

END JUVENILE LIFE WITHOUT PAROLE

FAQs: 2021 Senate Bill 862 / Assembly Bill 856

A Bill to End the Practice of Juvenile Life Without Parole in Wisconsin

- **What would the proposed legislation do?**
 - Ban life-without-parole (or extended supervision) sentences for juveniles;
 - Require judges to consider the mitigating factors of youth and other factors articulated by the Supreme Court in future sentencing of juveniles;
 - Create a sentence review and adjustment procedure for all persons who are serving more than 15 or 20 years depending on the crime they committed as a juvenile.
- **Who is a “juvenile” under the proposed legislation?**
 - This legislation would apply to all persons who were under the age of 18 at the time of the crime. This age limit comes from United States Supreme Court decisions.
- **How many people in Wisconsin are serving life-without-parole sentences for crimes committed as juveniles?**
 - According to a Legislative Council report published in February of 2021, there are currently 115 men serving life sentences for crimes committed as juveniles. Of these, 6 will *never* be eligible for release under current law.
 - The remaining 109 will become eligible for release at *some* point, although their eligibility date may be beyond their natural life.
- **Who is serving these sentences?**
 - All those who are serving life sentences for crimes committed as children are men.
 - Although Wisconsin’s Black population is about 6.7%, 3 of the 6 individuals (50%) who are serving life sentences with no chance for release are Black, and 53 (46.1%) of the 115 individuals serving life sentences for crimes committed as children are Black.
 - Many were sentenced in the 1990s when the now-debunked myth of youth “super predators” was at its peak.
 - Most who are serving these sentences suffered a high degree of trauma from violence and poverty as children, in addition to physical, emotional, and sexual abuse.



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- **Would ending life-without-parole sentences mean automatic release for offenders?**
 - **No.** Individuals would need to petition the sentencing court for review of their sentence in order to receive an adjustment.
 - Individuals would become eligible after serving 15 years for non-homicide offenses and 20 years for homicide-related offenses and felony sexual assault of a child.
- **Would released offenders be supervised in the community?**
 - **Yes.** The length of supervision in the community would be set by the court and must be at least 3 years.
- **What would judges consider at sentencing and sentence adjustment hearings?**
 - Judges would be able to consider all of the factors traditionally considered at sentencing, including the gravity of the offense, the character of the offender and the protection of the public.
 - In addition, judges would be required to consider the mitigating factors of youth, including the following:
 - Age at the time of the offense;
 - Impetuosity;
 - Family and community environment;
 - Ability to appreciate the risks and consequences of the conduct;
 - Intellectual capacity;
 - The findings of any comprehensive mental health evaluation that is available to the court;
 - Peer or familial pressure;
 - Level of participation in the offense;
 - Ability to participate meaningfully in his or her defense;
 - Capacity for rehabilitation;
 - School records and special education evaluations;
 - History of trauma;
 - Faith and community involvement;
 - Involvement in the child welfare system;
 - And any other mitigating factor or circumstance that the court determines is relevant.
- **Would victims have a voice?**
 - **Yes.** Victims would have the opportunity for input in sentence adjustment proceedings.
 - Victims and their families would also be notified whenever an individual is eligible for sentence adjustment.



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○ **What are the fiscal concerns?**

- According to a June 2018 article in the Wisconsin State Bar's "Wisconsin Lawyer" magazine, Wisconsin spends around \$38,644 per inmate per year. For 115 individuals serving life sentences, that amounts to around \$4,444,060 *each* year. Over the course of 50 years, that amounts to over \$222,000,000.
- Given the low recidivism rate of released juvenile offenders (see below), shortening prison sentences for these individuals would save enormous sums of money.

○ **Are other states ending life-without-parole sentences for juveniles?**

- **Yes.** So far, 25 states and the District of Columbia have passed laws abolishing life without the possibility of parole as a sentencing option for children. In the past 8 years, states as geographically and politically diverse as Delaware and Nevada, Hawaii and Texas, Massachusetts and Arkansas, North Dakota and Virginia have all concluded that kids should never be sentenced to die in prison.
- In January of 2021, Ohio passed a bill abolishing juvenile life without parole because, in the words of the Senate President, "We are a nation that believes in redemption."

○ **Has the United States Supreme Court weighed in on the issue of life-without-parole sentences for juveniles?**

- **Yes.** In four major decisions from 2005 to 2016, the U.S. Supreme Court has declared that a life-without-parole sentence for a juvenile must be exceedingly rare. Relying on the growing body of scientific knowledge of brain development, the Court said that because children are fundamentally different from adults, juvenile offenders simply cannot be reliably classified as among the worst offenders deserving of the most severe punishments available. Only the rare few who are utterly incorrigible and incapable of rehabilitation can lawfully be imprisoned for life. Sentencing a child to die in prison when that child is capable of rehabilitation has been deemed to violate the Constitution's prohibition on cruel and unusual punishment.

○ **What about recidivism?**

- A recent study by professors at Montclair State University found that among former juvenile-lifers who have been released due to changes in the law, the rate of recidivism is a mere 1.14%.
- Because the adolescent brain is still developing, children possess a unique capacity for positive change. The majority of children who commit crimes outgrow their unlawful behavior. This means long prison sentences without release eligibility prematurely abandon hope for many youth who would likely mature into contributing members of the community. All around the country, people who were once told as children that they had no hope for the future but to die in prison are experiencing dramatic transformations and are living successful lives when they are given the opportunity for a second chance.



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○ What can be done to prepare offenders for release?

- Placement in rehabilitation programs in prisons is based in large part on the individual's sentence and time until possible release. Because of this, people serving life sentences are often unable to participate in these programs and are forever on waiting lists.
- With a change in the law to allow for a meaningful opportunity for release, those serving life sentences will have the opportunity to participate in rehabilitative and pre-release programming. They will have the opportunity to work their way from maximum security facilities through medium, minimum and even work-release programs. Their parole agents will be able to prepare release plans. Former Governor Tommy Thompson (now acting President of the University of Wisconsin system) has proposed an initiative to bring college course offerings into prisons as well.
- Groups such as the Wisconsin Advocates for Youth Justice (WAYJ), the Nehemiah Center for Urban Leadership Development, Reentry Legal Services, the Archdiocese of Milwaukee, the Milwaukee Reentry Council and other grassroots organizations can and do support released individuals.
- Attorneys and other advocates who assist incarcerated persons for their parole hearings and sentence adjustment hearings can provide support as well.

