

CHILDREN ARE CAPABLE OF POSITIVE CHANGE: PROVEN POLICIES IN YOUTH SENTENCING

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State laws should hold children accountable in the justice system in ways that align with scientific evidence, incentivize rehabilitation, and comply with the U.S. Constitution. Legislation reforming sentencing for children in the justice system should:



The **CAMPAIGN** for the
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of **YOUTH**

1 Eliminate life without parole as a sentencing option for children.

The majority of U.S. states prohibit life-without-parole sentences for children under 18, demonstrating a balance between holding children accountable and recognizing their extraordinary capacity for change.¹ A politically and geographically diverse collection of 28 states and the District of Columbia have eliminated life without parole as a sentencing option for children.²

2 Ensure all children receive eligibility for meaningful sentencing review.

To promote positive behavior change and reduce unnecessary incarceration costs, states should ensure that a decision-maker can evaluate the progress of children serving lengthy sentences. States have provided review opportunities to youth by different mechanisms, including through parole eligibility, like in West Virginia and Nevada, or via judicial sentencing review, like in North Dakota and Maryland.³ Such processes never guarantee individuals will be released at the time of review; rather, the review enables a decision-maker to evaluate the adult a child has grown into and their readiness to rejoin the community. Even if a review does not result in release, reviews offer valuable opportunities for decision-makers to identify areas for improvement and provide resources to support further rehabilitation.

3 Establish a review framework that is transparent, considers demonstrated maturity and rehabilitation, and is unique to children.

To ensure review processes are meaningful, decision-makers must consider an individual's demonstrated maturity and rehabilitation and assess youth-specific mitigating factors. States like Arkansas, Ohio, New Mexico, and Virginia have successfully adopted review frameworks that ensure parole boards or courts evaluate youthful mitigating factors, developmental maturity, and institutional records as well as provide constructive guidance on reentry or feedback for improvement if release is not granted.⁴ The framework used for review should be transparent, so all individuals involved understand what information is being considered and how the review process occurs.⁵

State-level examples:

■ Prohibits life without parole for children
(28 states + DC)

■ Permits life without parole for children
(22 states)

Arkansas

"A defendant shall not be sentenced to... life imprisonment without the possibility of parole for an offense if the defendant was less than eighteen (18) years of age at the time the offense was committed."

1 – S.B. 294, 91st Gen. Assem., Reg. Sess. (Ark. 2017).

North Dakota

"When determining whether to reduce a term of imprisonment... the court shall consider: The age of the defendant at the time of the offense; ... information relating to the defendant's ability to comply with the rules of the institution and whether the defendant completed any educational, vocational, or other prison programming... Whether the defendant has demonstrated maturity, rehabilitation, and a fitness to re-enter society... The defendant's family and community circumstances at the time of the offense, including any history of abuse, trauma, or involvement in the child welfare system... The diminished culpability of juveniles compared to adults and the level of maturity and failure to appreciate the risks and consequences"

– H.B. 1195, 65th Leg. Assem., Reg. Sess. (N.D. 2017)

West Virginia

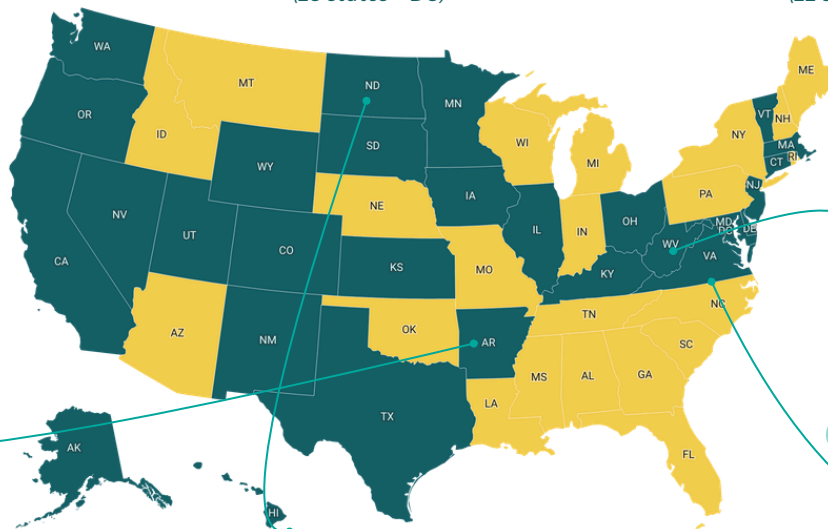
"... a person who is convicted of one or more offenses for which... any combination of sentences imposed is for a period that renders the person ineligible for parole until he or she has served more than fifteen years shall be eligible for parole after he or she has served fifteen years if the person was less than eighteen years of age at the time each offense was committed."

