaded by: Zottoli, Tina

Position: FAV

# Testimony in support of Senate Bill 494

Submitted on February 15, 2021 by:

**Tarika Daftary-Kapur, Ph.D.**

**Tina M. Zottoli, Ph.D.**

## I. Scope

This testimony is offered in support of MD SB 494 (“The Juvenile Restoration Act”), which abolishes sentences of life without the possibility of parole for individuals who were under the age of 18 at the time their crimes were committed. Our testimony is premised on current science regarding adolescent development and trajectories of juvenile offending and desistance, and on data from our recent work showing negligible risk of re-offense for juvenile-lifers who were released following the *Montgomery v. Louisiana* (2016), decision of the Supreme Court of the United States (SCOTUS).

## II. Professional Qualifications

**Dr. Tarika Daftary-Kapur** is an Associate Professor of Justice Studies at Montclair State University. In her capacity as a professor she teaches several classes in Criminal Justice and Law, including Juvenile Justice and Delinquency, conducts scholarly research at the intersection of Psychology, Criminal Justice, and Law, mentors doctoral students, and directs the Criminal Justice minor program. Prior to coming to Montclair State University, Dr. Daftary-Kapur worked on juvenile justice reform issues at the Vera Institute of Justice. She is a member of the National Science Foundation grants review panel, and a member of the American Psychological Association’s Committee on Legal Issues, where, among other obligations, she advises on APA’s decisions to submit amici curiae briefs and on the content of such briefs.

Dr. Daftary-Kapur holds a Master’s degree in Psychology from the University of Dayton, and a Ph.D. in Psychology from the City University of New York, Graduate Center/John Jay College of Criminal Justice (with Psychology and Law concentration). Her current research program is primarily focused on decision making in legal contexts, including prosecutorial decision making related to plea offers and other outcomes. She is author/co-author on 17 peer-reviewed publications, 6 book chapters, and over 50 conference presentations. Along with Dr. Zottoli, Dr. Daftary-Kapur is the principal investigator on a grant examining the re-entry experiences of juvenile lifers in Pennsylvania.

**Dr. Tina Zottoli** is an Assistant Professor of Psychology at Montclair State University and a licensed clinical psychologist in the state of New York. In her capacity as a professor she teaches several Psychology and Law related courses at the undergraduate and graduate levels, sits on the doctoral faculty of the Ph.D. program in Clinical Psychology, conducts scholarly research in the fields of Psychology and Law, mentors doctoral students in the Forensic emphasis of the Ph.D. program and directs the Masters training programs in Clinical Psychology. In her private practice, she provides psychological expertise across a host of criminal (e.g., risk assessment; mitigation) and civil (e.g., deportation/removal cancellation) contexts, and provides expertise on factors that may compromise decision-making (e.g., false admissions). She is also a member of the American Psychological Association’s Committee on Legal Issues, where among other obligations she advises on APA’s decisions to submit amici curiae briefs and on the content of such briefs.

Dr. Zottoli holds a Master's degree in Forensic Psychology from John Jay College of Criminal Justice and a Ph.D. in Psychology from the City University of New York, Graduate Center/John Jay College of Criminal Justice (with Forensic Psychology specialization). Her scholarly work focuses primarily on decision-making in legal contexts and she is an expert on adolescent development and legal competencies and on the psychology of guilty plea decision-making. She is author/co-author on 16 peer-reviewed publications, 12 other scholarly works (e.g., book chapters; editorials), and over 50 conference presentations. She is the recipient of 12 research grants and is currently a co-investigator, with Dr. Daftary-Kapur, on a grant examining the re-entry experiences of juvenile lifers who were released in Pennsylvania.

### **III. Background**

In a series of cases between 2005 and 2012, SCOTUS held that the most serious of criminal sanctions, first the death penalty (*Roper v. Simmons*, 2004) and then mandatory sentences of life-without-the-possibility-of-parole (LWOP; *Graham v. Florida*, 2010; *Miller v. Alabama*, 2012) are unconstitutional for individuals who were under the age of 18 at the time of their offenses (hereafter, juveniles). The *Miller* Court emphasized that adolescence is marked by “transient rashness, proclivity for risk, and inability to assess consequences,<sup>1</sup>” and required courts to consider developmental factors when sentencing juvenile defendants. In *Montgomery v. Louisiana* (2016), the Court held that *Miller* had established a new substantive rule prohibiting the imposition of LWOP for most juvenile offenders, thereby retroactively invalidating all juvenile LWOP sentences that had been mandated by statute.

To date, 24 states, and the District of Columbia have eliminated LWOP sentences for juveniles. In keeping with these trends, SB 494 recognizes adolescence as a formative developmental stage, marked by considerable biological and psychosocial change, and acknowledges that successful rehabilitation and societal re-integration is possible for the vast majority of youth who commit crimes. In the following sections we summarize the scholarly research on adolescent development and pathways to criminal behavior and desistance and present data on the outcomes for individuals sentenced to LWOP as juveniles (“juvenile lifers”) and subsequently released in Philadelphia, PA. These research data form the empirical foundation for our testimony in support of SB 494.

### **IV. Adolescent Development and Pathways to Criminal Offending and Desistance**

#### **Adolescent Decision-Making**

Adolescence is a transitional stage of human development involving considerable physical, hormonal, and behavioral change. Despite the development of relatively mature analytic reasoning by mid-adolescence (Fischhoff, 1992), the judgments and decisions of adolescents often reflect a failure to consider future consequences (Steinberg & Cauffman, 1996; Steinberg, 2009). Among the numerous physical, social and cognitive changes that occur during this period, most adolescents will show a marked increase in novelty seeking and risk-taking, and may exhibit mild-to-moderate rebellion against societal/cultural norms; sensitivity to peer influence is also at a peak during this period of development (Steinberg & Morris, 2001).

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<sup>1</sup> *Miller v. Alabama* 132 S. Ct. 2455 (2012), at 2465.

Adolescents are particularly vulnerable to poor decision making, including engaging in risky behavior, when in situations are emotionally laden or time pressured (see Crone, 2009 for a review) or when they are in the presence of peers (e.g., Gardner & Steinberg, 2005).

Normative developmental changes in decision making are multi-determined, resulting from the complex interplay of experience, bio-and neurobiological reorganization/maturation and changes in social contexts<sup>2</sup>. At a neurobiological level, the vulnerability of adolescents to risky and impulsive decision-making can be explained, in part, by the protracted development of cortical systems, which contribute to the regulation of emotion in decision-making, relative to the earlier maturation of the limbic system, which mediates approach and avoidance behavior (Galvan et al., 2006). Specifically, the limbic system matures by late childhood and can be *hyper-reactive* in adolescence; in contrast, regions of the pre-frontal and anterior cingulate cortices do not reach adult maturity until age 23 or 24 (Blakemore, 2012; Giedd, 2004). As a result, adolescents are, on average, less capable than adults in exerting cognitive control over their behaviors when they are in the presence of dysregulating influences (e.g., Luna & al., 2004; Van Duijvenvoorde, Jansen, Visser, & Huizenga, 2010).

Across the decade of adolescence, there is a gradual “catching up” between limbic and cortical systems and a gradual strengthening of the connectivity between them, facilitating the ability to regulate the influence of emotion on behavior (Spear, 2007). In essence, risky behavior ebbs as humans enter adulthood because we become more resistant to emotional dysregulation with age.

Thus, changes in risk-taking and novelty-seeking behaviors across adolescence are normative and biologically explained; the behaviors typically reach their apex by middle adolescence and remit for most individuals by the early twenties. This transitional period of increased risk-taking is developmentally necessary because it allows adolescents to attain greater independence as they approach adulthood (Kelly, Schochet, & Landry, 2004). However, a consequence of these normative changes is an increased vulnerability for engaging in criminal behavior (e.g., Farrington, 1986; Moffitt & Harrington, 1996). Empirical evidence for a normative increase in adolescent offending (followed by a decline in early adulthood) is robust. Age-crime curves showing peak offending rates between the ages of 15 and 25 with steep declines in incidence of offending thereafter are remarkably consistent across both historical-era and cultures/nations (Farrington, 1986; Tremblay & Nagin, 2005).

### **Trajectories of juvenile offending**

Of course, while most adolescents exhibit elevations in novelty-seeking and risk-taking, the vast majority will not engage in antisocial (i.e., criminal, norms-violating) behavior<sup>3</sup>. As with all human behavior, the emergence and remission of antisocial behavior is multi-determined. The likelihood that an adolescent will engage in a criminal act is exacerbated for youth who live in criminogenic environments (e.g., living in high crime areas; few pro-social community supports; low adult supervision; access to illegal substances), who are disengaged from school (e.g., frequent truancy; expulsions/suspensions<sup>4</sup>) and who have developmental and/or cognitive deficits, although antisocial behavior occurs among youth across the full range of environmental settings and demographic backgrounds (Tremblay & Nagin, 2005).

Normatively speaking, there are two primary developmental trajectories for anti-social behavior: one that is primarily limited to the period of adolescence and one that persists across the life-span<sup>5</sup>. The vast

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<sup>2</sup> For comprehensive reviews, see Casey, 2015; Ernst, Romeo & Anderson, 2009; Steinberg, 2007; Steinberg & Morris, 2001)

<sup>3</sup> In 2018, approx. 2% of juveniles under the age of 18 were arrested for any offense (Puzzanchere, 2020)

<sup>4</sup> For instance, zero-tolerance policies have are criticized for contributing to the School-to-Prison pipeline (e.g., Heitzeg, 2009).

