Fair Sentencing of Youth and Young Adults: A Survey of Washington State and the Nation

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Introduction

Trial courts' ability to recognize the differences between children and adults at sentencing in criminal matters has evolved significantly over the last twenty years. A handful of United States Supreme Court cases have dramatically altered the landscape of juvenile sentencing in America: *Roper v. Simmons* (2005), *Graham v. Florida* (2010), and *Miller v. Alabama* (2012).

In deciding these cases, the Supreme Court ushered in a significant shift in sentencing jurisprudence, accounting for the neurodevelopmental differences between children and adults, recognizing the reduced culpability young people have for criminal offenses, and providing for youth's increased capacity for rehabilitation as they grow, age, and mature. This shift in sentencing jurisprudence is slowly expanding to the emerging adult population (eighteen to twenty-five) but is nowhere near universal.

Although cases before 2005 addressed the constitutionality of imposing the death penalty on children, in the 2005 decision in *Roper v. Simmons,* the Supreme Court, for the first time, relied upon recent scientific research findings of neurodevelopmental differences between children and adults. The Court found that these developmental

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differences make the death penalty unconstitutional for individuals under eighteen at the time of their offense.[2]

This marked the beginning of the end of mandatory severe penalties for youth. The Court noted that due to evolving standards of decency, the death penalty was no longer an appropriate sentence for children and one that violated the Eighth Amendment's ban on cruel and unusual punishment. The death penalty is a punishment reserved for the worst offenders and the worst offenses. Because youth brains are not mature, they have diminished culpability, thus they cannot be reliably categorized as the worst offenders befitting this punishment.[3]

In the following years, the Supreme Court ruled on the constitutionality of life without parole (LWOP) sentences for children, often referred to as juvenile life without parole (JLWOP). In *Graham v. Florida* (2010), the Court held that JLWOP sentences could not be imposed for nonhomicide crimes, and that even when children are prosecuted and sentenced in adult court, they must have a meaningful opportunity for release.[4]

After *Graham*, in *Miller v. Alabama* (2012), the Supreme Court addressed the constitutionality of JLWOP for children as a whole by ruling that mandatory JLWOP was unconstitutional in all cases, including homicide offenses.[5] *Miller*'s ruling incorporated the emerging science on brain development as a key factor in determining if a sentence is appropriate for a child prosecuted as an adult.

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[2] *Roper v. Simmons*, 543 U. S. 551 (2005).
[3] Ibid.
[4] *Graham v. Florida*, 560 U. S. 48 (2010).
[5] *Miller v. Alabama*, 567 U. S. 460 (2012).

Rulings following *Miller* addressed whether JLWOP has any place in the American sentencing structure. In 2016, the Supreme Court decided *Montgomery v. Louisiana,* holding that *Miller* applied retroactively, including relief for those previously sentenced to mandatory JLWOP.[6] *Montgomery* held that JLWOP was barred "for all but the rarest of juvenile offenders, those whose crimes reflect permanent incorrigibility."[7]

Most recently, in *Jones v. Mississippi* (2021), the Supreme Court ruled that children prosecuted as adults may be sentenced to life without parole as long as it is not a mandatory sentence, and the judge has sufficient discretion to consider the factors set forth in *Miller*. It clarified that a finding of permanent incorrigibility does not need to be entered by the sentencing judge for JLWOP to be a constitutional sentence. The Court held that a discretionary sentencing structure is constitutionally sufficient.[8] In less than twenty years, the cases from *Roper* to *Jones* reshaped the nature and procedures involved when courts sentence children as adults, requiring courts to focus on the inherent neurobiological differences between children and adults.

The Science Underlying the Shift

The evolution of juvenile sentencing is interwoven with research and growth in our understanding of adolescent brain development. Each of the landmark Supreme Court decisions relied upon developments in neuroscience and social science research to conclude that children are biologically different from adults and, as a result, constitutionally different than adults in the criminal justice system.

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[6] *Montgomery v. Louisiana*, 577 U. S. 190 (2016).
[7] Ibid.
[8] *Jones v. Mississippi*, 593 U. S. 98 (2021).

The scientific research demonstrates that human brain development (including brain structure, function, and connectivity) is typically not complete until a person reaches their mid-twenties. During this time of continued development, there are common traits and characteristics of youth, referred to as the "mitigating qualities of youth" in the *Miller* decision, that impact an individual's behavior and decision making.