2 – H.B. 4210, 81st Leg., Reg. Sess. (W. Va. 2014)

Virginia

3 *"If parole is denied, the basis for the denial of parole shall be in writing and shall give specific reasons for such denial to such inmate."*

– H.B. 35, 2020 Gen. Assem., Reg. Sess. (Va. 2020).



→ **Children's brains are still developing, making them more impulsive, more susceptible to peer pressure, and less able to weigh long-term consequences.**

Neuroscience research shows adolescents are biologically more sensitive to peer influence, have less impulse control, and are likely to prioritize immediate rewards over long-term consequences.⁶ As a result, children are

more likely to engage in risky behavior.⁷ Because adolescent brains are still learning and growing, they have an increased capacity for positive change as they progress through natural maturation into adulthood.⁸

"Incorrigibility is inconsistent with youth."

-SCOTUS • *Miller v. Alabama*, 132 S. Ct. 2455 (2012).

→ **Upon release from lengthy sentences, children demonstrate exceptionally low recidivism rates.**

Children have a unique capacity for learning new behavioral patterns because their brains are still developing.⁹ Compared to a national recidivism rate between 40% and 68%, studies have found recidivism rates of 1-5% among populations of life-sentenced children, demonstrating how maturation supports successful reentry.¹⁰

→ **Review opportunities improve institutional safety by promoting program participation and reducing rule infractions.**

The availability of sentence review creates incentives for continued rehabilitation and positive institutional conduct. A study found that after parole opportunities were limited in a state, prison rule infractions rose 22% and education enrollment fell 24%.¹² Structured review mechanisms also safely alleviate dangerous prison overcrowding, protecting correctional staff and residents.¹³ Even when release is not immediately granted, regular reviews can identify rehabilitative needs, provide guidance for continued progress, and encourage ongoing engagement in programming.¹⁴

→ **The U.S. Supreme Court has repeatedly affirmed that children are entitled to different criminal sentencing and review opportunities than adults.**

The U.S. Supreme Court has repeatedly affirmed over two decades that children are different than adults for the purposes of criminal sentencing and have ruled that children must have greater constitutional protections in criminal sentencing than their adult counterparts.¹⁶ The Court has prohibited the death penalty, life without parole for non-homicide offenses, and mandatory life-without-parole sentences.¹⁷ Providing meaningful review opportunities is a practical mechanism for states to implement the constitutional principles articulated by the U.S. Supreme Court in its juvenile sentencing jurisprudence.

A recent study¹¹ of individuals sentenced to life without parole as children who were released found a recidivism rate of:

1.14%

American Correctional Association

"[Y]outhful offenders have much greater potential for rehabilitation and should be provided every opportunity to heal and rehabilitate. The ACA opposes the sentencing of offenders under the age of 18 to life without the possibility of parole; and...supports sentencing policies that hold youthful offenders accountable in an age-appropriate way, while focusing on rehabilitation and reintegration into society."¹⁵

"My experience has taught me that children are not miniature adults. We can be every bit as impressionable and reckless as children tend to be, but we can also mature into the most extraordinary humans you'll ever meet. Since coming home, many of us have dedicated our lives to helping young people avoid the same mistakes made in our youth."

-Abd'Allah Lateef, Deputy Director • Campaign for the Fair Sentencing of Youth;
Member • CFSY's Incarcerated Children's Advocacy Network (ICAN)

→ Providing review to youth serving long sentences prevents rising incarceration costs and recovers potential tax revenue.

Sentencing children to life without parole requires states to pay for decades of incarceration— including housing, food, clothing, and increasingly costly medical care as they age. The median state cost to incarcerate someone each year is \$60,989.¹⁸ For a child sentenced in adolescence who remains incarcerated for life, taxpayers can spend more than \$3.8 million over that individual's lifetime, with actual costs likely even higher because healthcare expenses increase substantially for older incarcerated adults.¹⁹ At the same time, states lose an average of \$762,272 in taxes per individual incarcerated for their entire working life,²⁰ in addition to the wages, consumer spending, caregiving, and other economic contributions that formerly incarcerated individuals make when they successfully return to their communities. By providing review eligibility, states can make individualized release decisions based on rehabilitation and public safety, helping to reduce the rising costs of long-term incarceration.

Taxpayers can spend over **\$3.8 million** to incarcerate a child for a lifetime.²¹

→ Establishing sentence review mechanisms can reduce prolonged post-conviction litigation and promote judicial efficiency.

States with established review mechanisms for youth improve compliance with the U.S. Constitution and reduce ongoing litigation. As a result of recent U.S. Supreme Court cases, states that have not abolished life-without-parole sentences for youth experience years of costly litigation as to the Constitutionality of these sentences.²² Creating review opportunities via legislation can ease the strain on judicial, prosecutorial, and defense resources and ensure uniformity throughout the state.



