

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



**TESTIMONY IN SUPPORT OF H. 62
PRESENTED TO THE VERMONT HOUSE JUDICIARY COMMITTEE
FEBRUARY 4, 2014**

Madam Chair and members of the House Judiciary Committee:

The Campaign for the Fair Sentencing of Youth respectfully submits this testimony for the official record to express our support for H. 62. We are grateful to Representative Rachelson for her leadership in introducing this bill and appreciate the Vermont Legislature's willingness to address this important constitutional and human rights issue concerning the extreme sentencing of Vermont's children.

The Campaign 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 sentences for all youth. We work closely with formerly incarcerated youth, family members of victims, and family members of incarcerated youth to help develop sentencing alternatives for children that focus on their rehabilitation and capacity for reintegration into society. We work with policymakers across the political spectrum as well as a variety of national organizations to develop policy solutions that will keep our communities safe and hold children accountable when they are convicted of serious crimes.

The Campaign supports H. 62 because, if signed into law, it will ensure that Vermont fulfills the spirit of recent U.S. Supreme Court rulings that children, because they are constitutionally different from adults, should not be subject to our nation's harshest punishments. This bill would abolish life without parole as a sentencing option for children, replacing it with life with the possibility of parole.

Life Sentences Without the Possibility of Parole

Today, approximately 2,500 individuals have been sentenced to life without parole for crimes committed as children. The U.S. is the only country in the world that sentences its children to die in prison.

This sentence is a final judgment that disregards children's unique capacity to grow and change as they mature into adulthood. Studies have shown that children's brains are not fully developed. As a result, children are less capable than adults to consider the long-term impact of their actions, control their emotions and impulses, or evaluate risks and reward. They also are more vulnerable and susceptible to peer pressure.

We also know from experience and from behavioral and brain development experts that children possess a unique capacity for change. The vast majority of children who commit crimes age out of criminal behavior and no longer pose a threat to society in adulthood. This highlights the need for sentencing policies that reflect the scientific and developmental realities of children, and creates an all-out ban on life without parole sentences for children.

Our country's recognition that children are still developing and have lessened culpability is reflected in the limitations we place on them. We don't allow children to enter into contracts, purchase or consume tobacco and alcohol, vote, or engage in other adult activities. We should also look at children who commit crimes through this same lens.

The practice of sentencing children to die in prison stands in direct contradiction to what we know about children. These sentences also are most frequently imposed upon the most vulnerable members of our society. Nearly 80 percent of juvenile lifers reported witnessing violence in their homes; more than half (54.1%) witnessed weekly violence in their neighborhoods. In addition, 50 percent of all children sentenced to life in prison without the possibility of parole have been physically abused and 20 percent have been sexually abused during their life. For girls serving life without parole sentences, more than 80 percent have been sexually assaulted.¹

In addition, these sentences are disproportionately imposed on minorities from impoverished communities. Black children are sentenced to die in prison at a per capita rate that is 10 times that of non-minority children in the United States.

International Human Rights and the U.N. Convention on the Rights of the Child

Article 37 of the U.N. Convention on the Rights of the Child prohibits the use of "capital punishment and life without the possibility of release" as sentencing options for people younger than 18.² The United States and South Sudan are the only countries that have not ratified this Convention, which prohibits this cruel and unusual punishment. One of the chief reasons the U.S. has refused to ratify the CRC has been our country's sanction of life without parole sentences for children.

The United States is the ONLY country in the world that uses life without parole as a sentencing option for children.³ Vermont has an opportunity to join other nations in the world and an increasing number of U.S. states that are taking steps to bring us into compliance with Article 37 and create policies that recognize the unique differences between child and adult offenders. Most recently, Texas, Wyoming, Kentucky, Kansas, Colorado, Montana, Alaska, Hawaii, Delaware, Massachusetts, and West Virginia have all abolished life without parole sentences for children. Other states, including California and Washington, have created measures to ensure that youth who are convicted of serious crimes have opportunities for review and resentencing later in life.