These mitigating qualities of youth include "immaturity, impetuosity, and a failure to appreciate risks and consequences."[9] Cognitive processes, such as regulating one's emotions and behavior, and cognitive flexibility, one's ability to switch between tasks and their rules, result from connections in the brain's network that continue to develop into one's early adulthood.[10] This development has a direct impact on an individual's ability to appreciate the long-term impact of decisions, regulate one's emotional response, respond to the influence of peers, and exert self-control.[11]

Beyond the internal dynamics of adolescent brain development, adverse outside influences can impair or delay brain development and may result in increased emotional and behavioral dysregulation.[12] These influences include an unstable or abusive home environment, negative influence of peers or family, and social determinants such as poverty and racism.[13]

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[9] *Miller*, 477.
[10] Insel, Catherine, Stephanie Tabashneck, Francis X. Shen, Judith G. Edersheim, and Robert T. Kinscherff, *White Paper on the Science of Late Adolescence: A Guide for Judges, Attorneys, and Policy Makers* (Center for Law Brain & Behavior, 2022), https://clbb.mgh.harvard.edu/wp-content/uploads/CLBB-White-Paper-on-the-Science-of-Late-Adolescence-3.pdf
[11] Ibid.
[12] Ibid.
[13] Ibid.

Lack of full developmental maturity not only includes greater vulnerabilities for youth but has potential positives as well. Youths' behavior patterns and personality features are more capable of change than mature adults, resulting in greater capacity for rehabilitation. This is amply demonstrated in the data showing that most youth and young adults that commit crimes "age out" of criminal behavior by their thirties.[14] All age groups are shown to have decline in the trajectory of their offending with age.[15]

The scientific research of human brain development proves there are innate differences between children, young adults and mature adults. In addition, our understanding of the adolescent and emerging adult brain continues to develop as we invest time and resources into its study. While much of the science has focused on brain development in children under the age of eighteen, the research has expanded in recent years to older ages, with implications for the similar treatment of young adults (ages eighteen to twenty-five) in the criminal justice system.

For example, due to the process of brain maturation, research demonstrates that late adolescents, ages eighteen to twenty-one, have brains that function more like their younger peers than the young adults, ages twenty-two to twenty-five, to whom they are closer to in age.[16] Current scientific findings demonstrate that development of the human brain typically plateaus beginning around the age of twenty-five, with some variance.[17]

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[14] Beckett, Katherine, and Heather Evans, *About Time: How Long and Life Sentences Fuel Mass Incarceration in Washington State. A Report for the ACLU of Washington* (ACLU of Washington, 2020), 48, https://www.aclu-wa.org/publications/about-time-how-long-and-life-sentences-fuel-mass-incarceration-washington-state/.
[15] Ibid.
[16] *White Paper on the Science of Late Adolescence*, 2.
[17] Ibid., 46-49.

These findings support the extension of *Miller*'s conclusions to those age eighteen and over at the time of offense in order to include all populations implicated in its ruling and the science underlying the holding.

The Washington Response

Both the Washington appellate courts and the Washington Legislature responded to the Supreme Court's landmark decisions.

The Washington Appellate Courts

In 2015, in *State v. O'Dell*, the Washington Supreme Court held that while young age alone does not justify an exceptional sentence departure below the standard range, a trial court may find that age and developmental maturity (or lack of) can be a mitigating factor that supports imposition of a sentence below the standard range, even when a person was over age eighteen at the time of their offense.[18]

In another significant decision in 2017, *State v. Houston-Sconiers*, the Washington Supreme Court held that trial courts have, and must exercise, discretion when sentencing children when they are prosecuted and sentenced in adult courts. Judges sentencing children have discretion to depart from the standard range under sentencing guidelines and can go further: judges have discretion to refrain from imposing otherwise mandatory sentencing provisions, including mandatory minimum terms and mandatory sentencing enhancements.[19]

[18] *State v. O'Dell*, 183 Wn.2d 680, 358 P.3d 359 (2015).
[19] *State v. Houston-Sconiers*, 188 Wn.2d 1, 391 P.3d. 409 (2017).

Most recently, in 2021, the Washington Supreme Court decided *In re Monschke* and *In re Bartholomew*, holding that mandatory sentences of life without parole (LWOP) are unconstitutional for individuals whose offense occurred while they were eighteen to twenty years old.[20] In these cases, the Washington Supreme Court recognized what the science demonstrates: there is limited developmental difference between seventeen and eighteen year-olds, and trial courts must consider developmental maturity and have discretion to impose a sentence less than LWOP when sentencing an eighteen, nineteen, or twenty year-old for first degree aggravated murder, a crime that carries a sentence of mandatory LWOP.[21]

The Washington Legislature

The Washington Legislature also responded to the U.S. Supreme Court decisions. Following *Roper*, the Washington Legislature enacted Laws of 2005, Ch. 437, exempting children prosecuted as adults from mandatory minimum sentences.[22] The legislature incorporated findings into their legislation, citing to emerging research into adolescent brain development as the reason for this change.[23]

In 2014, in response to *Graham* and *Miller*, the Legislature enacted Laws of 2014, Ch. 130, sec. 10, often referred to as Washington's "*Miller*-fix." This legislation did two things: it created a new sentencing scheme (and resentencing scheme) for children prosecuted as adults and convicted of aggravated first-degree murder, and it created a new