<sup>5</sup> This dichotomization should not be assumed to capture the full range of trajectories of youth who offend. For example, the Pathways to Desistance project, which followed 1,300 serious juvenile offenders for seven years, described five separate trajectories (Steinberg et al., 2015); nonetheless, even in this sample of serious offenders, only about 8% of their sample exhibited a pattern of serious and persistent offending beyond their early twenties.

majority (more than 90%) of juveniles who commit crimes (even some who commit very serious crimes) will desist in their criminal behaviors as they enter adulthood. Although there are exceptions, these juveniles typically exhibit normative early adjustment but may be higher than average on personality traits associated with risk-taking, which are then exacerbated by the biological and social changes of adolescence. These youth also tend to exhibit a slower, or delayed, psycho-social maturation (i.e., responsibility; future orientation; temperance; Steinberg, Cauffman, & Monahan, 2015). Whether or not youth with such developmental characteristics will engage in serious criminal acts depends on a number of factors, including the extent to which their peers are engaging in antisocial behavior, the extent to which they are engaged in school and other institutions wherein they have pro-social adult influences and the extent to which they have an active parent/guardian who monitors their behavior. Although these youth can be expected to age-out of criminal behavior, they are at increased risk for a number of problems that may have life-altering consequences (e.g., substance abuse/addiction; injury/death of self or other). Developmentally appropriate legal sanctions and/or provision of empirically supported interventions are indicated for many of these youth.

While a minority of youthful offenders will persist in serious criminal activity across their lifespan—especially if they do not receive intervention—it is not possible to predict with any certainty which youthful offenders will continue on such a path. For instance, while risk factors for persistent offending include early adjustment problems (e.g., difficult childhood temperaments), unaddressed academic difficulties and serious familial disruption, the vast majority of individuals with such histories will *not* engage in criminal behavior, and among those who do, most will not persist into adulthood. As such, the weight of the scientific evidence supports *waiting* to make decisions about the potential for successful reintegration until such time that a youthful offender has matured and has been provided an opportunity to demonstrate successful (or, unsuccessful) rehabilitation; that is, the weight of the science supports parole eligibility for youthful offenders.

Evidence in support of the rehabilitative potential of juveniles who commit serious crimes is clear from our recent research on released juvenile lifers in Philadelphia, to which we turn next.

#### **IV. Recidivism and Cost Savings outcomes for juvenile lifers released in Philadelphia, PA**

Prior to *Montgomery v. Louisiana*, 2016, Pennsylvania had the most juveniles serving LWOP in the country (approximately 532), with the vast majority in Philadelphia county (approximately 325). As of September 2020, 460 juvenile lifers (88%) had been resentenced in Pennsylvania across all counties<sup>6</sup>, and 245 had been released.

In April 2020, we released a report that examining the re-sentencing process in Philadelphia. Our full report, *Resentencing of Juvenile Lifers: The Philadelphia Experience*, is submitted with this testimony. Here we highlight findings most relevant to the conversation about SB 494. We also report preliminary data from our current research on the re-entry experiences of released juvenile lifers.

1. Released juvenile lifers pose negligible risk to public safety. At the time of our report (April, 2020), 174 juvenile-lifers had been released. Six (3.5%) were re-arrested. Four cases were dismissed; two cases resulted in convictions, one for Contempt for Violation of an Order of Agreement and one for Robbery, yielding a reconviction rate of 1.1%. The remaining 168 individuals (96.5%) have been living in the community since release without any known law enforcement contacts.

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<sup>6</sup> The remaining 12% are in various stages of the resentencing process or have opted to delay resentencing as they pursue other legal actions (e.g., innocence claims).

2. The estimated cost savings to Philadelphia, based on the first decade of release for the 174 juvenile lifers who had been released at the time of our report was \$9.9M.
3. The life circumstances of the juvenile lifers in Philadelphia is similar to that of young offender populations nationwide (Thompson & Morris, 2016). The majority (80%) of the juvenile lifers in our analysis had been exposed to one or more developmental and psycho-social risk-factors for criminal behavior (e.g., family instability, exposure to drugs/alcohol, parent/sibling criminality, exposure to violence), with 42% exposed to three or more.<sup>7</sup> The cumulative risk model (Doan, Fuller-Rowell & Evans, 2012) posits that an accumulation of risk factors (as opposed to any one individual factor, no matter how severe), increases the risk for negative behavioral, cognitive and psychological outcomes in adolescents, including juvenile offending
4. Consistent with the rehabilitative potential of juveniles convicted of serious crimes, the juvenile lifers in our study were:
  - a. Highly engaged in prison programming despite limitations in offerings available to inmates serving life sentences. During their incarceration, the majority of the juvenile lifers (approx. 90%) participated in some form of rehabilitative programming. These programs included violence prevention, self-help (e.g. coping skills), drug and alcohol education, vocational training, and anger management. Additionally, 65% (n=137) completed their GEDs.
  - b. Among the most well-adjusted groups in the prison population. The modal number of misconducts reported was 7 and, on average, the last incident reported was approximately 8 years prior to resentencing. Misconducts were mostly minor, with the most common being possession of contraband and refusing to obey an order.

We are continuing to study released juvenile lifers in Pennsylvania, focusing on factors that have been associated with successful reintegration, such as housing stability, employment and social support (Glaze & Palla, 2004; Travis & Lawrence, 2002). Since September 2020, 113 released juvenile lifers completed surveys on their re-entry experiences. Here we highlight some preliminary findings:

1. Sixty-five percent of respondents (n=74) were employed at the time of the survey. Of the 35% (n=39) who were unemployed at the time of the survey, all but five were actively seeking employment.
2. All respondents were domiciled and the majority (62%; n=70) were either living in the same housing since release (29%; n=33) or had moved only one time (33%; n=37).
3. Seventy-seven percent (n=87) of the respondents said that they had formed a close relationship with at least one family member (parent, aunt/uncle, sibling, spouse).

In sum, and consistent with the best developmental science, the Philadelphia data suggest that the vast majority of individuals who commit serious crimes as juveniles can be successfully rehabilitated and released into the community safely. The opportunity for parole by no means guarantees release, but allows for a release decision to be made at a point in the future, at which point the individual has had the benefit of developmental maturation and an opportunity to take advantage of rehabilitative services and to demonstrate whether or not he or she is capable of safely re-entering society and making a meaningful contribution.

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<sup>7</sup> These estimates are conservative; developmental history data were missing for approximately 20% of the sample, and was generally incompletely reported.

## VI. Opinion in Favor of Senate Bill 494

Senate Bill 494 is precisely the kind of legislation that should follow from the current state of the science on adolescent development and pathways to criminal behavior and desistance.

- The vast majority of juvenile crime stems from transient characteristics of youth (e.g., impulsivity; risk-taking; emotional dysregulation), which may be exacerbated by criminogenic social and environmental factors.
- The vast majority of juveniles who commit crimes (even serious crimes) will age-out of criminal behavior, either on their own or through developmentally appropriate intervention.
- Juvenile-lifers who have been released in the state of Pennsylvania are reintegrating successfully into society and only a very small number have had any justice system contact since release.
- Cost savings associated with eliminating LWOP sentences for juveniles are substantial.
- Twenty-four states, and the District of Columbia have already eliminated LWOP for juveniles.

Considering these facts, the societal, economic, and public safety benefits of life-time incarceration for juveniles are called into question. **It is our professional opinion that SB 494 should be passed.**

Respectfully submitted,



Tarika Daftary-Kapur, Ph.D.



Tina M. Zottoli, Ph.D.

Attachment: Works Cited



### Attachment: Works Cited

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# **Resentencing of Juvenile Lifers Daftary-Kapur & Z**

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# RESENTENCING OF JUVENILE LIFERS: THE PHILADELPHIA EXPERIENCE

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# EXECUTIVE SUMMARY

We examined the Philadelphia District Attorney Office's approach to juvenile lifer resentencing, which began in 2017 under the administration of District Attorney Seth Williams and has continued under the administration of District Attorney Larry Krasner. For cases resentenced as of December 31st, 2019, we describe similarities and differences between the Williams and Krasner administrations in decision making and sentence length reductions, and we report on the recidivism rate and estimated cost savings for Pennsylvania as a result of release.

In June 2012, the Supreme Court of the United States (SCOTUS) ruled in *Miller v. Alabama* that mandatory life without-parole (LWOP) sentences were unconstitutional for individuals who were under the age of 18 at the time of their offense (hereafter, juveniles). In January 2016, SCOTUS, ruled in *Montgomery v. Louisiana* that *Miller* applied retroactively. Following *Montgomery*, individuals previously sentenced to mandatory LWOP as juveniles (hereafter, juvenile lifers) became eligible for resentencing. Accordingly, in almost all such cases, the district attorney's office makes an offer for a new sentence to the defendant, who is free to accept the offer or to have his new sentence decided by the judge.

At the time *Miller* was decided, Philadelphia had the largest number of juveniles sentenced to LWOP in the country (approximately 325). Yet, they have been at the forefront of the resentencing process nationally, and at the time of this writing have only 10 juvenile-lifers left to re-sentence; the main reasons for delay being an open Post Conviction Relief Act petition or a pending appeal.

In Philadelphia, re-sentence offers are decided by The Juvenile Lifer Resentencing Committee ("The Lifer Committee"), which comprises 8 members of the executive staff at the District Attorney's Office. The Lifer Committee's decisions are based primarily on the consideration of case-summary memos prepared for the Committee by the Assistant District Attorney leading the resentencing process. Memos include information on the facts of the original case, demographic information on

the victim and offender, mitigating information, the offenders' prison adjustment (e.g. misconducts, rehabilitative programming), information on acceptance of responsibility and remorse, the victim's family's perspective on release, and reentry plans.

In January 2018, as the resentencing process was underway, Larry Krasner was sworn in as the District Attorney of Philadelphia after having run on a reform platform, ushering in dramatic change to the culture and policies of the District Attorney's Office. This change in administrations, during a crucial resentencing project, provided us with a unique opportunity to examine how the priorities and policies of the new administration have affected prosecutorial decision making. Moreover, in light of the growing recognition that addressing the incarceration epidemic will necessitate re-evaluation of long-term prison sentences for individuals who were convicted of violent offenses, these outcome data have implications far beyond just those that pertain to the resentencing and release of juvenile lifers.