¹ *The Lives of Juvenile Lifers*, The Sentencing Project, March 2012,

http://sentencingproject.org/doc/publications/jj_The_Lives_of_Juvenile_Lifers.pdf

² U.N. Convention on the Rights of the Child, <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

³ *Here Are All the Countries Where Children Are Sentenced to Die in Prison*, Huffington Post, Saki Knafo, September 20, 2013, http://www.huffingtonpost.com/2013/09/20/juvenile-life-without-parole_n_3962983.html

These states represent geographic and political diversity which highlights the widespread support for these human rights policies on both sides of the aisle.

In light of the U.S. Supreme Court trends, adolescent development research and growing support from policymakers and opinion leaders, several additional states are considering abolition measures during this legislative cycle as well, including neighboring Connecticut and Maryland.

Fiscal Burden

Aside from the human rights and constitutional reasons for Vermont to pass H. 62, there is also a strong fiscal argument to be made in support of this legislation. In the U.S. it costs approximately \$2.5 million to incarcerate a child for the duration of his or her life. Collectively the 2,500 individuals sentenced to life without parole will cost taxpayers an estimated \$6.2 billion over their lifetimes.⁴ In contrast, a child with a high school education who is paroled after serving 10 years could potentially contribute \$218,560 in tax revenue.⁵ A formerly incarcerated child who obtains a college degree can potentially contribute \$706,560 in tax revenue over their lifetime.⁶ These figures do not include their contributions to the local economy, job productivity, or the intangible impact of being positive role models for other at-risk youth.

The U.S. Supreme Court

The United States Supreme Court, in a series of decisions during the last decade, has said that children are constitutionally different from adults and should not be subject to the nation's harshest punishments. In *Roper v. Simmons* (2005) the Court struck down the death penalty for children, finding it to be a violation of the 8th Amendment's prohibition on cruel and unusual punishment.⁷ In that opinion, the Court emphasized the brain and behavioral development science showing that children are fundamentally different than adults in their development and that they have a unique capacity to grow and change as they mature.⁸ 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."⁹ Finally, in *Miller v. Alabama* (2012) the Court struck down mandatory life without parole sentences for homicide offenses, finding 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."¹⁰

In the wake of these decisions, 11 states have eliminated juvenile life without parole as a sentencing option for children. In addition, the Criminal Justice Section of the American Bar Association recently adopted a resolution, which was **voted for and supported by the U.S. Department of Justice**, calling on states and the federal governments to "eliminate life without the possibility of release or parole for youthful offenders [under 18 years of age] both prospectively and retroactively."

⁴ *The Mass Incarceration of the Elderly*, ACLU, June 2012. Available at: https://www.aclu.org/files/assets/elderlyprisonreport_20120613_1.pdf

⁵ *The Fiscal Consequences of Adult Educational Attainment*, National Commission on Adult Literacy. Retrieved from: <http://www.nationalcommissiononadultliteracy.org/content/fiscalimpact.pdf>

⁶ *Id.*

⁷ *Roper v. Simmons*, 543 U.S. 551 (2005).

⁸ *Id.*

⁹ *Graham v. Florida*, 130 S. Ct. 2011 (2010).

¹⁰ *Miller v. Alabama*, 132 S.Ct. 2455 (2012).

H. 62 will bring Vermont in line with the spirit of these Supreme Court decisions by eliminating the use of life without parole as a sentencing option for children. This bill is the right policy to ensure public safety, fiscal responsibility, and the fair and age-appropriate sentencing standards for Vermont's children. It will bring the state into compliance with the UN Convention on the Rights of the Child and will be an example of common sense, practical solutions for holding children accountable when they come into conflict with the law.

Dr. Martin Luther King Jr. once said, "Darkness cannot drive out darkness; only light can do that. Hate cannot drive out hate; only love can do that." 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. This bill does that, while promoting public safety and saving tax payer money. Therefore, we strongly urge this committee to vote favorably upon H. 62 and give the children of Vermont the chance to show that they can in fact change and be rehabilitated. Thank you for your consideration.



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