



## State of Connecticut

### DIVISION OF PUBLIC DEFENDER SERVICES

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### Testimony of Deborah Del Prete Sullivan, Legal Counsel, Director Office of Chief Public Defender

JUDICIARY COMMITTEE - MARCH 26, 2025

**Raised Bill No. 7133**

### **AN ACT CONCERNING PAROLE ELIGIBILITY**

Consistent with years past, the Office of Chief Public Defender (OCPD) **strongly supports** *H.B. 7133, An Act Concerning Parole Eligibility*. The bill would amend *Public Act 23-169*, which amended *Public Act 15-84*, to expand the eligibility for these hearings to include all persons who were 18 - 21 years of age at the time they committed an offense. While *Public Act 23-169* extended eligibility, it did so only as to persons who were under the age of 21 *but convicted before October 1, 2005*. As a result, other persons who were under the age of 21 but convicted after October 1, 2005, are not eligible even if the offense or arrest for such occurred prior to their 21<sup>st</sup> birthday. The bill amends the law and is consistent with fundamental fairness and permits ALL youth who were under the age of 21 when they committed their offense, regardless of when the conviction entered.

Originally *Public Act 15-84* conferred a statutory right to people who were convicted of crimes prior to their 18th birthday to be eligible for parole where the attendant circumstances of youth could be considered at a hearing, commonly referred to as a *Miller-Graham* hearing, to determine if early release is appropriate for the inmate. The enactment of *Public Act 15-84* was so that Connecticut would be in compliance with the Eighth Amendment to the U.S. Constitution and give a person the opportunity to have their youth, at the time of the crime, considered by the Board of Pardons and Parole. Such persons are eligible for a review of their case and for the Board of Pardons and Parole to consider their youth at the time of the commission of the offense in addition to any subsequent rehabilitation efforts for purposes of obtaining parole.

March 26, 2025

Judiciary Committee

H.B. 7133 An Act Concerning Parole Eligibility

*P.A. 15-84* provides that a person who was under the age of 18 when they committed their crime can apply for this special type of parole if they are serving a sentence of more than 10 years and:

- if the sentence imposed was 50 years or less, and after he/she has served 60% or 12 years of their sentence, whichever is greater;
- if the sentence imposed was more than 50 years, and after he/she has served 30 years.

While 18 is considered the age of majority for criminal liability, 21 is the age for many other activities considered to be an “adult”. An individual must be 21 to lawfully purchase cannabis, a firearm, alcohol, cigarettes and even vape products. By including ALL youth eligibility to age 21, this office believes that fairness will result where persons who committed a crime while their brain was not yet fully developed, can receive a “second look” with the opportunity to demonstrate mitigation and why their youth should be considered.<sup>1</sup>

Expanding the age of eligibility to 21 for review under *P.A. 15-84* does not equate to an automatic release. Preparation for these cases by this office can take up to a year as public defenders gather mitigating and rehabilitation information and documentation to present at the hearing before the Board of Pardons and Parole. Eligibility for review of these cases is not at the same time. Public Defenders, working with a social worker, review and analyze a client’s mental health records and prepare a release plan, which can include support comprising of treatment, counseling housing, education and/or employment. At the hearing, the client can present his/her rehabilitation efforts and proposed re-entry plan, and remorse to the victim and his/her families. At the hearings, the state is represented by the prosecutors and the victim is not only present, but able to fully participate in the hearing.

The U.S. Supreme Court found that sentences of life imprisonment without the possibility of parole imposed on young people who committed certain offenses prior to the age of 18 was cruel and unusual punishment in violation of the Eighth Amendment to the U.S. Constitution because youth was not considered as a mitigating factor. See **Miller v. Alabama**, 567 U.S. 460 (2012). “[A] judge or jury must have the opportunity to consider mitigating circumstances before imposing the harshest possible penalty for juveniles,” *id.*, at 489. The holding was primarily based what was then emerging science on the adolescent brain. This science has always showed that human brains do not reach full development until age 25. **Miller** and other decisions of the U. S.

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<sup>1</sup> For a full discussion of why treatment of children under the age of 25 is cruel and unusual punishment without considering their “youthfulness” and why these children are different from adults see *Tirza A. Mullin, Eighteen is Not a Magic Number: Why the Eighth Amendment Requires Protection for Youth Aged Eighteen to Twenty-Five*, 53 U. Mich. J. L. Reform 807 (2020).

March 26, 2025

Judiciary Committee

H.B. 7133 An Act Concerning Parole Eligibility

Supreme Court<sup>2</sup> have held that juvenile offenders are less culpable for their crimes and more capable of rehabilitation if their youth is considered.

“In *Roper*, *Graham*, and *Miller*, the Court looked at and relied heavily on brain science to determine that juveniles have diminished culpability. This research found youth have certain characteristics that make harsh punishments disproportionate, and therefore violate the Eighth Amendment. These characteristics include diminished maturity and responsibility that leads to risk-taking behavior, vulnerability to peer pressure, and underdeveloped character that is more prone to rehabilitation. According to the Court, each of these characteristics demonstrate an ability to be rehabilitated. . . [C]urrent research shows the brain is underdeveloped until age twenty-five, resulting in an inability to fully assess \*822 consequences, diminished capacity to make rational decisions, and increased susceptibility to peer pressure.<sup>3</sup> Youths under twenty-five therefore possess the same characteristics and potential for reform that the Court found persuasive in *Miller*, *Graham*, and *Roper*, finding Eighth Amendment violations and banning the death penalty and mandatory life without parole sentences for juveniles. Therefore, handing out these sentences to offenders aged eighteen- to twenty-five must also violate the Eighth Amendment.”<sup>4</sup>

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

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<sup>2</sup> See *Miller v. Alabama*, 567 U.S. 460 (2012); *Graham v. Florida*, 560 U.S. 48 (2010); *Roper v. Simmons*, 543 U.S. 551 (2005)

<sup>3</sup> See also, Elizabeth S. Scott et al., *Young Adulthood as a Transitional Legal Category: Science, Social Change, and Justice Policy*, 85 Fordham L. Rev. 641, 647 (2016); Carly Loomis-Gustafson, *Adjusting the Bright-Line Age of Accountability within the Criminal Justice System: Raising the Age of Majority to Age 21 Based on the Conclusions of Scientific Studies Regarding Neurological Development and Culpability*, 55 DUQ. L. REV. 221, 237 (2017).

<sup>4</sup> Tirza A. Mullin, *Eighteen is Not a Magic Number: Why the Eighth Amendment Requires Protection for Youth Aged Eighteen to Twenty-Five*, 53 U. Mich. J. L. Reform 807, 821-822 (2020). (Internal footnotes deleted)