## **This project had 3 objectives:**

1. To understand the process by which the Lifer Committee arrives at resentencing offers.
2. To quantify recidivism rates of released juvenile lifers and potential cost savings of release.
3. To identify and quantify differences between the prior and current administrations in terms of factors considered by the Lifer Committee, the weight assigned to these factors and, controlling for case-specific differences, the average difference in resentencing offer lengths.

## METHODS

We conducted semi-structured interviews with four members of the Lifer Committee to understand the resentencing process and then performed a content analysis of the case-summary memos prepared by the lead ADA for each case to identify the case facts that were available for consideration by the Lifer Committee. Resentencing offers were obtained from records maintained by the Philadelphia District Attorney's Office, and recidivism data were compiled from public records. We employed regression analyses to identify the case factors that best predicted resentencing offer lengths for each administration.

## KEY FINDINGS

- Pennsylvania has resentedenced 88% of its juvenile lifers as compared to Michigan (52%) and Louisiana (approx. 15-22%); the three states in combination account for 2/3rd of all juvenile lifers in the United States.
- Juvenile lifers can be considered low-impact releases in terms of risk posed to public safety. At the time of our analyses, 269 lifers have been re-sentenced in Philadelphia and 174 have been released. Six (3.5%) have been re-arrested. Charges were dropped in four of the cases and two (1%) resulted in new convictions (one for Contempt and the other for Robbery in the Third Degree). In comparison, nationally, an estimated 30% of individuals convicted of homicide offenses are rearrested within two years of release<sup>1</sup>.
- A subset of 38 cases were considered for resentencing by both the prior and current administrations. The average sentence offered in these cases by the prior administration was 38.8 years; under Krasner, the average offer in these cases was 27.6 years. Across all cases, this difference equates to an additional reduction of 394 years.
- Overall, release of Philadelphia's juvenile lifers, to date, will result in an estimated minimum \$9.5M savings in correctional costs for Pennsylvania over the first decade.
- For both the Williams and Krasner administrations, Lifer Committee offers were explained by years in custody at time of resentencing, charge severity, whether the defendant was the primary actor, and whether a re-entry plan is in place. There were some differences. While both administrations considered the maturity of the offender, the Williams administration relied on defendant age at the time of the offense and the level of planning, whereas the Krasner administration relied on a more holistic evaluation of the juvenile nature of the crime (e.g., involvement of an adult co-defendant, presence of peers, context in which the murder was committed). Prior convictions also weighed more heavily under Krasner than the prior administration.

<sup>1</sup> <https://www.bjs.gov/content/pub/pdf/rprts05p0510.pdf>

## RESENTENCING OF JUVENILE LIFERS: THE PHILADELPHIA EXPERIENCE

The national movement to end the crisis of mass incarceration has focused almost exclusively on non-violent felony offenders. Little to no consideration has been given to individuals serving long-term sentences for violent crimes, even though these individuals make up more than half of those who are in prison and tend to be the most well-adjusted segment of the prison population (Kazemiam & Travis, 2015). In fact, research shows that individuals released after having served very long sentences, including life-sentences, have the lowest recidivism rates of any category of previously incarcerated individuals (Weiberg, Mukamal, & Segall, 2011).

There are over 160,000 individuals across the country serving life sentences, and approximately another 45,000 serving “virtual life” (longer than 50 years). Considering that the overwhelming majority of individuals who commit crime—even serious crime—“age out” of criminal behavior, the societal benefits of continued incarceration are called into question, especially in comparison with the costs. A 50-year

sentence for a 16-year old can cost a state approximately \$2.25 million (Henrichson & Delaney, 2012).

Although the idea of releasing lifers has not gained momentum among policymakers or the public at large, the U.S. Supreme Court (SCOTUS) forced consideration of this question for one sub-group of inmates. In 2012, SCOTUS held in *Miller v. Alabama* that mandatory life without parole sentences for juvenile offenders violate the Eighth Amendment. Specifically, the Court emphasized that adolescence is marked by “transient rashness, proclivity for risk, and inability to assess consequences<sup>2</sup>,” and that courts must consider such developmental factors when sentencing juvenile defendants. Then, in *Montgomery v. Louisiana* (2016), the Court retroactively invalidated all juvenile life-without-parole (JLWOP) sentences that had been mandated by statute. Pennsylvania, which had incarcerated more juvenile lifers than any other state (521 individuals, with 325 in Philadelphia), has become the nation’s leader in releasing them. At the time of this



<sup>2</sup> *Miller v. Alabama* 132 S. Ct. 2455 (2012), at 2465.

report, 459 juvenile lifers (88%) have been resentenced in Pennsylvania across all counties. Of these, 323 have become parole eligible and 230 of those eligible have been released, for a parole rate of 71%<sup>3</sup>. Other states have not moved as quickly toward resentencing and release. For example, Michigan has resentenced 52% of its 363 juvenile lifers<sup>4</sup> and estimates for Louisiana range from 15-22% percent of their 300 juvenile lifers (the state does not track resentencing). Additionally, both Michigan and Louisiana have requested continued life sentences for a significant proportion of the juvenile lifers that have been resentenced (66% in Michigan and 33% in Louisiana), as compared to only a handful in Pennsylvania<sup>5</sup>. Along with Pennsylvania, Michigan and Louisiana account for 2/3<sup>rd</sup> of all juvenile lifers in the country<sup>6</sup>. As states grapple with the reality that ending mass incarceration will eventually require releasing individuals who are serving long sentences for violent crimes, policymakers can look to Philadelphia as a test case.

In Philadelphia, offers are decided by The Lifer Resentencing Committee (hereafter "the Lifer Committee"), which comprises 8 members of the District Attorney's Office, all of whom are attorneys. The Lifer Committee members include the District Attorney, the two First Assistant District Attorneys, the Supervisor of the Conviction Integrity Unit, the Juvenile Unit Supervisor, two policy advisors, and is chaired by the Assistant Supervisor of the Homicide and Non-Fatal Shootings Unit (who was also involved in the resentencing process during the Williams administration). The Committee bases its decisions on the consideration of case-summary memos prepared for the committee by the lead-ADA. Memos include information on the facts of the original case, demographic information on the victim and offender, mitigating information, the offender's prison adjustment (e.g., misconducts, rehabilitative programming), information on acceptance of responsibility and remorse, the victim's family's perspective on release, and reentry plans.

In an effort to make Philadelphia's approach accessible to other jurisdictions, we partnered with the Philadelphia District Attorney's Office to document and investigate how they arrive at resentencing recommendations and to examine whether there have been significant changes in process and outcomes from the prior administration.

### **This project had 3 objectives:**

1. To understand the process by which the Lifer Committee arrives at resentencing offers.
2. To quantify recidivism rates of released juvenile lifers and potential cost savings of release.
3. To identify and quantify differences between the prior and current administrations in terms of factors considered by the Lifer Committee, the weight assigned to these factors and, controlling for case-specific differences, the average difference in resentencing offer lengths.

<sup>3</sup> <https://www.cor.pa.gov/About%20Us/Initiatives/Pages/Juvenile-Lifers-Information.aspx>

<sup>4</sup> [https://www.southbendtribune.com/news/local/michigan-s-juvenile-lifers-get-a-second-look-and-maybe/article\\_bfc8a82c-33c4-11ea-b9f0-e7d5c32a448b.html](https://www.southbendtribune.com/news/local/michigan-s-juvenile-lifers-get-a-second-look-and-maybe/article_bfc8a82c-33c4-11ea-b9f0-e7d5c32a448b.html)

<sup>5</sup> [https://www.theadvocate.com/baton\\_rouge/news/crime\\_police/article\\_ade5f902-c282-11e8-9ed0-ab7428f9acf9.html](https://www.theadvocate.com/baton_rouge/news/crime_police/article_ade5f902-c282-11e8-9ed0-ab7428f9acf9.html)

<sup>6</sup> *The Rest of Their Lives: Life without Parole for Child Offenders in the United States*, Human Rights Watch and Amnesty International, October, 2005, p. 1, available at: <https://www.hrw.org/report/2005/10/11/rest-their-lives/life-without-parole-child-offenders-united-states>

# METHODOLOGY

We reviewed 269 cases from Philadelphia that had been resentenced at the time this project launched. At the time of our analyses, 174 juvenile lifers had been released.

## ***Phase I:***

*Administrative data analysis and interviews  
with the Lifer Resentencing Committee.*

- Collection of Administrative Data: We worked with the District Attorney's Transparency Analytics (DATA) Lab to cull data from existing administrative datasets including demographic characteristics of the juvenile lifers, offer lengths, release dates, rearrests and convictions (cross referenced with public records).
- Contextualizing the resentencing process and its impact: We conducted semi-structured interviews with 4 of the 8 members of the Lifer Committee to contextualize this work.

## ***Phase II:***

*Analysis of factors considered by the Lifers Resentencing  
Committee in their decision making process.*

- We conducted a content analysis of the case-summary memos prepared by the lead ADA for the Lifer Committee and on which the Committee's offer decisions are largely based. Each memo was coded for approximately 100 variables which were subsequently reduced to a subset of 14 non-redundant variables. These variables were subjected to regression analyses to identify those that best explained sentence offer lengths for each administration.



# A PORTRAIT OF JUVENILE LIFERS

The case-summary memos provided the Lifer Committee with various factors to consider, including information on charges, case facts, information about the juvenile’s living situation at time of the arrest, and information on prison adjustment. Demographic information available to the committee included age at the time of arrest and resentencing, and gender. In order to avoid any potential bias, race of the lifer was not included on case summary memos. This practice was followed by both administrations.

## AGE AT ARREST AND RESENTENCING

Of the 269 Lifers included in our analyses, the average age at the time of offense was 16 years and 4 months, ranging from 13 years to 17 years and 11 months. The average age at the time of resentencing was 45 years, ranging from 17 years to 66 years. The average age at the time of release (of the 174 that have been released) was 51 years and ranging from 35 years to 68 years.

## CHARGES

Forty-nine percent of the juvenile lifers were first time offenders and 48% had one prior adjudication. Only 3% of the sample had more than two prior adjudications.

