



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

BILL: Senate Bill 291

TITLE: Criminal Procedure – Petition to Reduce Sentence (Maryland Second Look Act)

DATE: January 30, 2025

POSITION: SUPPORT

COMMITTEE: Judicial Proceedings Committee

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Chair Smith, Vice-Chair Waldstreicher, and 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 Senate Bill 291**. We are grateful to Senator Sydnor for his leadership in introducing this bill and appreciate the Maryland Legislature’s commitment to providing a “Second Look” to incarcerated individuals. We urge the General Assembly to enact SB 291 legislation because it will provide judicial review opportunities for all youth in the adult criminal justice system, which is an important step in upholding the constitutional and human rights of children in Maryland.

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 demonstrated rehabilitation.

United States Supreme Court Decisions

For nearly two decades, the United States Supreme Court has repeatedly concluded that children are constitutionally different from adults for the purpose of criminal sentencing. In *Roper v. Simmons* (2005), the Court struck down the death penalty for children, finding that it violated the 8th Amendment’s prohibition against cruel and unusual punishment.¹ The Court emphasized empirical research demonstrating that children are developmentally different than adults and

¹ *Roper v. Simmons*, 543 U.S. 551 (2005).

have a unique capacity to grow and change as they mature.² 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.”³ 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.⁴

In January 2016, the Supreme Court ruled in *Montgomery v. Louisiana* that its *Miller v. Alabama* decision 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 parole collapse in ‘light of the distinctive attributes of youth.’”⁵ 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.’”⁶ In 2021, the Maryland General Assembly took a huge step with the passage of the Juvenile Restoration Act (SB494), which provided a review mechanism for individuals incarcerated prior to October 1, 2021 for crimes committed as children. However, it is essential to ensure that today’s children have the same opportunity for review, reflecting a commitment to fairness and justice.

SB 291 is vital for addressing excessive sentencing, racial disparities and the impact of harsh penalties on children who may have been rehabilitated or transformed over time, ensuring that all children are eligible for judicial review and the opportunity to demonstrate maturation and positive change. It reflects the belief in redemption and the evolving understanding of human capacity for change, aligning with Maryland’s broader goals of fairness and justice in sentencing practices.

Adolescent Developmental Research

Empirical research has demonstrated that adolescent brains are not fully developed. As many parents and educators could verify from personal experience, 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 the evaluation of risk and reward.⁷

² *Id.*

³ *Graham v. Florida*, 130 S. Ct. 2011 (2010).

⁴ *Miller v. Alabama*, 132 S.Ct. 2455 (2012).

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

⁶ *Id.* at 16-17.

⁷ Less Guilty by Reason of Adolescence: Developmental Immaturity, Diminished Responsibility, and the Juvenile Death Penalty, Laurence Steinberg and Elizabeth Scott, *American Psychologist*, December, 2003.

Youth as a whole are more vulnerable, more susceptible to peer pressure, and heavily influenced by their surrounding environment, which they rarely can control.⁸ The majority of our laws reflect adolescents' diminished decision-making capacity, including limiting children's right to vote, prohibiting them from purchasing alcohol or tobacco, and preventing them from entering into contracts, 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,⁹ which means long prison sentences, without appropriate review mechanisms, prematurely abandon hope for 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.¹⁰ 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.¹¹

Costs to Society and Victims

In addition to the human rights and constitutional concerns for Maryland to enact SB 291, 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/her/their life.¹² In contrast, a child with a high school education who is paroled after serving ten years could potentially contribute \$218,560 in tax revenue.¹³ A formerly incarcerated child who obtains a college degree can potentially contribute \$706,560 in tax revenue over his or her lifetime.¹⁴ 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.

⁸ *Id.*

⁹ *Id.*

¹⁰ <https://medium.com/philadelphia-justice/new-study-finds-1-recidivism-rate-among-released-philly-juvenile-lifers-607f19d6d822>

¹¹ Incarcerated Children's Advocacy Network, <http://fairsentencingofyouth.org/incarcerated-childrens-advocacy-network/>

¹² *The Mass Incarceration of the Elderly*, ACLU, June 2012. Available at: https://www.aclu.org/files/assets/elderlyprisonreport_20120613_1.pdf

¹³ *The Fiscal Consequences of Adult Educational Attainment*, National Commission on Adult Literacy. Retrieved from: <http://www.nationalcommissiononadultliteracy.org/content/fiscalimpact.pdf>

¹⁴ *Id.*

Finally, the CFSY has great concern for those who bear the greatest costs of any criminal justice policy—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 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.

Closing

Our criminal justice system serves complementary functions of protecting the community from safety threats, ensuring justice for victims, and rehabilitating incarcerated individuals to rejoin society as productive contributors. SB 291 achieves all three of these goals.

Thank you,

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The Campaign for the Fair Sentencing of Youth