[20] *In re Pers. Restraint of Monschke*, 197 Wn.2d 305, 482 P.3d 276 (2021) (consolidated with *In re Pers. Restraint of Bartholomew*).
[21] Ibid.
[22] Revised Code of Washington 9.94A.540(3)
[23] Revised Code of Washington 9.94A.540 (2005); Laws of 2005, ch. 437, E.H.B. 1187

early release provision and procedure for children prosecuted as adults who are sentenced to more than twenty years of confinement for other felony offenses.[24]

Children previously sentenced to mandatory JLWOP for aggravated first degree murder before the *Miller*-fix are eligible for a resentencing hearing.[25] At these resentencing hearings, courts must impose a minimum term and a maximum term. For individuals who were under age sixteen at the time of offense, the statute requires the court to impose a minimum term of twenty-five years and a maximum term of life.[26] For individuals who were sixteen to eighteen years old at the time of offense, the court must impose a minimum term of *no less than* twenty-five years, and a maximum term of life.[27]

The early release portion of the law permits individuals convicted of crimes other than aggravated first degree murder to go before the Indeterminate Sentence Review Board (ISRB) for a hearing on releasability after serving twenty years for crimes other than aggravated first degree murder.[28] There are exceptions to this rule: individuals with subsequent convictions that occurred after their eighteenth birthday, those sentenced pursuant to 9.94A.507 for certain sex offenses, and those with a disqualifying serious infraction (as defined by the Department of Corrections) within the past twelve months are not eligible for an early release hearing.[29]

How Does Washington Compare to Other States?

[24] Revised Code of Washington 10.95.035; Revised Code of Washington 9.94A.730
[25] Ibid.
[26] Revised Code of Washington 10.95.030(2)(a)(i)
[27] Revised Code of Washington 10.95.030(2)(a)(ii)
[28] Revised Code of Washington 9.94A.730(1)
[29] Ibid.

The *Miller* ruling required most states to change, or at least reconsider, their sentencing structure. Post-*Miller*, mandatory LWOP sentencing schemes for children were unconstitutional because these schemes precluded trial courts from considering and accounting for the mitigating qualities of youth.

What constitutes consideration of the mitigating qualities of youth remains vague, something only slightly clarified by *Jones*' emphasis on providing judges with discretion to depart from established sentencing schemes. While judges could no longer sentence youth to mandatory LWOP, this did not require states to ban JLWOP altogether. To this day, four states still have mandatory JLWOP sentencing schemes on the books but have not been observed to use them post *Miller*.[30] See Appendix A, Table Three, States with JLWOP on the Books, Not in Use.

States have responded in a variety of ways.[31] In response to *Miller*, twenty-eight states and the District of Columbia passed legislation or have established case law in response to *Miller* and *Montgomery*, banning mandatory JLWOP sentences.[32] Of these, twenty-two states have banned JLWOP, as discretionary or mandatory sentences.[33] As of 2024, there remained eighteen states that still allow the discretionary use of JLWOP sentences.[34]

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[30] Bennett, J.Z., Daphne M. Brydon, Jeffrey T. Ward, et al., "In the Wake of Miller and Montgomery: A National View of People Sentenced to Juvenile Life without Parole." *Journal of Criminal Justice* 93 (July – August 2024): 5, https://doi.org/10.1016/j.jcrimjus.2024.102199.

[31] Rovner, Joshua, *Slow to Act: State Responses to 2012 Supreme Court Mandate on Life Without Parole* (The Sentencing Project, 2014), https://www.sentencingproject.org/reports/slow-to-act-state-responses-to-2012-supreme-court-mandate-on-life-without-parole/.

[32] Teigen, Anne, "Juvenile Life Without Parole." (National Conference of State Legislatures, 2025), https://www.ncsl.org/civil-and-criminal-justice/juvenile-life-without-parole.

[33] "In the Wake of Miller and Montgomery"

[34] Ibid.

Most states came into compliance with *Miller* through legislation, but this was often accompanied by, or preceded by, court decisions finding the mandatory and/or existing sentencing scheme for children unconstitutional. At least four states, including Washington, held that mandatory JLWOP sentences are unconstitutional based on their state constitutions.[35] Other states like Tennessee and Missouri relied on *Miller* and the U.S. constitution to find mandatory JLWOP unconstitutional.[36]

The diversity in approaches across states has created a varied and fraught landscape throughout the nation. Considerations for youth remain mandated but how this looks, in practice, is entirely dependent on each state's response. States' responses can be categorized into three different approaches.