Sixty-two percent of the juvenile lifers were convicted of 1<sup>st</sup> degree murder and 38% were convicted of 2<sup>nd</sup> degree murder. First degree murder generally requires proof of malice, and is the intentional killing of another person that is willful, deliberate, and premeditated. In contrast, a defendant can be convicted of 2<sup>nd</sup> degree murder (sometimes referred to as felony murder) for any level of participation in a felonious crime that results in a death. Pennsylvania’s statute reads: “a criminal homicide constitutes murder of the second degree when it is committed while defendant was engaged as a principal or an accomplice in the perpetration of a felony.” A 2<sup>nd</sup> degree murder conviction can occur when an individual was present during a felony that resulted in death, but played an auxiliary role. For example, serving as a getaway driver in a convenience store hold-up—even if one never enters the store—can result in a felony murder charge if someone is killed during the course of the robbery. Felony murder convictions involving multiple defendants typically result in identical punishments for all involved, even if only one defendant committed the actual homicide. Of the juvenile lifers convicted of felony murder, the top-charged felonies were robbery (78%), home invasion (16%) and drug-related offenses (6%). In 55% of the cases the juvenile lifers were charged with multiple felonies.

## MITIGATING FACTORS

As is typical among criminal justice involved youth (OJJDP, 2015), the majority (80%) of the juvenile lifers in our analysis had been exposed to one or more developmental and psychosocial risk-factors for criminal behavior, with 42% exposed to three or more<sup>7</sup>. The cumulative risk model (Dean, Fuller-Rowell & Evans, 2012) posits that an accumulation of risk factors (as opposed to any one individual factor, no matter how severe), increases the risk for negative behavioral, cognitive and psychological outcomes in adolescents, including juvenile offending. Table 1 displays the various risk/mitigating factors reported across the cases and the percentage of juvenile lifers exposed.

**Table 1. Risk/Mitigating Factors and Frequency**

<b>Risk Factor</b>	<b>Percent</b>
Family instability	42%
Exposure to drugs/alcohol	40%
Parent(s) had drug/alcohol addiction	34%
Parent(s)/family criminality	34%
Witnessed domestic violence	27%
Exposure to violence	24%
Experienced physical abuse	22%
Limited adult supervision as a child	20%
Personal use of drugs/alcohol	17%
High-crime neighborhood of residence	15%
Removed from home as a child	8%
Experienced sexual abuse	8%
Gang involved	7%
Parent(s) had mental health issues	5%
Incarcerated parent	5%

<sup>7</sup> Risk factor information was missing for approximately 20% of the population making these estimates highly conservative. Additionally, oftentimes risk factors are not reported and available in official records, and tend to be significantly underestimated. This does not mean that there were no risk factors present in those cases. This information was gathered by the ADA from secondary sources (e.g. Department of Correction records, mitigation packets prepared by defense attorneys) and may be incomplete.

## CASE FACTS

We coded for case facts that might have been relevant to sentencing decisions under *Miller*, for all juvenile lifers resentenced in Philadelphia as of this report:

- The juvenile lifer was the primary actor in 82% (n = 220) of the cases. Primary actor was defined as the individual who planned the murder, or was the lead actor in an unplanned murder.
- The majority of the cases (64%, n = 172) involved multiple defendants. This is in line with existing research findings that most adolescent offending occurs in groups.
  - The number of co-defendants varied from one to nine, with a single accomplice the most common (40% of cases).
  - In 39% of the cases involving multiple defendants, the co-defendants were same-age peers.
  - In 59% of the cases involving multiple defendants, at least one co-defendant was an adult.
- When an adult co-defendant was involved (n = 102), the juvenile lifer was the primary actor in only 28% of the cases.
- Approximately 66% of the murders were unplanned. This data point comports with consistent research findings that, in emotionally charged and time-pressured situations, adolescents are at increased risk for impulsive decision-making that fails to account for long-term consequences (Casey, 2015).
- There was no documented evidence of drug or alcohol intoxication in 97% of the cases.
- Ten percent of the murders were gang related, and one was classified as a hate crime.
- In the overwhelming majority of cases (95%, n = 246) there was one murder victim. In 4% of cases (n=10) there were two victims. Three cases (~1%) involved more than two victims.

## PRISON ADJUSTMENT

During their incarceration, the majority (approx. 90%) of juvenile lifers participated in some form of rehabilitative programming. These programs included violence prevention, self-help (e.g. coping skills), drug and alcohol education, vocational training and anger management. On average, those that engaged in programming participated in four programs during their incarceration. Additionally, 65% (n = 137) completed their GEDs.

The modal number of misconducts reported was 7 (ranging from 0 to 107). On average, the last incident reported was approximately 8 years prior to resentencing (ranging from 1 to 31 years). Figure 1 shows the type and number of misconducts reported, aggregated across all cases<sup>8</sup>.

**Figure 1. Total number of each misconduct across cases, as reported to the District Attorney's Office by the Department of Corrections**



<sup>8</sup> Misconduct data were available for 236 of the 269 cases we reviewed. All data on prison misconduct comes from the Pennsylvania Department of Corrections records, which were requested by the Philadelphia District Attorney's office during the re-sentencing process. We did not independently verify this information with DOC.

# FINDINGS

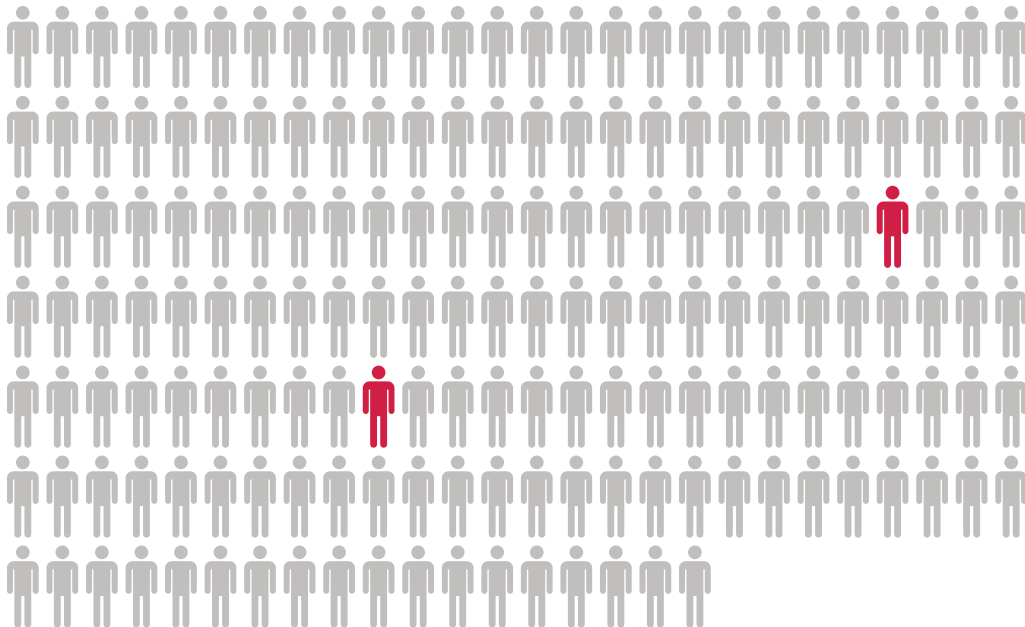
## RECIDIVISM AND COST SAVINGS

### Recidivism

In terms of risk to public safety, **juvenile lifers can be considered low-impact releases**. We analyzed data from 174 releases and as of December 2019, only 3.45% (n=6) have been re-arrested. Four cases were dismissed. The other two cases resulted in convictions, one for Contempt for Violation of Order of Agreement and one for Robbery, yielding a reconviction rate of 1.14%. The remaining 168 individuals (96.5%) have been living in the community for an average of 21 months (as of December 2019) without any known law enforcement contacts. In comparison, among persons convicted of homicide offenses nationally, an estimated 30% are rearrested within two years of release, a rate that is 8.72 times higher than that of juvenile lifers released in Philadelphia<sup>9</sup>.

The rearrest rate of released lifers is 3.45%; in comparison, among persons convicted of homicide offenses nationally, an estimated 30% are rearrested within two years of release.

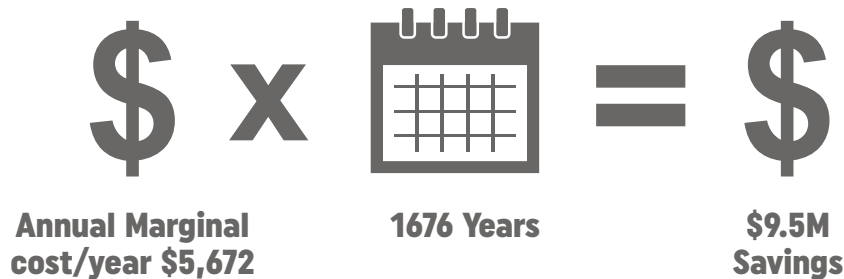
Only **2** of **174** people released were re-convicted



<sup>9</sup> <https://www.bjs.gov/content/pub/pdf/rprts05p0510.pdf>

## Cost Savings

**The release of lifers will result in approximately \$9.5M savings in correctional costs over the first decade.** The average age of the 174 juvenile lifers released to date in Philadelphia is 51 years. To estimate costs savings linked to release, we relied on per capita mortality rate data for state prisons, broken out by age demographics, published by The Bureau of Justice Statistics (February, 2020)<sup>10</sup>. Accounting for the number of deaths expected in each year of the next decade, we estimated that 1,676 years of incarceration will be saved<sup>11</sup>. Using the estimated annual short-run marginal cost of \$5,672 for housing an inmate in Pennsylvania<sup>12</sup>, release of these 174 juvenile-lifers in Philadelphia can be expected to save Pennsylvania an estimated \$9,506,272 in correctional costs over the first decade. This does not take into account the increased cost associated with the incarceration of elderly prisoners. A recent report by the American Civil Liberties Union<sup>13</sup> found that annual costs could be expected to roughly double for prisoners over age 50; thus, savings for the State could be significantly higher.



