



# Ban Life without Parole for Juvenile Offenders

By Phyllis T. Bookspan

**Pennsylvania leads the nation in the number of youths sentenced to life without parole.**

**P**ennsylvania has more people serving life sentences for crimes committed as juveniles than any other jurisdiction in the world. This is not because Pennsylvania has more juvenile crime than any other place but rather because Pennsylvania leads the nation in the number of youths sentenced to life without parole.

In September 2009 Rep. Kenyatta J. Johnson, D-Philadelphia, introduced House Bill 1999 to address this disparity; unfortunately, the bill did not come to a vote in the 2010 session. It would have abolished the sentence of life without parole for all juveniles and allowed offenders who committed a crime while a juvenile to apply for parole at age 31 and every three years thereafter. It would

also have provided for re-sentencing of those currently serving a life sentence without parole.

HB1999 did not propose changes in the severity of initial sentences imposed upon juvenile offenders, nor did it include a guarantee that juvenile offenders would be released at age 31. Simply put, it proposed to give juvenile offenders the opportunity to show they had mended their ways, matured and were rehabilitated, no longer posing a danger to the public. It did not sanction or authorize release of dangerous offenders. Victims and victims' advocates always have the right to be heard by a parole board. The bill provided hope and the opportunity to be heard.



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brain development, outlawed the juvenile death penalty in *Roper v. Simmons*, 543 U.S. 551 (2005), holding that it is unconstitutional to execute a person for a crime committed while under age 18. More recently, in *Graham v. Florida*, 560 U.S. \_\_\_ (2010), the court found that the Eighth Amendment prohibits life without parole for juvenile offenders who did not commit a homicide. The court again pointed to the body of scientific evidence that supported *Roper*, finding a “fundamental difference between juvenile and adult minds.” Where does the ruling in *Graham* leave Pennsylvania’s juvenile life-without-parole statute?

Pennsylvania has 450 juvenile offenders sentenced to life without parole. Of these about 150 offenders did not directly commit a homicide. They were sentenced on theories of accomplice liability or for being at the wrong place at the wrong time. After *Graham* two questions arise: Do the sentences of the 150 inmates constitute cruel and unusual punishment? As a moral imperative, should life without parole ever be an appropriate sentence for a crime committed while a juvenile?

Juveniles do stupid and even cruel things for reasons that include peer pressure, poor social conditioning, bad judgment, fear and indifference to violence as a result of exposure to violent crime. While none of these excuse bad behavior, they do beg the question of whether a life sentence is proportional to the crime and whether it serves any legitimate penal sanction. For example, if a juvenile acts as a lookout when a peer engages in a robbery gone wrong, has that juvenile committed an intentional act sufficient for him or her to be sentenced to die in jail? From a jurisprudential perspective, the answer is not clear. Because *Graham*

strikes down life without parole for all but homicides, the act must be intended (or foreseen) and not implied on an accomplice theory. Given scientific evidence on immature brain development resulting in poor impulse control, poor rational thinking skills and oftentimes an inability to understand the reactions of others or the consequences of actions, can we as a rational and fair commonwealth find a justifiable basis to give up on this whole class of offenders?

The time is ripe for Pennsylvania to join with the states that do not permit life sentences without parole for juvenile offenders. Evolving standards of decency marking social progress suggest that indeed this is the correct approach. The impulsive teen who at age 15 may have committed a heinous crime is unlikely to be the same person at age 35 or 40. Unlike adults, juveniles have a greater propensity to change, especially as the brain matures. Legislation that does not require Pennsylvania to release the inmate from prison but rather allows a youthful offender the opportunity to show that he or she has changed is the hallmark of an evolved society. ♦

Anyone who has lived with a teenager or young adult might observe that they think differently. Indeed, using MRIs to track brain development from childhood to late adolescence, scientists have mapped significant differences between adult and adolescent brains. They have found that the brain does not fully mature until around age 25. In particular, the areas of the brain experiencing the most changes are the frontal lobe and prefrontal cortex, areas that control impulses, subdue emotions, provide understanding of the consequences of behavior and allow reasoned, logical and rational decision-making.

In 2005 the U.S. Supreme Court reversed 32 years of jurisprudence and, in part persuaded by the evidence about juvenile



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