Approach 1: Creating Eligibility for Parole and/or Sentence Review

Several states responded to *Miller* and *Graham* by expanding parole eligibility for children prosecuted as adults. Washington took this approach with its *Miller*-fix. States passed legislation that established the amount of time a person must serve before they become parole eligible as well as a procedure for parole hearings that specifically incorporates considerations for their young age and developmental maturity at the time of offense. This type of legislation effectively created new mandatory minimum sentencing schemes for homicide and other serious offenses. While the number of years a young person must serve before they become parole eligible varies across the states, the

[35] *State v. Sweet*, 879 N.W. 2d 811 (2016) (Iowa); *Diatchenko v. Dist. Attorney for the Suffolk Dist.*, 1 NE. 2d 270 (2013) (Massachusetts); State *v. Bassett*, 192 Wn.2d 67, 428 P.3d 343 (2018) (Washington state); *State v. Zarate*, *State v. Comer*, 266 A.3d 374 (2022) (New Jersey).
[36] *State v. Booker*, 656 S.W.3d 49 (2022); *State ex rel. Carr v. Wallace* 527 S.W.3d 55 (2017).

minimum appears to be fifteen years[37] and the maximum, forty years.[38] In many states, these laws remain specific to homicide offenses, but in others legislation has created a range of parole eligibility for children serving lengthy sentences for a variety of offenses. See Appendix A, Table One, State's Legislative and/or Court Response to *Miller* and *Graham*. The rigor of these reviews is not consistent across the states. Many states do not include procedural guidelines for these hearings in the law.

While these legislative reforms helped states to come into compliance with *Miller* and *Graham* by providing for parole eligibility and possible release, they did not guarantee that each person would qualify for release. These reforms provided theoretical access that became largely dependent on how the board or decision maker viewed the individual and their circumstances.

Approach 2: Establishing Procedures to Allow JLWOP

Some states followed *Miller* with a different approach by passing legislation that created new procedural requirements for prosecutors to seek a sentence of JLWOP. These states claim to comply with *Miller* by removing the mandatory nature of their JLWOP's sentencing scheme, rather than ban the sentence entirely. For example, Michigan, the state with the largest JLWOP population at the time of *Miller*,[39] passed legislation in 2014 that created a new process, requiring the prosecutor to file notice of intent to seek JLWOP. If the prosecutor does not comply with the statutory timeline for this notice, the court will

[37] Oregon S.B. 1008, 80th Legislative Assembly; West Virginia Code § 61-11-23; West Virginia Code § 62-12-13b.
[38] Texas Government Code § 508.145(b).
[39] *Unusual & Unequal: The Unfinished Business of Ending Life Without Parole for Children in the United States*. (The Campaign for the Fair Sentencing of Youth, 2024), https://cfsy.org/media-resources/research-library/unusual-unequal-the-unfinished-business-of-ending-life-without-parole-for-children-in-the-united-states/.

impose a sentence of a term of years. [40] Pennsylvania requires similar notification of intent from the prosecutor; the court also must consider seven factors and record their findings for a child to receive the maximum sentence of LWOP for first-degree murder.[41] In North Carolina, legislation established a hearing procedure where the court determines if a child shall be sentenced to LWOP or life with the possibility of parole.[42] This is a process that occurs after a guilty verdict and allows the defense to submit mitigating circumstances specifically at this hearing.[43] See Appendix A, Table Two, States with New Procedures or Narrowed Offenses Eligible for JLWOP.

Approach 3: Elimination JLWOP Overall

Some states, including Washington, banned JLWOP completely. The process has varied state to state, through legislation, state appellate court rulings, or both.

The Washington Supreme Court held JLWOP unconstitutional under Article I Section 14 of the Washington State Constitution (banning cruel punishment) in *State v. Bassett* in 2018.[44] Several other states passed legislation banning JLWOP as a sentence for children. States including Arkansas, California, Colorado, Connecticut, Delaware, Hawaii, Maryland, Massachusetts, Nebraska, Nevada, New Jersey, New Mexico, North Dakota, Oregon, South Dakota, Texas, Utah, Vermont, West Virginia, Wyoming and the District of Columbia now

[40] Michigan Compiled Laws § 769.25).
[41] Pennsylvania Consolidated Statutes Annotated Title 18 §1102.1.
[42] North Carolina General Statue §§ 7B-2200, 15A-1340.19A.
[43] Ibid.
[44] *State v. Bassett*, 192 Wn.2d 67, 428 P.3d 343 (2018).

have laws that ban JLWOP sentences altogether.[45] At the time of the *Miller* ruling, only three states (Alaska, Kansas, and Kentucky) excluded children from receiving LWOP sentences.[46]

Section 2: Emergence of "Second Look" Review of Long Sentences in Trial Courts

The U.S. Supreme Court decisions on life and long sentences for children also brought about the "Second Look" movement, where state and/or federal legislation gives judges the authority to review and modify lengthy sentences after the person has served a portion of their sentence.[47] This type of review can occur through either prosecutor or judge-initiated sentence reviews or resentencing. Individuals who seek a Second Look review must meet statutory eligibility factors and must have served a set minimum amount of time.