<sup>10</sup> Carson, E. A. & Cowhig, M.P. (2020) Mortality in State and Federal Prisons, 2001-2016 – Statistical Tables. Retrieved from <https://www.bjs.gov/content/pub/pdf/msfp0116st.pdf>

<sup>11</sup> We used the average per capita mortality rate (converted to percentage) over the years reported in the BOJ report for each age demographic relevant to this population (>55 years, 44-55years, 34-45 years, 24-35 years) to estimate the expected number of deaths in each year for each demographic group. For each year's calculation, we accounted for prior year changes in age-demographic group membership (i.e., aging) and the reductions based on the prior year's estimated deaths. A death in a given year was counted as a loss in the subsequent year, such that a death in year three, for example, resulted in a decrement of one from the total population in years four and beyond, and counted as saving the city three total years of incarceration. For simplification of calculations, we assumed the same release date for all 174 individuals, but used their age at time of release.

<sup>12</sup> Collins, K., Kulick, E., Zhou, C., & Dalton, E. (2014). Calculating Unit Costs in Allegheny County: A Resource for Justice System Decision-Making and Policy Analysis. Available here: (<https://www.alleghenycountyanalytics.us/wp-content/uploads/2016/06/Calculating-Unit-Costs-in-Allegheny-County-A-Resource-for-Justice-System-Decision-Making-and-Policy-Analysis.pdf>). The average cost to house an inmate for one year in Pennsylvania has been estimated at \$42,727 (Vera Institute of Justice), however, this average cost per inmate includes many fixed costs such as administrative services and facility maintenance, which do not change with small decrements to the population. When the population decreases by one person, a state's savings comes from variable costs, which include things like food, clothing, laundry, and health care payments. Short-run variable costs are those most immediately impacted by a small number of releases. Long-run variable costs are associated with changes that have a larger impact on workload, such as a substantial reduction in beds. Short-run marginal costs are most likely to be impacted by the release of juvenile lifers.

<sup>13</sup> ACLU (2012, June 13). "At America's Expense: The Mass Incarceration of the Elderly." Available at <https://www.aclu.org/criminal-law-reform/report-americas-expense-massincarceration-elderly>.

# WILLIAMS & KRASNER ADMINISTRATIONS: DIFFERENCES IN OUTCOMES AND PROCESS

## Sentence Length Outcomes

Of the 269 cases analyzed, 140 were resentenced under the Williams administration, and 112 were resentenced under the Krasner administration. Seventeen cases were decided by the interim administration; these cases were excluded from all analyses directly comparing the Williams and Krasner administrations.

Controlling for length of time-served at resentencing, the average sentence offer made under the Williams administration was 33 years and the average offer made under the Krasner administration was 27 years. At the time of Krasner's election, a subset of 38 cases had already been considered for resentencing by the Williams administration and remained to be finalized by the new administration. For each case, an initial offer had been made by Williams and a revised offer was made by Krasner. Thus, these cases provide a unique opportunity to directly compare differences in sentence length decisions between two administrations while controlling for potentially confounding case factors. The average sentence offered in these cases by the Williams administration was 38.8 years; the average revised offer under the Krasner administration was 27.6 years. This difference is equivalent to 394 years of incarceration, saving an estimated \$2.2M in correctional costs<sup>14</sup>.

Of the subset of 38 cases that were considered for resentencing by both the Williams and Krasner administrations, the average sentence offered by the Williams administration was 38.8 years and the average revised offer under the Krasner administration was 27.6 years, for an estimated savings of \$2.2M in correctional costs.

<sup>14</sup> It is plausible that the initial offers made by the Williams administration would have been reduced further in negotiation with defense counsel. Based on our analysis of all cases processed by the Williams administration prior to these 38 cases, the typical range for reduction following negotiation was 1-3 years. Assuming all 38 cases would have been reduced by an additional three years under Williams (a liberal estimate), then the estimated cost savings following the offers made by Krasner reduces to \$1.6M. Both this estimate and the 2.2M reported in text refer to the explicit difference in years between the sentence offered by the Williams administration and the sentence offered by Krasner. As such, these figures reflect the actual cost (assuming no deaths) that the State would have incurred had these 38 lifers been resentenced under the prior administration. The estimated cost savings of \$9.5M reported on page 11 reflects the projected savings over the first decade of release for the 174 juvenile lifers that had been released as of the date of this report. None of the individuals in the 38 overlapping cases had been released at that time.

## Decision Process

There was significant overlap in the factors that influenced resentence offers across the administrations. For both administrations, Lifer Committee offers were explained by years in custody at time of resentencing, charge severity (1<sup>st</sup> or 2<sup>nd</sup> degree murder), whether the defendant was the primary actor, and whether a re-entry plan was in place. There were some differences. While both administrations considered the maturity of the offender, the prior administration relied on defendant age at the time of the offense and the level of planning, whereas the Krasner administration relied on a more holistic evaluation of the “juvenile nature” of the crime<sup>15</sup>, considering whether the crime was committed with others, whether there was an adult co-defendant and the context in which the crime was committed. Prior convictions also weighed more heavily in cases resentenced under Krasner than the prior administration. Finally, the range of resentence offers under Krasner was wider than it was under Williams, and the explanatory factors we identified accounted for more of the variance in the decisions made by the Krasner administration than they did for the prior administration. These findings point to two important conclusions:

- Both administrations relied most heavily on factors that would have been relevant at the original sentencing hearings (i.e., charge severity & facts of the case, as well as the juvenile nature of the crime) as opposed to those that could not have been known at that time (e.g., prison adjustment).
- The differences in sentence variability and the explanatory power of case facts between administrations suggests that the William’s administration may have utilized case facts to make upward or downward adjustments from an initial sentence offer that was relatively consistent across cases, whereas the Krasner administration may have utilized case information in a more discretionary manner, arriving at sentence offers that were not tied as strongly to a pre-determined range. This increased use of discretion might have been due, in part, to the fact that the Krasner administration was by nature of the process, tasked with handling the more challenging cases; for example, cases in which offenders had been sentenced more recently, and had thus served a relatively shorter time in prison.

In sum, while the data suggest that the Krasner administration may have taken a somewhat more discretionary approach, both administrations appear to have approached resentencing in the spirit of *Miller*, in that they were primarily influenced by the developmental maturity of the offender and the facts of the case. The primary difference between the current and prior administrations is with respect to the length of resentence offers. Offers made under Krasner were considerably lower than those made under Williams, even after controlling for time served at resentencing. As a result, juvenile lifers were made eligible for release much sooner under the Krasner administration, saving considerable taxpayer dollars and with no adverse impact on public safety to date.

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<sup>15</sup> This term was used by the Lifer Committee to reflect their subjective evaluation of the facts of the case that suggested developmental immaturity: whether there was an adult co-defendant, whether the offense was committed with one or more accomplices the circumstances of the offense that led to an unplanned murder.



**Table 2. Factors Explaining Resentencing Offers**

<b>Williams Administration</b>	<b>Krasner Administration</b>
Years in custody at the time of resentencing	Years in custody at the time of resentencing
Charge severity (1st or 2nd degree Murder)	Charge Severity (1st or 2nd degree Murder)
Whether the defendant was the primary actor	Whether the defendant was the primary actor
Whether the defendant has a re-entry plan	Whether the defendant has a re-entry plan
Age of the defendant at the time of the original offense	Prior convictions
Whether the original offense was planned vs spontaneous	Juvenile nature of the crime

## **CONCLUSION**

The purpose of this report was to conduct an independent evaluation of the juvenile lifer resentencing process in Philadelphia and make Philadelphia's approach to resentencing juvenile lifers accessible to other jurisdictions. As demonstrated in Philadelphia, resentencing does not guarantee release, but allows for the possibility of eventual parole for a juvenile lifer whose crime is deemed to have been the product of transient developmental factors and not incorrigible character. The similarities across the two administrations suggest that judgments regarding which factors are relevant under *Miller* are fairly straightforward. Philadelphia's experience also shows that when this review process leads to release, successful reintegration (as evidenced by negligible recidivism rates) is not just possible, but is the most likely outcome. Some of this success can most likely be attributed to strong community networks and reintegration programs that have absorbed these individuals back into the community. Understanding how

different factors combine to lead to this successful rate of reintegration (as evidenced by low recidivism) would be helpful for jurisdictions going forward.

These releases also come with substantial cost savings for the jurisdiction. We estimated a savings of \$9.5M in correctional costs for Pennsylvania over the first decade, just for the 174 juvenile lifers released. Release of the remaining 347 juvenile lifers will result in a multifold increase in savings, especially in light of the fact that many of these individuals are elderly.

Nationally, there are approximately 200,000 persons serving life and virtual life (50 or more years) sentences. Considering that the overwhelming majority of individuals who commit crime—even serious crime—"age out" of criminal behavior, the societal, financial, and public safety benefits of continued incarceration are called into question by the Philadelphia experience.

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## ABOUT THE AUTHORS

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## ACKNOWLEDGEMENTS

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## ABOUT MONTCLAIR STATE UNIVERSITY

Montclair State University is a research doctoral institution ranked in the top tier of national universities. Building on a distinguished history dating back to 1908, the University today has 11 colleges and schools that serve 21,000 undergraduate and graduate students with more than 300 doctoral, master's and baccalaureate programs. Situated on a beautiful, 252-acre suburban campus just 12 miles from New York City, Montclair State delivers the instructional and research resources of a large public university in a supportive, sophisticated and diverse academic environment.

