



DIVISION OF PUBLIC DEFENDER SERVICES
State of Connecticut

OFFICE OF CHIEF PUBLIC DEFENDER
55 FARMINGTON AVENUE, 8TH FLOOR
HARTFORD, CT 06105

ATTORNEY CHRISTINE P. RAPILLO
CHIEF PUBLIC DEFENDER
TEL: (860) 509-6429
FAX: (860) 509-6499

TESTIMONY OF CHRISTINE PERRA RAPILLO, CHIEF PUBLIC DEFENDER

SENATE BILL 978, AN ACT CONCERNING PAROLE OPPORTUNITIES FOR INDIVIDUALS SERVING SENTENCES FOR CRIMES THE INDIVIDUAL COMMITTED BEFORE THE INDIVIDUAL TURNED TWENTY-FIVE YEARS OF AGE

JUDICIARY COMMITTEE - March 10, 2021

Mission Statement of the Division of Public Defender Services

Striving to ensure justice and a fair and unbiased system, the Connecticut Division of Public Defender Services zealously promotes and protects the rights, liberty and dignity of all clients entrusted to us. We are committed to holistic representation that recognizes clients as individuals, fosters trust and prevents unnecessary and wrongful convictions.

The Office of Chief Public Defender supports adoption of ***Senate Bill 978, An Act Concerning Parole Opportunities for Individuals Serving Sentences for Crimes the Individual Committed before the Individual Turned Twenty-Five Years of Age***. This proposal raises the age of eligibility for parole review granted to young offenders in Public Act 15-84.

In the case of Miller v. Alabama, 567 U.S. 460 (2012) the United States Supreme Court found that a sentence of life without parole for individuals who committed their crimes prior to their 18th birthday, without first considering their youth as a mitigating factor violated the ban on cruel and unusual punishment set out in the Eighth Amendment to the United States Constitution. Miller was part of a series of United States Supreme Court cases holding that the hallmark characteristics of youth make juvenile offenders less culpable for their crimes and more capable of rehabilitation. Public Act 15-84 was enacted to give individuals the opportunity

Page 2 of 4

Testimony of Christine Perra Rapillo, Chief Public Defender

Judiciary Committee - March 10, 2021

Re: **S.B. 978 - An Act Concerning Parole Opportunities for Individuals Serving Sentences for Crimes the Individual Committed Before the Individual Turned Twenty-Five Years of Age**

to have their youth, at the time of the crime, considered by the Board of Pardons and Parole.

The legislature passed P.A. 15-84 to make Connecticut compliant with the Eighth Amendment to the United States Constitution. Under P. A. 15-84, individuals who were under the age of 18 when their crime was committed and are serving a sentence of more than 10 years are eligible for review to have the Board of Pardons and Parole consider their youth, at the time of the crime, and subsequent rehabilitation efforts, in order to have the possibility of parole. If the sentence was less than 50 years, review can be sought after 65% or 12 years of the sentence is served, whichever is greater. If the sentence is 50 years or more, the individual can seek review after serving 30 years of their sentence. This proposal would raise the age of eligibility to seek this review to individuals who committed their crimes prior to the age of 25.

The time has come to extend the eligibility for this type of parole review to individuals that were over the age of 18 when they committed their crimes. This session, this agency submitted a proposal to extend eligibility to 18 and 19 year olds. While we agree that the review should go at least to age 21, we were confident that the Division of Public Defender Services could absorb the cost of 18 and 19 year olds without the need for any additional funding.

In Miller v. Alabama, the U.S. Supreme Court held “that mandatory life without parole for those under the age of 18 at the time of their crimes violates the Eighth Amendment’s prohibition on ‘cruel and unusual punishments,’ ” id. at 465, 132 S.Ct. 2455, because “a judge or jury must have the opportunity to consider mitigating circumstances before imposing the harshest possible penalty for juveniles,” id. at 489, 132 S.Ct. 2455. This holding was primarily based what was then emerging science on the adolescent brain.- that human brains do not reach full development until age 25. In fact, both the U. S. Supreme Court rulings and the Connecticut legislation that followed it were based on firm neuroscience that showed undeveloped executive functioning in adolescent brains. Based on the science, it stands to reason that more people should be eligible for review of long sentences imposed for offenses such individuals committed when they were still developing.