These laws provide potential for children sentenced as adults to lengthy sentences other than JLWOP to return to court for modification of their sentence, often years after their crime and when, for the first time, the court will weigh the mitigating qualities of youth. In 2025, fifteen states as well as the District of Columbia and the federal

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[45] Arkansas Fair Sentencing of Minors Act of 2017, S.B. 294, 91st General Assembly,; California Penal Code § 3051 (2019); Colorado Revised Statutes §§ 18-1.3-401.4 – 18-1.3.401.8; Connecticut Public Act No. 15-84; Delaware Criminal Code Title 11 § 4204A ; Hawaii Revised Statues §§ 706-656 – 706-657 (2014); Maryland Code, Criminal Procedure § 6-235 (2021); Massachusetts H. 4307, 188th Legislative Assembly; Nebraska Revised Statues § 28-105.02 (2013); Nevada A.B. 267, 78th Legislative Assembly; New Jersey Statutes § 2A:4A-44(d); New Mexico Statute § 31-18-15.3 ; North Dakota Century Code § 12.1-32-02 ; Oregon S.B. 1008, 80th Legislative Assembly, ; South Dakota Code § 22-6-1 (2016); Texas S.B. 23, 83rd Legislative Assembly; Utah H.B. 405, 2016 Session; Vermont Statues § 7045 ; West Virginia Code §61-11-23 ; West Virginia Code §62-12-13b ; Wyoming H.B. 23, 62nd Legislative Assembly, ; Comprehensive Youth Justice Amendment Act of 2016, D.C. Law 21-238 .

[46] Nellis, Ashley and Devyn Brown, *Still Cruel and Unusual: Extreme Sentences for Youth and Emerging Adults*. The (Sentencing Project, 2024), https://www.sentencingproject.org/reports/still-cruel-and-unusual-extreme-sentences-for-youth-and-emerging-adults/.

[47] Cohbra, Sara, and Becky Feldman, *The Second Look Movement: An Assessment of the Nation's Sentence Review Laws*. (The Sentencing Project, 2025), https://www.sentencingproject.org/reports/the-second-look-movement-a-review-of-the-nations-sentence-review-laws/.

government have some form of Second Look law.[48] See Appendix A, Table Five, States that Allow Resentencing or Sentence Modification for Youth or Young Adults.

Second Look Eligibility by State

Jurisdictions vary in the minimum term a person must serve before becoming eligible for review. Additionally, while many Second Look Laws are aimed at youth sentenced as adults, there are also laws directed at other categories of people. These laws include compassionate release for medical/age related reasons as well as laws passed by states that allow survivors of interpersonal violence and trafficking, veterans, and in one state individuals convicted and sentenced as habitual offenders serving lengthy sentences to petition for review/resentencing.[49] While these statutes may not be specifically directed to those serving lengthy sentences for youthful offenses, it is quite possible they still may apply to individuals who were young at the time of offense and be an option for relief.

Only a few select states have explicitly included people who were emerging adults (eighteen to twenty-five years old) at the time of offense in these Second Look reforms, they are California, Maryland, Massachusetts, Michigan, Washington and the District of Columbia.[50] See Appendix A, Table Six, States That Allow for Early Release or Resentencing of Young Adults.

Sentence review/modification

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[48] Ibid.

[49] The First Step Act of 2018, Pub. L. No. 115-391, 132 Stat. 5194; Code of the District of Columbia § 24-403.04; Consolidated Laws of New York § 440.47 ; Oklahoma Statues Title 22 §§ 1090.3 - 1090.4 ; 730 Illinois Compiled Statues § 5/5-5-3.1 ; Georgia Survivor Justice Act, H.B. 582, 2025-2026 Session; California Penal Code § 1170.91 ; Colorado Revised Statutes § 18-1.3-801.6 .

[50] California Penal Code § 3051; Maryland Code § 8-110 ; *Commonwealth v. Mattis*, 224 N.E.3d 410; *People v. Taylor* & *People v. Czarnecki*, Nos. 144428 and 166654, 2025 WL 1085247, (2025); *Matter of Monschke*, 197 Wn.2d 305 (2021) (consolidated with *In re Pers. Restraint of Bartholomew*); Code of District Columbia § 24–403.03 .

Beyond providing eligibility for review of long sentences at set increments of time, sentence reforms have also found avenues through legislation giving prosecutors or judges authority to initiate resentencing in the interest of justice. In Washington, RCW 36.27.130 allows prosecutors to petition the court to resentence a defendant whose sentence no longer serves the interest of justice.[51] These petitions are commonly referred to as "6164 Petitions" based on the bill number tied to the legislation. Similar prosecutor-initiated resentencing procedures exist in California, Illinois, Minnesota, Oregon, and Utah.[52] See Appendix A, Table Seven, States That Allow Prosecutor Initiated Resentencing.

Judge initiated resentencing is a relatively new development. Currently, California is the only state that authorizes judge-initiated resentencing. In 2023, the California legislature codified this process by allowing the court to recall and resentence an individual if, due to changes in the law, their sentence would be shorter under the current sentencing schemes.[53] See Appendix A, Table Eight, States That Allow Judge Initiated Resentencing.