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Position: FAV

TINA M. ZOTTOLI, PH.D.  
ABBREVIATED CURRICULUM VITAE

**CONTACT INFORMATION**

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**EDUCATION**

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Ph.D. in Psychology, Clinical Forensic Specialization City University of New York, John Jay College of Criminal Justice	2011 New York, NY
M.A. in Forensic Psychology John Jay College of Criminal Justice	2003 New York, NY
B.E. in Electrical Engineering Stevens Institute of Technology	1998 Hoboken, NJ

**LICENSURE**

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Licensed Psychologist (License #019885) New York State Education Department, Office of the Professions	2012 – present
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**ACADEMIC POSITIONS**

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Assistant Professor of Psychology Montclair State University	2015 – present Montclair, NJ
Assistant Professor of Psychology St. Joseph's College, NY	2011 – 2015 Brooklyn, NY
Adjunct Instructor of Psychology John Jay College of Criminal Justice	2006-2011 New York, NY

**CLINICAL POSITIONS**

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Licensed Psychologist in Private Practice Clinical and Forensic Psychology	2012—present
APA Accredited Pre-Doctoral Internship Pilgrim Psychiatric Center, NYS Office of Mental Health	2009 – 2010 Brentwood, NY
Formal Clinical Training Positions Mt. Sinai Hospital Center, Alzheimer's Disease Research Center.	2008 – 2009
NYS Psychiatric Institute, Columbia University, College of Physicians and Surgeons	2007 – 2008
Bellevue Hospital Center, Neuropsychology Service	2006 – 2007
NYU/Mt. Sinai Comprehensive Epilepsy Center	5/2006 – 8/2006
Clinical Research Positions John Jay College of Criminal Justice, CBT Therapy	2006 – 2007
Kirby Psychiatric Center, NYS Office of Mental Health, Forensic Assessment	9/2004 – 6/2005

**PROFESSIONAL AFFILIATIONS AND POSITIONS HELD**


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American Psychological Association (APA), Member	2001—present
Committee on Legal Issues (elected to three year term in 2018)	2019—present
APA division 41, American Psychology and Law Society, Member	2005—present
Grants-in-Aid Committee	2019—present
Student Section Campus Representative	2008 – 2011
APA division 9, Society for the Psychological Study of Social Issues, Member	2014—present
Association for Psychological Science, Member	2012—present
Understanding Guilty Pleas Research Coordination Network (NSF), Member	2017—present
APA division 40, Clinical Neuropsychology, Member	2007 – 2014
Cognitive Neuroscience Society, Member	2007—2015
International Association of Forensic Mental Health Services, Member	2006-2008

**GRANTS (AWARDED SINCE 2015)**


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Modeling plea decisions: Using computational science to enhance the impact of guilty-plea research  
 Role: Principal Investigator. Funder: American Psychology and Law Society, REID Program; \$33,667  
 Dates: 9/2020 – 3/2022

Pathways to successful re-entry of juvenile lifers released under Montgomery: The Philadelphia Experience. Role: Co-Principal Investigator (with Tarika Daftary-Kapur, Ph.D.). Funder: Vital Projects; \$150,000. Dates: 4/2020 – 10/2022

Process Evaluation of the Philadelphia District Attorney’s Juvenile “Lifers” Resentencing Project  
 Role: Co-Principal Investigator (with Tarika Daftary-Kapur, Ph.D.). Funder: Montclair State University, Separately Budgeted Research Internal Award; \$4980.00. Dates: 7/2019 – 7/2020

Plea-deal decisions in juvenile offenders: Development of an Attorney Checklist. Role: Principal Investigator. Funder: Montclair State University, Faculty Summer Grant-Development Award; \$4000.00. Dates: 6/2016—8/2016

**PUBLICATIONS**

- 
- Zottoli, T.M.**, Daftary-Kapur, T. & Haney-Caron, E. (under contract). Working title: Adolescents in Juvenile and Criminal Court. In A.R. Redlich & J. Quas (Eds.) *The Oxford Handbook of Developmental Psychology and the Law*.
- Redlich, A.R., **Zottoli, T.M.**, Dezember, A. & Schneider, R. (submitted). Emerging Issues in the Psycho Legal Study of Guilty Pleas. In D. DeMatteo & K.C. Scherr, K.C. (Eds.), *The Oxford Handbook of Psychology and Law*
- Daftary-Kapur, T., Henderson, K. & **Zottoli, T.M.** (under review). Attorney perspectives on plea bargaining during COVID-19. *Law and Human Behavior*.
- \*Bartlett, J. & **Zottoli, T.M.** (in press). The paradox of conviction probability: Mock defendants want better offers as likelihood of conviction increases. *Law and Human Behavior*.
- ^Schneider, R., Bartlett, J. & **Zottoli, T.** (in press). Wrongful Conviction. In R. Roesch (Volume Ed.), *Psychology and law, a volume of Routledge encyclopedia of psychology in the real world*. New York: Routledge.
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Barber-Rioja, V., **Zottoli, T.M.**, Kucharski, L.T., & Duncan, S (2009). The utility of the MMPI-2 Infrequency Criminal (Fc) Scale in the detection of malingering in criminal defendants. *International Journal of Forensic Mental Health, 8,16-24*

**Zottoli, T.M.** (2008). Contributor. The SAGE Glossary of the Social & Behavioral Sciences.

^Indicates a student listed as first author

### CONFERENCE PAPERS (SINCE 2015)

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^Dartnell, W. & **Zottoli, T.M.** (2020, August). Exploring Neural Correlates of Performance on the Iowa Gambling Task and the Wisconsin Card Sorting Test in Adolescent and Young Adult Males. Poster presented at the annual meeting of the American Psychological Association (virtual).

**Zottoli, T.M.** & Daftary-Kapur, T. (conference cancelled) Early release of lifers: The National Landscape. Accepted for presentation at the annual meeting of the American Society of Criminology, which was to be held in November 2020, Washington, D.C., and was cancelled due to COVID-19.

Daftary-Kapur, T., **Zottoli, T.M.**, Faust, T. & Schneider, R. (conference cancelled) Resentencing of juvenile lifers in Philadelphia: A quantitative analysis of outcomes. Accepted for presentation at the Annual Meeting of the American Society of Criminology which was to be held in November 2020 in Washington, D.C., and was cancelled due to COVID-19.

^Faust, T., Daftary-Kapur, T., **Zottoli, T.M.** (conference cancelled) How are they doing now? Reintegration of Juvenile Lifers following release in Philadelphia. Accepted for presentation at the Annual Meeting of the American Society of Criminology which was to be held in November 2020 in Washington, D.C., and was cancelled due to COVID-19.

**Zottoli, T.M.** (2020, March). Shedding new light on the black box: Plea decision-making of defendants and prosecutors. Chair, Research Symposium held at the annual conference of the American Psychology and Law Society. New Orleans, LA

**Zottoli, T.M.**, Bartlett, J., Grove, L., Daftary-Kapur, T. & Jehan, E. (2020, March). Law of Unintended Consequences: Does New York City's Youthful Offender law incentivize false guilty pleas? Paper presented at the annual conference of the American Psychology and Law Society. New Orleans, LA

Daftary-Kapur, T., **Zottoli, T.M.**, Schneider, R. & Faust, T. (2020, March). Resentencing of juveniles sentenced to life without parole: The Philadelphia experience. Paper presented at the annual conference of the American Psychology and Law Society. New Orleans, LA

^Bartlett, J. & **Zottoli, T.M.** (2020, March). Settling for less when chances are good: How conviction probability affects plea decisions. Paper presented at the annual conference of the American Psychology and Law Society. New Orleans, LA

^Faust, T., Daftary-Kapur, T. & **Zottoli, T.M.** (2020, March). The impact of pre-plea access to evidence on estimates of conviction probability and plea decisions Paper presented at the annual conference of the American Psychology and Law Society. New Orleans, LA

Helm, R.K. & **Zottoli, T.M.** (2020, March). Models of Plea Decision-Making. Paper presented at the annual conference of the American Psychology and Law Society. New Orleans, LA

^DelPozzo, J., Grove, L., Stettler, B. & **Zottoli, T.M.** (2020, March). Mental Illness, false confessions and wrongful convictions. Paper presented at the annual conference of the American Psychology and Law Society. New Orleans, LA

^Hogan, C. Byrnes, K. & **Zottoli, T.M.** (2020, March). Grooming behavior in child-on-child sexual abuse cases. Paper presented at the annual conference of the American Psychology and Law Society. New Orleans, LA



- ^Arnold, A., Daftary-Kapur, T. & **Zottoli, T.M.** (2020, March). From booking to plea: Time-frames, attorney advisement, and understanding of the court process. Paper presented at the annual conference of the American Psychology and Law Society. New Orleans, LA
- Daftary-Kapur, T., **Zottoli, T.M.** & Faust, T. (2019, March). An examination of the role of discovery, trial penalty, and innocence in plea decision making. Paper presented at the annual conference of the American Psychology and Law Society. Portland, OR
- ^Schneider, R. & **Zottoli, T.M.** (2019, March). The effect of plea discount and potential trial sentence on guilty plea decisions. Paper presented at the annual conference of the American Psychology and Law Society. Portland, OR
- ^Bartlett, J. & **Zottoli, T.M.** (2019, March). Willingness to accept plea offers varies with probability of conviction: is this evidence against the Shadow model? Paper presented at the annual conference of the American Psychology and Law Society. Portland, OR
- Zottoli, T.M.**, Daftary-Kapur, T., Edkins, V.A., Redlich, A.R., King, C.M., Dervan, L.E. & Tahan, E. (2018, March). State of the states: Advancing guilty plea research through a survey of laws in the United States, Paper presented at the annual conference of the American Psychology and Law Society. Memphis, TN
- ^Schneider, R. & **Zottoli, T.M.** (2018, March). How big is too Big? The potentially coercive effects of plea discount on innocent defendants. Poster presented at the annual conference of the American Psychology and Law Society. Memphis, TN
- Zottoli, T.M.**, Daftary-Kapur, T. & Hogan, C. (2018, March). Guilty pleas of youth and adults: Evidence supporting developmental differences in judgment and decision making. Paper presented at the annual conference of the American Psychology and Law Society. Memphis, TN
- ^Bartlett, J. & **Zottoli, T. M.** (2018, March). Sometimes the trial casts a long shadow: pleading guilty when odds are in your favor. Paper presented at the annual conference of the American Psychology and Law Society. Memphis, TN
- Zottoli, T.M.** & Daftary-Kapur, T. (2017, November). Plea discounts, time pressures and false guilty pleas in youth and adults who pleaded guilty to felonies New York City. Paper to be presented at the annual conference of the American Society of Criminology. Philadelphia, PA
- Zottoli, T.M.**, Daftary-Kapur, T. & Tahan, E. (2017, March). Differences in the decision making of youth and adults who pleaded guilty to felonies in New York City. Paper presented at the annual conference of the American Psychology and Law Society. Seattle, WA
- ^Diaz Y., Salazar, D, Daftary-Kapur, T., & **Zottoli, T.M.** (2017, March). The effect of initial charge and evidence disclosure on plea deal decision making. Poster presented at the annual conference of the American Psychology and Law Society. Seattle, WA
- ^Bartlett, J., **Zottoli, T.M.**, Diaz, Y & Keane, D. (2017, March). Moving toward a better model of plea deal decision making. Poster presented at the annual conference of the American Psychology and Law Society. Seattle, WA
- Zottoli, T.M.**, Daftary-Kapur, T., Campreggher, J., Hogan, C., Reifsteck, T. & Tahan, E. (2016, March). Plea discounts, time pressures and false guilty pleas in youth and adults who pleaded guilty to felonies New York City. Paper presented at the annual conference of the American Psychology and Law Society. Atlanta, GA
- Zottoli, T.M.**, Daftary-Kapur, T., Winters, G., Hill, R., Texter, A. & Lawrence, F. (2015, March). Trial penalty, time pressure and plea deals for juveniles charged as adults. Paper presented at the annual meeting of the American Psychology & Law Society, San Diego, CA
- Daftary-Kapur, T. & **Zottoli, T.M.** (2015, March). Anchoring effects on plea deal decisions. Paper presented at the annual meeting of the American Psychology & Law Society, San Diego, CA