61% of violent crime victims prefer correctional costs to be redirected to prevention and rehabilitation funds and support shorter sentences in order to do so.²³

→ Racial disparities in youth sentencing are rising, increasing the importance of uniformity in review opportunities.

The U.S. Supreme Court ruled mandatory life-without-parole sentences for children are unconstitutional in *Miller v. Alabama*, requiring judges to consider the mitigating attributes of youth before sentencing a child to life without parole.²⁴ In the last decade, increased judicial discretion has resulted in intensified racial disparities: of all people sentenced to life without parole since 2012, 77% are Black – up from 61% pre-*Miller*.²⁵ Historically, Black children were sentenced to life without parole at a per capita rate that is 10 times that of white children convicted of the same offense.²⁶ Eliminating life without parole for children and instituting meaningful, uniform review processes standardizes access to review opportunities across communities.

Black children make up 77% of all new life-without-parole sentences



Up from 61% pre-*Miller*²⁷

→ Lengthy sentences disproportionately impact children who have experienced violence.

Among children sentenced to life without parole, 79% witnessed violence in the home and nearly half experienced physical abuse.²⁸ More than half witnessed weekly violence in their communities.²⁹ Twenty percent experienced sexual abuse, a figure that rises to 77% among girls sentenced to life without parole.³⁰ Most children given extreme sentences were victims of neglect or abuse long before they came into conflict with the law.³¹ Meaningful review opportunities should account for both childhood trauma and subsequent rehabilitation and growth.



The **CAMPAIGN** for the
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JOIN NATIONWIDE SUPPORT TO END LIFE-WITHOUT-PAROLE SENTENCES FOR CHILDREN

When the U.S. Supreme Court abolished mandatory life-without-parole sentences for children under 18, states took action to ensure effective implementation. In the following decade, the majority of U.S. states banned life-without-parole sentences, demonstrating youth sentencing reforms that are evidence-based, fiscally sound, and politically popular. In fact, over two-thirds of Americans agree that children who receive lengthy sentences should have their sentences reviewed by a court or parole board after no more than 15 years, with the opportunity for release.³³ This majority holds across race, age, gender, political affiliation, and education.³⁴ This nationwide support is reflected in the diverse voices that have endorsed meaningful youth sentencing reform, including psychologists, faith leaders, correctional staff, law enforcement officials, prosecutors, paroling authorities, business leaders, survivors of youth crime, and others:

2/3

of Americans agree that children who receive lengthy sentences should have their sentences reviewed by a court or parole board after no more than 15 years, with the opportunity for release³⁵

American Psychological Association and American Psychiatric Association

"The signature qualities of adolescence reduce juveniles' culpability and increase their capacity for change. Condemning an immature, vulnerable, and not-yet fully-formed adolescent to live every remaining day of his life in prison—whatever his crime—is thus a constitutionally disproportionate punishment."³⁶

The National Center for Victims of Crime

"This population has disproportionately experienced trauma and violence, and we believe that the provision of trauma-informed services for child survivors of crime can promote well-being and healing and prevent future harm."³⁷

UN Convention on the Rights of the Child, Article 37

"No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age."³⁸

Coalition of Christian, Jewish, Muslim, and Buddhist amici in *Graham v. Florida*

"[Life without parole for children] offends the well-established religious principle that all individuals—especially those who are weak and vulnerable, such as children—are entitled to mercy, forgiveness, and compassion."³⁹

Fair and Just Prosecution

"There are countless examples of individuals who have transformed their lives while behind bars, including some who committed serious offenses in their youth. There is no reason to conclude that the commission of a crime—no matter the offense—must define a person forever."⁴⁰

Responsible Business Initiative for Justice

"Juvenile life without parole sentencing flies in the face of everything we know about compassion, science, and justice. [These sentences] fail our communities by forcing our children to serve unjustifiably cruel sentences, preventing them from becoming rehabilitated, productive members of the community as they get older."⁴¹

R Street Initiative

"Permanently locking up children is incompatible with the values of limited government, fiscal responsibility, and the right to life and liberty."⁴²

Incarcerated Children's Advocacy Network (ICAN)

"We want to give kids the very things we needed when we were kids. Our freedom is allowing us to commit to the kids of today."⁴³

To ensure sentencing laws are aligned with scientific standards and social norms regarding children, state legislatures are encouraged to:

- 1 **Eliminate life without parole as a sentencing option for children;**
- 2 **Ensure all children receive eligibility for meaningful sentencing review; and**
- 3 **Establish a review framework that is transparent, considers demonstrated maturity and rehabilitation, and is unique to children.**