As this Second Look trend develops, it also faces hurdles. One obstacle to judge-initiated and prosecutor-initiated resentencing are the limitations and challenges to their discretionary power to provide this relief. Connecticut allows judges to modify sentences but only under specific circumstances. In 2021, Connecticut gave judges the authority to modify sentences for those who went to trial or who are not serving any mandatory minimums.[54] Those serving sentences of seven or more years as a result of plea deal are

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[51] Revised Code of Washington 36.27.130 which codified Senate Bill 6164, Laws of 2020, Ch. 203.
[52] California Penal Code § 1172, 725 Illinois Compiled Statutes § 5/122-9; Minnesota Statues § 609.133; Oregon Revised Statutes § 137.218, Utah Administrative Code R671-311-1 (prosecutor may initiate early release through a "Special Attention Review" of parole).
[53] California Penal Code §1172.1.
[54] Connecticut General Stat § 53a-39 (.

unable to receive sentence modification without prosecutorial agreement.[55] Specifications like these provide a greater barrier to accessing resentencing and prevent these laws from being utilized to address outdated and unjust sentencing schemes.

One legal challenge to judicial authority to provide post-conviction relief has succeeded in recent years. In Louisiana, a Second Look law intended to provide relief through post-conviction plea agreements between the defendant and the prosecution was found to unconstitutionally violate the Louisiana Governor's exclusive pardon power.[56]

One of the greatest hurdles is getting prosecutors to pursue review of long sentences; this process is dependent on prosecutors exercising their discretion. As these developments are relatively new, we have limited data on their rate of application and results. Yet, recent evaluation of prosecutor-initiated resentencing in Washington suggests that it is widely underutilized. From the bill's passage in 2020 to mid-2023, over 1,000 individuals submitted requests to local prosecutors for resentencing hearings, yet only forty-two petitions for resentencing were submitted by prosecutors across Washington's thirty-nine counties.[57] Of the petitions filed, 69 percent were filed in only three counties (Clark, King, or Pierce) and a number of counties had submitted zero petitions to the Court.[58]

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[55] Ibid.
[56] *State v. Lee,* 370 So.3d 408 (2023).
[57] Beckett, Katherine, and Allison Goldberg, *Prosecutor-Initiated Resentencing in Washington: The Impact of SB 6164*. (Seattle Clemency Project, 2024), https://static1.squarespace.com/static/56c7928af055e95324065525/t/68fc0c092ffe02009b4dfd78/1761348617578/Prosecutor-Initiated%2BResentencing%2Bin%2BWashington%2B%E2%80%94%2BThe%2BImpact%2Bof%2BSB%2B6164+%281%29.pdf.
[58] Ibid.

Even though prosecutor and judge-initiated review and modification of long sentences face some opposition, it is important to note that it has great support from academics and organizational legal actors. This includes endorsements from the American Bar Association (ABA) and the National Association of Criminal Defense Lawyers (NACDL). The ABA has adopted two resolutions on the subject. ABA Resolution 502 urges all governmental jurisdictions to implement "Second Look" procedures that allow for judicial bodies to hear resentencing petitions filed by those who have served ten years or more in custody. ABA Resolution 504 urges all governmental jurisdictions to adopt Prosecutor Initiated Resentencing.[59] NACDL proposes a model for Second Look in which all people are eligible for judicial review after serving ten years.[60] Outside of the legal field, the National Academies Press recommend Second-Look policies including the review of long sentences as a way to reduce racial inequities in long sentences and the disproportionate impact on defendants of color.[61]

Additionally, research backs up the need for review of long sentences. Social science research demonstrates that many individuals with life and long sentences can safely be released to their communities. In Washington, a recent report found very low recidivism rates amongst children prosecuted as adults for serious crimes and who were

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[59] "American Bar Association Resolution 502," American Bar Association, 2022, https://www.americanbar.org/news/reporter_resources/annual-meeting-2022/house-of-delegates-resolutions/502/. "American Bar Resolution 504", American Bar Association, 2023, https://www.americanbar.org/news/reporter_resources/annual-meeting-2023/house-of-delegates-resolutions/504/.

[60] Murray, JaneAnne, Sean Hecker, Michael Skocpol and Marissa Elkins, *Second Look = Second Chance: Turning the Tide Through NACDL's Model Second Look Legislation* (National Association for Criminal Defense Lawyers, 2021), https://www.nacdl.org/getattachment/c0269ccf-831b-4266-bbaf-76679aa83589/second-look-second-chance-turning-the-tide-through-nacdl-s-model-second-look-legislation.pdf.

[61] National Academies of Sciences, Engineering, and Medicine, *Reducing Racial Inequality in Crime and Justice: Science, Practice, and Policy* (The National Academies Press, 2023), 301-302, https://doi.org/10.17226/26705.

released after twenty or more years of confinement, regardless of the original sentence. Only 2.1 percent of the individuals released were convicted of a new felony after release and only 5.2 percent had their parole revoked due to a technical violation rather than a new offense.[62]

Section 3: Alternatives to Traditional Sentencing for Youth and Young Adults

In addition to altering existing sentencing schemes, there have been continuous efforts to create new alternatives to traditional sentencing. This has come in a variety of forms, including codifying a court's ability to depart from the standard sentencing range, and programs that provide alternative diversion experiences in lieu of the traditional criminal justice approach. See Appendix B, Further Reading on Alternatives to Traditional Sentencing.