Daftary-Kapur, T., **Zottoli, T.M.**, Lawrence, F., Aime, R., & Logan, B. (2014, November). Juveniles' understanding of plea deals. Paper presented at the annual meeting of the American Society of Criminology, San Francisco, CA

^Indicates a student listed as first author

#### **ACADEMIC COLLOQUIA, INVITED TALKS AND GUEST LECTURES (SINCE 2015)**

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- Zottoli, T.M.** (2020, February). Juvenile and Young Adult Offending Trajectories: Neuro-Cognitive and Psycho-Social Contributions. Guest lecture, New York University, Forensic Psychology Master's Program
- Zottoli, T.M.** (2020, January). Juvenile and Young Adult Offending Trajectories: Neuro-Cognitive and Psycho-Social Contributions. Invited speaker, Riker's Island Correctional Health Services Grand Rounds, New York City
- Zottoli, T.M.** & Daftary-Kapur, T. (2019, August). *Factors related the false guilty pleas of youth*. Invited speaker, The Innocence Project, New York City
- Zottoli, T.M.** (2019, July). *Factors related the false guilty pleas of youth*. Invited speaker, Plea Conference at University of Massachusetts, Lowell, Psychology Department
- Zottoli, T.M.** (2019). *Modelling plea decisions*. Invited speaker, Plea Conference at University of Massachusetts, Lowell, Psychology Department
- Zottoli, T.M.** (2019, February). *Building cumulative knowledge in Psychology*. Discussant, Journal Club, Montclair State University, Psychology Doctoral Program
- Zottoli, T.M.** (2018, December). *Bayesian estimation: A math-free introduction*. Guest Lecture, Montclair State University, Psychology Doctoral Program
- Zottoli, T.M.** & Schneider, R. (2018, October). *Bayesian "New Statistics."* Discussant, Journal Club, Montclair State University, Psychology Doctoral Program
- Zottoli, T.M.** (2018, October). Moderator for panel discussion on false confessions. Colloquia series: Wrongful Convictions: Know the causes, hear the stories and make a change. Montclair State University
- Zottoli, T.M.** (2018, May). Moderator for panel discussion on false guilty pleas. Colloquia Series: Wrongful Convictions: Know the causes, hear the stories and make a change. Montclair State University
- Zottoli, T.M.** (2018, February). Moderator for panel discussion on prosecutorial misconduct. Part of a colloquia series entitled, Wrongful Convictions: Know the causes, hear the stories and make a change. Montclair State University
- Zottoli, T.M.** (2017, August). Cognitive training for patients with traumatic brain injury. Instructor, CE workshop, Antananarivo, Madagascar
- Zottoli, T.M.** (2017, August). Mental illness and violence risk. Instructor, CE workshop, Antananarivo, Madagascar
- Zottoli, T.M.** (2017, April). *False Guilty Pleas: A Psychological Perspective*. Invited Panelist, The Silent False Confession: When Innocent Plead Guilty. Wrongful conviction colloquia series, John Jay College of Criminal Justice, New York
- Zottoli, T.M.** (2017, February). *What is Forensic Psychology?* Guest Speaker, Undergraduate Psychology Club, Montclair State University
- Zottoli, T.M.** (2016, November). *Guilty plea decisions of youth*. Guest Classroom Speaker, John Jay College of Criminal Justice, Psychology Doctoral Program
- Zottoli, T.M.** (2016, May). *Plea Bargaining in the Modern U.S. Justice System: A Psycho-Legal Perspective*. Guest Lecture, New York University, Forensic Psychology Master's Program

- Zottoli, T.M.** (2016, April). *Importance of social science research for public policy*. Invited Speaker, College of the Humanities and Social Sciences, Montclair State University
- Zottoli, T.M.** (2016, February). *How you can make a difference with your research*. Keynote Speaker, 21<sup>st</sup> Annual High School Poster Session of the New York Section of the American Chemical Society; St. Joseph's College, NY
- Zottoli, T.M.** (2015, October). *What is Forensic Psychology?* Guest Speaker, Undergraduate Psychology Club, Montclair State University
- Zottoli, T.M.** (2015, October). *Kids in Court*. Guest Speaker, Professional Development Seminar Series, Montclair State University Clinical Psychology Master's Program
- Zottoli, T.M.** (2015, April). *Plea Bargaining in the Modern U.S. Justice System: A Psycho-Legal Perspective*. Guest Lecture, New York University, Forensic Psychology Master's Program

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GRANTS, PRESENTATIONS AND INVITED LECTURES PRIOR TO 2015

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EXPERT WITNESS EXPERIENCE

EMPLOYMENT HISTORY 1998-2007

PROFESSIONAL REFERENCES

**sb494 - juveniles convicted as adults - juvenile r**

Uploaded by: Niemann, Doyle

Position: FWA



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**To:** Members of The Senate Judicial Proceedings Committee

**From:** Doyle Niemann, Chair, Legislative Committee, Criminal Law and Practice Section

**Date:** February 12, 2021

**Subject:** **SB494 – Juveniles Convicted as Adults – Sentencing – Limitations and Reduction (Juvenile Restoration Act)**

**Position:** **Support with Amendment**

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The Legislative Committee of the Criminal Law & Practice Section of the Maryland State Bar Association (MSBA) **Supports with an Amendment SB494 – Juveniles Convicted as Adults – Sentencing – Limitations and Reduction (Juvenile Restoration Act).**

This bill prohibits the imposition of life without parole on a juvenile offender. It also provides a mechanism whereby a juvenile convicted of an adult crime can seek reconsideration of his or her sentence after serving 20 years.

In recent years, relying on new evidence about brain development, the U.S. Supreme Court and Maryland Court of Appeals have recognized that juvenile offenders are different from adult offenders. The Supreme Court has prohibited sentences of life without parole except in the most egregious of circumstances. It has also held that youthful offenders must be given an opportunity to show that they have matured and developed and that they are no longer the individuals who committed the crimes for which they are convicted.

This bill creates a way for this question to be answered by a court in the jurisdiction where the crime was committed after the individual has served 20 years or more. The bill outlines specific criteria that the court should consider, including the nature of the crime, the individual's role in it, their activities and progress while incarcerated, and the opinions of victims or victim representatives.

While the bill directs the court to consider statements from any victim, the Committee believes there should be an explicit requirement that the State Attorney for the jurisdiction notify victims or their representatives about any proceeding.

For the reasons stated, we **Support SB494 – Juveniles Convicted as Adults – Sentencing – Limitations and Reduction (Juvenile Restoration Act) with Amendment.**

If you have questions about the position of the Criminal Law and Practice Section's Legislative Committee, please feel free to address them to me at 240-606-1298 or at [doyleniemann@verizon.net](mailto:doyleniemann@verizon.net).

# **SB494 (Juvenile Restoration Act Support with Amend**

Uploaded by: Williams, Carrie

Position: FWA

**BRIAN E. FROSH**  
*Attorney General*



**ELIZABETH F. HARRIS**  
*Chief Deputy Attorney General*

**CAROLYN QUATTROCKI**  
*Deputy Attorney General*

**STATE OF MARYLAND**  
**OFFICE OF THE ATTORNEY GENERAL**

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.

410-576-6422

February 15, 2021

To: The Honorable William C. Smith, Jr.  
Chair, Judicial Proceedings Committee

From: Carrie J. Williams  
Office of the Attorney General

Re: SB494– Juveniles Convicted as Adults – Sentencing – Limitations and Reduction  
(Juvenile Restoration Act) –**Support with Amendments**

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The Office of the Attorney General urges the Judicial Proceedings Committee to add two perfecting amendments and then favorably report SB 494. The first amendment would permit the State to introduce evidence at the hearing on a motion to reduce the duration of a sentence. The second amendment would require victim notification, or, at minimum, evidence that attempts were made to notify the victim or his or her survivors.

