**Testimony in Support of**
**SB 1062: An Act Concerning the Recommendations of the Connecticut Sentencing Commission Regarding the Sentencing of a Child Convicted of a Felony Offense, and**
**HB 6581: An Act Concerning the Recommendations of the Connecticut Sentencing Commission Regarding Lengthy Sentences for Crimes Committed by a Child or Youth**

Sarah Esty
Judiciary Committee
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Senator Coleman, Representative Fox, distinguished members of the Judiciary Committee,

I am testifying today on behalf of Connecticut Voices for Children, a research-based public education and advocacy organization that works statewide to promote the well-being of Connecticut's children, youth, and families.

**We support SB 1062,** ***An Act Concerning the Recommendations of the Connecticut Sentencing Commission Regarding the Sentencing of a Child Convicted of a Felony Offense***, which brings Connecticut into compliance with the recent Supreme Court decision in *Miller v. Alabama* by eliminating mandatory life-without-parole sentences for juveniles and identifying "mitigating qualities of youth" that judges must consider when sentencing juveniles in adult court.

**We also support HB 6581:** ***An Act Concerning the Recommendations of the Connecticut Sentencing Commission Regarding Lengthy Sentences for Crimes Committed by a Child or Youth.*** This bill would create a process that establishes a "second look" at long adult prison sentences for juveniles after they have served a substantial portion of their time.

**Both of these bills have received the support of the Connecticut Sentencing Commission,** a bipartisan group of judges, law enforcement and prison officials, prosecutors, public defenders, and citizens that also received extensive input from the victim advocate and the public.

With the spread of magnetic resonance imaging (MRI) and exhaustive studies conducted over the last two decades, a scientific consensus has emerged that children's brains are not fully developed until far into their twenties, and that the last features to develop are those that control judgment, decision-making, and proper understanding of the consequence of actions.[1] This information about teenage brain development ought to have significant impact on how we view young people's culpability, competency, and potential for rehabilitation, and therefore how the courts try and sentence juveniles.

The US Supreme Court has recognized the importance of these scientific findings, noting "[j]uveniles' susceptibility to immature and irresponsible behavior means 'their irresponsible conduct is not as morally reprehensible as that of an adult'" in justifying their decision, in *Roper v. Simmons*, to

[1] *See, for example*, Kendall Powell, "Neurodevelopment: How Does the Teenage Brain Work?," *Nature* 442 (24 August 2006): 865-867, available at: http://www.nature.com/nature/journal/v442/n7105/pdf/442865a.pdf. *See also,* Jay M. Giedd, "The Teen Brain: Insights from Neuroimaging," *Journal of Adolescent Health* 42 (2008): 335-343, available at: http://brainmind.umin.jp/Jay_2.pdf *and* Debra Bradley Ruder, "The Teen Brain," *Harvard Magazine*, (September – October 2008) available at: http://harvardmag.com/pdf/2008/09-pdfs/0908-8.pdf

declare the death penalty unconstitutional for juveniles.[2] The Supreme Court took this decision a step further in 2010, in *Graham v. Florida*, when it declared unconstitutional life sentences for juveniles for all crimes other than homicide because "juveniles have lessened culpability [and therefore]…are less deserving of the most serious forms of punishment." The Court stated that states were required to "impose a sentence that provides some meaningful opportunity for release based on demonstrated maturity and rehabilitation."[3] Most recently, in *Miller v. Alabama*, decided in 2012, the Supreme Court went a step further still, striking down mandatory life without parole sentences for all juveniles including those convicted of murder. The Court stated that we must treat juvenile offenders differently from adults, reasoning:

> "Mandatory life without parole for a juvenile precludes consideration of his chronological age and its hallmark features—among them, immaturity, impetuosity, and failure to appreciate risks and consequences. It prevents taking into account the family and home environment that surrounds him—and from which he cannot usually extricate himself—no matter how brutal or dysfunctional. It neglects the circumstances of the homicide offense, including the extent of his participation in the conduct and the way familial and peer pressures may have affected him. Indeed, it ignores that he might have been charged and convicted of a lesser offense if not for incompetencies associated with youth—for example, his inability to deal with police officers or prosecutors (including on a plea agreement) or his incapacity to assist his own attorneys…And finally, this mandatory punishment disregards the possibility of rehabilitation even when the circumstances most suggest it."[4]

In order to comply with *Miller*, Connecticut must reform its laws to eliminate mandatory life without parole sentences for juveniles. It must also ensure that judges incorporate consideration of youth-related factors such as family dynamics and home environment, age, trauma and abuse exposure, and the possibility of rehabilitation, when sentencing juveniles. SB 1062 would accomplish both of these steps, which is why we urge you to support this measure.

While the Supreme Court case did not mandate action on non-mandatory but very lengthy sentences, the factors identified by the court as youth-related mitigating elements that ought to be considered are equally relevant when applied to non-mandatory sentencing. In particular, when imposing a sentence, judges ought to take into account young people's decreased culpability, immaturity, limited control over the immediate environment, and greater possibility for rehabilitation. We therefore also urge you to support HB 6581, which creates a process to give these young offenders a chance for a second look at their sentences after they have served a significant period and had the chance to prove increased maturity and rehabilitation.

Even after the recent Raise the Age legislation, juveniles as young as 14 are still automatically tried as adults if they commit certain crimes, and can be subject to adult sentences of 50 years or more without a chance of parole. About 275 people are currently serving sentences of greater than 10 years for offenses committed as juveniles. Additionally, significant racial and ethnic disparities emerge in the lengthy sentences awarded to juveniles: 88% of individuals serving sentences of greater than 10 years for juvenile crimes are black or Hispanic. Given Connecticut's sizeable racial

[2] *Roper v. Simmons*, 543 U.S. 551 (2005)
[3] *Graham v. Florida*, No. 08-7412, Supreme Court of the U.S. May 17, 2010
[4] *Miller v. Alabama*, No. 10-9646, Supreme Court of the U.S. June 25, 2012

and ethnic disparities in poverty, our greatest-in-the-nation achievement gaps, and the documented harsher treatment of minority youth in our state's justice system,[5] the disproportionate impact of lengthy sentences on Connecticut's youth of color becomes particularly problematic.

HB 6581 would give these people convicted of juvenile crimes and given very lengthy sentences a chance for parole after serving the longer of half their sentence and ten years (up to a maximum of 30 years for those with sentences greater than 60 years). It does not guarantee release, since the Parole Board would still need to decide that the applicant had truly rehabilitated and was not going to be a danger to society. It simply gives young people the opportunity to present how they have grown and come to take responsibility for their actions.

These two proposed bills help ensure that Connecticut is treating children as children when determining their culpability, their ability to understand the consequences of their actions, the effectiveness of punishment in deterring dangerous behavior, their moral responsibility, and their ability to be rehabilitated. We have taken important steps forward in recent years in recognizing that children take until beyond 18 to mature. These bills help ensure that juvenile sentencing incorporates this scientific and legal consensus.

[5] Even when controlling for various factors, black and Hispanic youth in Connecticut are more likely to be referred to court, placed in secure holding, and held in detention. Most importantly ***black and Hispanic youth were more likely than similarly charged youth to be transferred to adult court***, where they are therefore more likely to be subject to the lengthy sentences awarded to adults. *See*, Dorinda M. Richetelli, Eliot C. Hartstone, and Kerri L. Murphy. "A Second Reassessment of Disproportionate Minority Contact in Connecticut's Juvenile Justice System," *Criminal Justice Policy and Planning Division, Connecticut Office of Policy and Management* (May 15, 2009), available at: http://www.ct.gov/opm/lib/opm/cjppd/cjjjyd/jjydpublications/final_report_dmc_study_may_2009.pdf