Legislation:

Washington codified the findings of *Houston-Sconiers* in 2020, permitting the court to depart from mandatory enhancements on sentences for children prosecuted as adults.[63] Other states have similarly codified the court's discretion to depart from established sentencing schemes. Nevada allows courts to reduce mandatory sentences by up to thirty-five percent if the court believes the reduction is warranted due to an individual defendant's age and likelihood of rehabilitation.[64] Maryland banned JLWOP and

[62] Beckett, Katherine, and Allison Goldberg, *Sentencing Reform in Washington State: Progress and Pitfalls*. (Seattle Clemency Project, 2024), https://static1.squarespace.com/static/56c7928af055e95324065525/t/68facef6c282d226d4ade56a/1761267446256/2024+Beckett+and+Goldberg+%2522Sentencing+Reform+in+Washington+State%2522.pdf.
[63] Revised Code of Washington 9.94A.533(16).
[64] Nevada Revised Statute § 176.017.

established that courts sentencing children as adults can impose a sentence less than the minimum term in one piece of legislation.[65]

Alternative Courts

Another departure from traditional sentencing involves removing children from the traditional justice system. This has been done using alternative courts designed for youth and young adults. Like other alternative courts, these are created to serve specific populations or to address specific offenses.

Before *Miller*, traffic courts for minors were one of the most prominent examples of alternative courts serving children. Now, non-profits and state governments have created courts specialized to deal with a wider range of offenses for children.

King County, Washington, like many other counties, has specialized traffic courts for children with traffic citations. The East King County Youth Traffic Court is a student-led program which handles traffic citations for sixteen- and seventeen-year-olds through restorative justice circles instead of through traditional prosecution.[66] In more traditional versions of the traffic or youth courts, youth can be tried by their peers (with guidance from the court) in order to receive sentences of community service or other tasks relating to accountability. These act as the most basic form of alternative courts that recognize the differences between youth and adults, although it concentrates this to a small volume by focusing on low-level offenses like traffic violations.

Emergence of Young Adult Specialty Courts

[65] Maryland Code S. 6-235; Maryland Code S. 8-110 .
[66] "East King County Youth Traffic Court - King County, Washington," King County. Accessed December 2, 2024. https://www.kingcounty.gov/en/court/district-court/courts-jails-legal-system/traffic-vehicle-citations/youth-traffic-court-east-kc.

Nationally, Young Adult Courts are an emerging alternative aimed at serving those over the age of eighteen but under the age of twenty-six at the time of offense. These Young Adult Courts provide a venue for this population to receive alternative outcomes, such as dismissal and access to social services, and depart from traditional schemes. These courts allow for a young adult defendant's experience in the criminal justice system to be specifically tailored to their individual needs and circumstances. The Brooklyn Young Adult Court in New York and the Young Adult Court in Bernalillo County in New Mexico accomplish this by requiring individuals to participate in social services that are deemed appropriate for them following an individualized assessment.[67] Through the incorporation of social services including case management and housing support, these alternative courts offer individuals support they otherwise would not have access to while undergoing criminal prosecution.

These courts also engage more than the traditional actors in the criminal justice system. The San Francisco Young Adult Court, like Bernalillo and Brooklyn, incorporates social services into its structure but additionally, it cultivates a treatment team which consists of not only legal actors working collaboratively but also community providers and case managers.[68] Of the 130 participants who completed their program from 2015 to 2020, 73 percent avoided rearrest in San Francisco County.[69]

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[67] "Young Adult Bureau," Office of the Brooklyn District Attorney. Accessed November 23, 2025. https://www.brooklynda.org/young-adult-bureau/ ;"Young Adult Court," New Mexico Courts. Accessed November 23, 2025. https://seconddistrict.nmcourts.gov/services-programs/young-adult-court-program/.
[68] "Young Adult Court | Superior Court of California | County of San Francisco," County of San Francisco. Accessed October 1, 2024. https://sf.courts.ca.gov/divisions/collaborative-courts/young-adult-court.
[69] "Young Adult Court Fact Sheet," San Francisco Collaborative Courts. Accessed March 1, 2025. https://sf.courts.ca.gov/system/files/general/yacfactsheet_march-2025.pdf.

The Cook County Restorative Justice Community Courts utilizes the same principles as its fellow Young Adult Courts but under a restorative justice framework. Exceptionally, it serves young adults ages eighteen to twenty-six,[70] the only court mentioned to go beyond the age of twenty-five. To be eligible, participants must be charged with a nonviolent misdemeanor or felony. The charge will be dismissed and expunged from their record upon completion of all tasks in the Repair of Harm Agreement.[71] Cook County appears to have the most court locations for Young Adult Courts with a total of four locations across Chicago.[72] According to a 2024 report conducted on the courts, between 2020 and 2022 only 13.1 percent of participants were charged with a new offense after at least a year of being back in their communities, compared 65.2 percent of their peers involved in traditional court proceedings.[73]

In addition to providing services, these courts target a specific population they will be the most effective at serving - young adults. Some courts only take individuals with misdemeanor cases, while others serve those facing felony charges.

