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FACT SHEET 2015

SB 1083

Alter the Procedure for Sentencing Juveniles to Give Greater Flexibility to Juries

PROVIDING INDIVIDUALIZED SENTENCING AND RETROACTIVITY OF JUVENILE SENTENCING REFORMS ALLOWS FOR FAIRER SENTENCING AND GIVES FINALITY TO VICTIMS

In 2012, the U.S. Supreme Court ruled in *Miller v. Alabama* that automatically sentencing minors to **life without parole** violated the Eighth Amendment.¹ In light of that decision, Texas passed Senate Bill 2 in 2013, eliminating life without parole (“LWOP”) as a sentencing option for youth under the age of 18 convicted of a capital felony. Individuals convicted of a capital felony committed under the age of 18 in Texas are now subject to mandatory **life** sentences with the possibility of parole after 40 years. These mandatory sentences prevent juries from being able to take into account the unique circumstances that led to the youth’s involvement with the criminal justice system.

While the Texas Criminal Justice Coalition applauds Texas for eliminating LWOP for juveniles prospectively, these reform efforts do not sufficiently protect Texas youth, some of whom will still die in prison. First, these reform efforts were **not made retroactive**, and at least 27 individuals did not receive the benefit of the law. Second, Texas does not permit juries to consider the **mitigating factors of youth** during sentencing or to make individualized determinations of sentences. The current sentencing scheme deprives Texas juries of exercising their discretion to choose a sentence that matches the facts of the crime and the defendant’s level of culpability and potential for rehabilitation. Moreover, Texas risks **escalating litigation costs** as the U.S. Supreme Court and the Texas Court of Criminal Appeals continue to refine the jurisprudence on youth; it also subjects victims to continued uncertainty.

For these reasons, the Texas Criminal Justice Coalition urges the Legislature to adopt new policies to bring down costs, provide finality to victims, and give youthful offenders the opportunity to prove that they have sufficiently matured and rehabilitated to be given a second chance.

KEY FINDINGS

- The United States is the only country in the world to allow life without parole sentences for juveniles; the majority of the world (65%) either limits sentences to 20 years or less or reduces the degree of the crime for juveniles.²
- Children sentenced to life in prison without parole are often the most vulnerable members of our society. A national survey revealed that nearly 80% of juvenile lifers reported witnessing violence in their homes; more than half (54.1%) witnessed weekly violence in their neighborhoods.³
- This national survey further reported that 77% of girls and 20% of all youth lifers said they have been sexually abused.⁴
- African American youth are sentenced to life without parole as children at a per capita rate that is 10 times that of white youth.⁵

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KEY FINDINGS (CONTINUED)

- The Eighth Amendment demands that states provide juvenile offenders a meaningful opportunity for release.⁶ Since *Miller v. Alabama*, several states have eliminated juvenile life without parole entirely, providing for parole eligibility after 10-35 years.⁷ Litigation in this area is rampant, depriving victims of the finality they deserve.
- It costs approximately \$2.5 million to incarcerate juveniles for life,⁸ whereas it costs taxpayers approximately \$625,720 to incarcerate a juvenile for 20 years.⁹ **Early release for those individuals who have demonstrated that they have sufficiently matured and rehabilitated can save the state approximately \$1,874,280 per inmate.** That figure does not include the extra costs of litigation currently associated with life or functional life sentences, which are expected to substantially drive up those costs.

COST-SAVING AND PUBLIC SAFETY-DRIVEN SOLUTION: SUPPORT SB 1083 BY SENATOR RODRÍGUEZ

- **SB 1083 provides a range of sentencing options for juries considering crimes involving juveniles.** Allowing juries to provide a sentence ranging anywhere from 5 to 99 years or life allows juries to consider the facts and mitigating evidence of the crime and provide a sentence that is proportionate to the offense.
- **SB 1083 permits juries to consider the mitigating factors of youth when choosing between those sentencing options.** Individualized consideration of mitigating factors would allow juries to provide appropriate sentences for juveniles. Allowing juries to consider a juvenile's community and family background, mental health, substance abuse issues, school records, etc., will allow juries to understand the unique circumstances surrounding the juvenile's offense, and to make a sentencing decision accordingly.
- **SB 1083 reduces the time served prior to parole eligibility.** Reducing the time served to parole eligibility from 40 years to 25 years provides consideration of youths' ability to grow and their potential for rehabilitation. Early parole consideration recognizes this capacity for rehabilitation and gives these youth the opportunity to demonstrate their maturity to the parole board. Given the young age at which juveniles enter the criminal justice system, youth have greater potential to rehabilitate and become active, productive members of the community upon release. Reducing the time served prior to parole eligibility also provides youth with the hope and the drive necessary to make the most of rehabilitative programming provided to them in order to be ready for the parole board.
- **SB 1083 applies these changes retroactively so as to bring Texas into conformity with the constitutional dictates of *Miller v. Alabama*.** Today in Texas facilities, there are 27 individuals with LWOP sentences who were sentenced as juveniles. Although the Texas Criminal Court of Appeals has held that *Miller* can be applied retroactively, it is unclear what sentence is available to these youth upon resentencing.

Citations

¹ 132 S.Ct. 2455 (2012)

² Connie de la Vega, et al., *Cruel and Unusual: U.S. Sentencing Practices in a Global Context* (USF School of Law Center for Law and Global Justice 2012); see also Connie de la Vega & Michelle Leighton, *Sentencing our Children to Die in Prison: Global Law and Practice*, 42 U.S.F L. REV. 983 (2008). Both are available at http://www.usfca.edu/law/jlwop/law_review/.

³ Ashley Nellis, Ph.D., *The Lives of Juvenile Lifers: Findings from a National Survey* (March 2012), http://sentencingproject.org/doc/publications/jj_The_Lives_of_Juvenile_Lifers.pdf.

⁴ Ibid.

⁵ Ibid.

⁶ In a series of cases the Supreme Court of the United States has recognized that juveniles are different and provided strict restrictions upon juvenile sentencing. In *Graham v. Florida*, 560 U.S. 48 (2010), the Supreme Court held that juveniles who had not committed a homicide could never be sentenced to life without parole. It also required states to give juvenile offenders a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation. Thus, the Supreme Court limited the length of sentences that states can impose upon juveniles at the time of sentencing, requiring a meaningful review process to occur at some “later” date. The Supreme Court did not provide any guidance on when states must allow that opportunity for release to occur, leaving it up to states to decide in the first instance. Two years later, the Supreme Court in *Miller v. Alabama*, 132 S.Ct. 2455 (2012), held that mandatory life without parole violated the Eighth Amendment. After *Miller*, states must require sentencing courts to consider the distinctive mitigating features of youth prior to sentencing a juvenile to life without parole.

⁷ Research conducted by the Texas Criminal Justice Coalition available upon request. Please see the Appendix, *Memorandum re sentencing reform relating to Graham and Miller nationwide*, Civil Justice Clinic, Quinnipiac University School of Law (March 18, 2014).

⁸ *At America’s Expense: The Mass Incarceration of the Elderly*, ACLU (June 2012), https://www.aclu.org/files/assets/elderlyprisonreport_20120613_1.pdf. Calculation = ((Average cost per year per inmate to incarcerate before age 50 x 34) + (National estimate for annual cost for the care of an inmate after age 50 x 21)).

⁹ Ibid. Calculation = (Average cost per year per inmate to incarcerate before age 50 x 20).