Dr. Laurence Steinberg, the expert upon whose research the U. S. Supreme Court relied on in Roper v. Simmons, 543 U.S. 551 (2005), Miller v. Alabama and Montgomery v. Louisiana, 136 S.Ct 718 (2016) testified that while a bright line for brain development could be drawn at 18, full executive functioning does not occur until age 25. Dr. Steinberg indicated that adolescence is

Testimony of Christine Perra Rapillo, Chief Public Defender

Judiciary Committee - March 10, 2021

Re: S.B. 978 - An Act Concerning Parole Opportunities for Individuals Serving Sentences for Crimes the Individual Committed Before the Individual Turned Twenty-Five Years of Age

comprised of three stages: early adolescence between ages 10 and 13, middle adolescence between ages 14 and 17, and late adolescence between ages 18 and 21. In 2018, Dr. Steinberg testified in the Connecticut case United States v. Cruz and stated that, “if he were to write the article today, with the developments in scientific knowledge about late adolescence, he would say ‘the same things are true about people who are younger than 21.’” *Cruz*, 2018 WL 1541898, at *24.

In the Cruz case, a Connecticut U.S District Court judge agreed that 18 year olds should be included in the prohibition on sentences of life without parole. This decision was overturned by the second circuit court of appeals, since they interpreted 18 to be the bright line set by the US Supreme Court. While the U.S. Supreme Court has, to date, drawn a bright line at age 18, Connecticut courts have a history of interpreting our state constitutional ban on cruel and unusual punishment beyond the federal Eighth Amendment. In State v. Riley, a315 conn.637, 110 A.3d 1205 (2015) and Casiano v. Commissioner, 317 Conn.52, 115 A.3d 1031 (2015), the Connecticut Supreme Court held that our constitution mandates consideration of youth in cases other than those where a mandatory life without parole sentence was imposed.

While 18 is considered the age of majority for criminal liability, 21 is the age for many other activities considered to be “adult”. An individual must be 21 to lawfully own a firearm or purchase alcohol. If cannabis is legalized this legislative session, a citizen will have to be 21 to purchase the product. The science has always indicated that young brains are not fully developed until the age of 25. It is the purview of this body to determine where Connecticut’s bright line should fall but it should clearly be higher than the 18th birthday.

Raising the age of eligibility for parole review under P.A. 15-84 would not automatically release anyone from incarceration. Individuals would still need to serve lengthy sentences, present mitigation to the Board of Pardons and Parole, and convince the members of the Board that such individuals had achieved a high degree of rehabilitation. The hearings in these cases are significant proceedings. Victims and their families are notified and often participate. Each applicant must speak to the Board and explain how they have learned from their past behavior. Applicants are given an opportunity to express remorse, seek the forgiveness of their victims, and present their plan for a path forward in society. Most of these individuals are represented by our public defenders and assigned counsel attorneys. Every case is assigned a social worker who not only analyzes mental health records but more importantly, works with the applicant on a detailed release plan. These plans include housing, employment, education, treatment and an outline on how to comply with all parole or probation requirements.

Page 4 of 4

**Testimony of Christine Perra Rapillo, Chief Public Defender
Judiciary Committee - March 10, 2021**

**Re: S.B. 978 - An Act Concerning Parole Opportunities for Individuals Serving Sentences
for Crimes the Individual Committed Before the Individual Turned Twenty-Five Years
of Age**

The implementation of P.A. 15-84 has been very successful. Instead of dozens of cases engaged in expensive, ongoing appeals and habeas corpus actions, individuals have received review before the Board of Pardons and Parole. According to data published by the Board of Pardons and Parole, 113 reviews have been held pursuant to P.A. 15-84. For those represented by the Division of Public Defender Services, 66 individuals were granted parole after their first hearing, 11 were granted after a rehearing, 7 were denied but able to ask for a rehearing and 20 were denied outright. Extending eligibility will allow the Board to review additional individuals and determine the extent to which their youth at the time of the crime should impact the decision to grant parole.

The Office of Chief Public Defender urges this Committee to act favorably on this proposal.