Senate Bill 494 is a good faith attempt to take cognizance of recent Supreme Court jurisprudence establishing that under the U.S. Constitution children are different than adults and that, except for rare cases, it constitutes cruel and unusual punishment under the Eighth Amendment to impose life without the possibility of parole on a child.<sup>1</sup> These cases rest upon an emerging scientific consensus that children have both diminished culpability and a heightened capacity for rehabilitation. Relying heavily on Supreme Court guidance, SB 494 gives people sentenced for crimes committed as juveniles a second and third chance to demonstrate rehabilitation, and acceptance of responsibility through a newly-created motion for reduction of

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<sup>1</sup> See e.g. *Tatum v. Arizona*, --- U.S. ---, 137 S.Ct. 11 (2016) (granting, vacating, and remanding in several cases where Arizona courts failed to consider individual circumstances of juveniles sentenced to life without parole); *Montgomery v. Louisiana*, 577 U.S. ---, 136 S.Ct. 718, 193 L.Ed.2d 599 (2016) (holding that *Miller v. Alabama* holding that Eighth Amendment mandatory life sentences without parole for juvenile offenders is a new substantive constitutional rule that was retroactive on state collateral review); *Miller v. Alabama*, 567 U.S. 460, 132 S.Ct. 2455, 183 L.Ed.2d 407 (2012) (mandatory life without parole for juvenile offenders is unconstitutional); *Graham v. Florida*, 560 U.S. 48, 130 S.Ct. 2011, 176 L.Ed.2d 825 (2010) (Eighth Amendment prohibits imposition of life without parole sentence on a juvenile offender who did not commit homicide, and State must give juvenile nonhomicide offender sentenced to life without parole a meaningful opportunity to obtain release); and *Roper v. Simmons*, 543 U.S. 551, 125 S.Ct. 1183, 161 L.Ed.2d 1 (2005) (prohibiting death sentences for those who committed their crimes before age 18).

sentence. Juveniles sentenced as adults would only be permitted to file such a motion after serving 20 years of their sentences. Even then, prior to reducing the sentence, a court would have to find that the individual is not a danger to the public, and that the interests of justice will be better served by a reduced sentence.

Senate Bill 494 also provides reviewing courts with factors to consider when determining whether to reduce a sentence. These factors include: (1) the individual's age at the time of the offense; (2) the nature of the offense and the history and characteristics of the individual; (3) whether the individual has substantially complied with the rules of the institution at which the individual is confined; (4) whether the individual has completed any educational, vocational, or other program; (5) whether the individual has demonstrated maturity, rehabilitation, and fitness to reenter society sufficient to justify a sentence reduction; (6) any victim impact statements offered; (7) reports of any physical or behavioral examinations by health professionals; (8) the individual's family and community circumstances at the time of the offense, including any history of trauma, abuse, or involvement in the child welfare system; (9) the extent of the individual's role in the offense; (10) *the diminished culpability of a juvenile as compared to an adult, including an inability to fully appreciate risks and consequences*; and (11) any other factor the court deems relevant.

If the court denies the first motion to reduce the duration of the sentence, the individual may file a second motion after at least three years. Thereafter, if the court denies the second motion, the individual may file a third and final motion to reduce sentence but by that time, the individual will have served *at least 26* years in prison.

Subject to the Committee's adoption of the below amendments, the Office of Attorney General urges a favorable report on SB 494, as amended.

Amendments:

- (1) Insert the following on page 2, line 21, “(5) THE STATE MAY INTRODUCE EVIDENCE IN SUPPORT OF, OR OPPOSITION TO, THE MOTION AT THE HEARING.”
- (2) Strike “AND” on page 2, line 28, and immediately thereafter insert “(II) THE VICTIM, OR THE VICTIM’S SURVIVORS, WERE NOTIFIED OF THE HEARING AND OFFERED AN OPPORTUNITY TO MAKE A STATEMENT; AND” thereafter making conforming changes to section (B)(2)(II).

cc: Committee Members



# **SB 494 - Juveniles Convicted as Adults.pdf**

Uploaded by: Shellenberger, Scott

Position: UNF

**Bill Number: SB 494**

**Scott D. Shellenberger, State's Attorney for Baltimore County**

**Opposed**

**WRITTEN TESTIMONY OF SCOTT D. SHELLENBERGER,**  
**STATE'S ATTORNEY FOR BALTIMORE COUNTY,**  
**IN OPPOSITION OF SENATE BILL 494**  
**JUVENILES CONVICTED AS ADULTS**  
**SENTENCING – LIMITATIONS AND REDUCTION (JUVENILE RESTORATION ACT)**

I write in opposition to Senate Bill 494, Juveniles convicted as adults – sentencing, as creating yet another post-conviction right that further drags victims to court and prevents any finality to a criminal case.

Right after a jury or Judge finds a Defendant guilty, Maryland law currently permits numerous ways for a Defendant to challenge his conviction and sentence. Here are the current rights:

1. Motion for new trial
2. Motion to modify or reduce sentence (motion can be held for five years)
3. If the modification is based upon illegal sentence, fraud, mistake or irregularity, there is no time limit
4. Three Judge panel to reduce or modify
5. Appeal to the Court of Special Appeals
6. Ask for appeal to the Court of Appeals
7. Post-Conviction (sometimes they get more than one)
8. Writ of Coram Nobis
9. Writ of Habeas Corpus
10. Writ of Actual Innocence
11. Motion to vacate judgement (passed last year)
12. Post-Conviction DNA testing
13. The parole system which can review a sentence more than once.

With the exception of a new trial, all these can be done even with a guilty plea.

If this body passes the Juvenile Restoration Act then this bill should be called the 16<sup>th</sup> look back act since Senate Bill 494 permits the filing of 3 petitions.

When does it end for victims of crime?

When can I look at the victim of a crime and say it is over?

It never ends and this bill will add one more event over which the State and Victim have no control. Actually three more events.

This means the victim gets three more letters, three more court hearings and three more chances to relive the crime they or their loved one was the victim of. This means if this bill passes the four co-defendants convicted in the murder of Officer Amy Caprio will potentially bring that family back to court 12 more times. That is unconceivable.

Senate Bill 494 is an attempt to create another parole commission. Parole exists to let Defendants out of jail early if they do all the right things in jail. Why are we creating something that already exists on top of the 13 ways a Defendant can challenge their conviction and sentence now through the Judiciary?

I urge an unfavorable report to Senate Bill 494 as Defendants have so many rights now they do not need or deserve one more.

**NOVJM SB 494 TESTIMONY.pdf**

Uploaded by: Gingerich, Lara

Position: INFO



To: Senate Judicial Proceedings Committee

From: Lara Gingerich, national legislative coordinator for the National Organization of Victims of Juvenile Murderers (NOVJM)

Bill: Senate Bill 494

Position: Informational Only

Email: novjmlegislation@gmail.com

Dear Senate Judicial Proceedings Committee,

We are the National Organization of Victims of Juvenile Murderers (NOVJM).<sup>1</sup> We represent about 370 victims around the country who have lost loved ones to juvenile killers. We are grateful for this opportunity to submit testimony regarding Senate Bill 494.

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<sup>1</sup> <http://www.teenkillers.org/>

We understand that the criminal justice system is not perfect and needs reform. We oppose over-sentencing offenders to prison terms that are grossly disproportionate when compared to their crimes. And we recognize that most juvenile offenders have the capacity to reform. However, some juvenile crimes may warrant life without parole (LWOP).

Juvenile offender advocates often decline to acknowledge the brutal reality of some crimes committed by juveniles. They portray all juvenile crimes as simply being “mistakes” made due to impaired judgment. They further minimize juvenile offenders’ culpability by referring to them as “children” and by using other hurtful tactics.<sup>2</sup> But contrary to these advocates’ claims, some juveniles commit acts of wanton cruelty with full knowledge of the results of their actions and with the intention to bring about those results. We will list just two of many examples to illustrate the point.

- When Priscilla Gustafson and her two children returned to their home they were confronted by Daniel Laplante. Laplante, 17, had broken into their home while they were away. Laplante first tied Priscilla to the bed and raped her. He then shot the pregnant nursery school teacher twice in the head. Next, he drowned Priscilla’s two children, five-year-old William and seven-year-old Abigail in bathtubs.<sup>3</sup>
- Johnny Freeman enticed five-year-old Shavanna McCann with candy and lured her to a vacant apartment on the 14th floor of a housing project. Once in the apartment, Freeman, who was three months away from his 18th birthday, raped little Shavanna. Freeman then

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<sup>2</sup> Most juveniles who get LWOP were 16 or 17 when they committed the offenses. They were not “children.” See <http://www.teenkillers.org/index.php/juvenile-lifers/teen-killers-are-not-children/> Juvenile offender advocates also use pictures of children as young as six in their publications. See <http://www.teenkillers.org/index.php/juvenile-lifers/the-propaganda-campaign/> This is extremely insensitive and offensive to victims.

<sup>3</sup> <http://www.teenkillers.org/index.php/juvenile-lifers/offenders-cases-state/massachusetts-offenders/daniel-laplante/>

tried to kill Shavanna by throwing her out the 14th story window. But Shavanna was brave and held onto the window's ledge with her fingertips. The terrified child screamed for her mother. But she didn't have a chance. She was stuck between a 14 story drop and a rapist who wanted to murder her. Freeman pried her fingers off the window ledge. This time Shavanna was not able to hold on to anything. The young child plunged 14 stories to her death on the hard ground below.<sup>4</sup>

Most victims who lose loved in such horrific ways oppose the release of the killers. To fight release, they speak up at hearings to be a voice for their dead family members who cannot speak for themselves. This forces them to relive the murders. Conditions suffered as a result of the murders, such as PTSD, depression, and anxiety, flare up and they suffer flashbacks, nightmares, and other symptoms. Traumatizing criminal justice hearings should be kept to an absolute minimum.

Thank you for giving us this opportunity to be heard. We ask that lawmakers consider victims when making decisions that will impact us.

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<sup>4</sup> <http://www.teenkillers.org/index.php/memorials/illinois-victims/shavanna-mccann/>

**NOVJM SB 494 TESTIMONY.pdf**

Uploaded by: Gingerich, Lara

Position: INFO





To: Senate Judicial Proceedings Committee

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Bill: Senate Bill 494

Position: Informational Only

Email: novjmlegislation@gmail.com

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