While Washington State has therapeutic courts, including juvenile court alternatives designed for youth whose offenses were influenced by substance abuse or mental illness, there are currently no alternative courts to specifically serve young adults.

Diversion Programs

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[70]"Restorative Justice Community Courts | Circuit Court of Cook County," State of Illinois Circuit Court of Cook County. Accessed January 4, 2026. https://www.cookcountycourtil.gov/division/restorative-justice-community-courts.
[71] Ibid.
[72] Ibid.
[73] Chicago Appleseed Center for Fair Courts, and Chicago Council of Lawyers, *Restorative Justice, Community, & The Courts: An Analysis of the Impact, Benefits, and Elements "Constantly in Conflict" in Chicago's Restorative Justice Community Courts* (Chicago Appleseed Center for Fair Courts, 2024), https://www.chicagoappleseed.org/wp-content/uploads/2024/02/20240222_Restorative-Justice-Community-Courts-Report-FINAL.pdf.

Diversion is another option that is available to some young people facing criminal charges, allowing them to avoid formal prosecution if they agree to participate in a structured alternative to prosecution. Diversion takes different forms and therefore engages individuals at different points in the court process. In some jurisdictions, participants are required to enter a guilty plea to a charge before they can access the program. If the program is completed, charges are either reduced or dismissed. Failure to complete the program results in a resumption of traditional prosecution and possible incarceration.

Diversion programs vary across jurisdictions and can occur as solely government run and initiated operations or collaborations between a state agency and nonprofits or community organizations. In Washington, youth diversion programs are offered across the state and administered on a county-by-county basis.[74]

In King County, Washington, youth referred for a first-time or low-level offense may be eligible for the program Partnership for Youth Justice which utilizes restorative practices and community engagement to allow youth to build skills while working towards accountability. Youth enter a Diversion Agreement which allows them to avoid a criminal record and formal court proceedings. If the program is not completed or an agreement is not entered, the case is referred back to the prosecutor who may then file charges. [75]

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[74] Washington State Minority and Justice Commission, *Statewide Youth Diversion Report 2025* (Washington Courts, 2025), https://www.courts.wa.gov/subsite/mjc/docs/2025/Statewide%20Youth%20Diversion%20Report%202025.pdf.

[75] "Diversion and Partnership for Youth Justice." King County, Washington. Accessed October 1, 2024. kingcounty.gov/en/court/superior-court/courts-jails-legal-system/court-programs-children-families/juvenile-court-services/programs-services-juvenile-court/diversion-restorative-program.

A county may utilize more than one model of diversion by offering multiple programs guided by different frameworks. This can allow programs to be specialized to the communities they serve. King County's Restorative Community Pathways was the result of years of community organizing against the development and eventual construct of a new youth jail facility, a campaign known colloquially as No New Youth Jail.[76] Centered in restorative justice principles and the desire to provide healing for the children traditionally harmed by the criminal justice system, it existed as a coalition of seven non-profit organizations[77] prior to administrative restructuring in 2026.[78] Involving both the youth and the person harmed, Restorative Community Pathways provided pre-filing diversion for youth facing first time felony or misdemeanor charges referred by the prosecutor or received through a community referral.[79] Throughout the process the youth was provided with services and support to meet their basic needs and complete self-identified goals.[80]

Washington D.C.'s Office of the Attorney General's Restorative Justice Program, utilizing similar principles, remains unique in its focus on serving youth who commit more high-level offenses, including violent crimes. They can only gain access to the program by entering a plea deal with the prosecution. If the youth complete the program, there is no conviction.[81]

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[76] "Restorative Community Pathways," Restorative Community Pathways. Accessed February 14, 2026. https://www.restorativecommunitypathways.org.
[77] Ibid.
[78] "Care for Youth Justice, 2026-2027 Proposed Budget," King County, Washington. Accessed January 30, 2026. https://cdn.kingcounty.gov/-/media/king-county/depts/executive/performance-strategy-budget/budget/2026-2027/factsheets/juvenilediversion_final.pdf?rev=91d9b64ec1544c81b04aa375b4da0082&hash=776FAF49E98A6AC33F9C2A7D9D917F3F.
[79] Ibid.
[80] Ibid.
[81] "Restorative Justice Program | Attorney General Brian Schwalb," Office of the Attorney General for the District of Columbia. Accessed January 5, 2026. https://oag.dc.gov/public-safety/restorative-justice-program.

Other programs provide pre-arrest or pre-filing diversions like Washington. Youth facing felony charges in San Francisco can participate in the city's restorative program Make It Right if they elect to do so before their case is charged. Youth have six months to complete an agreement they create with stakeholders through restorative community conferences, and if done so successfully the case is not prosecuted.[82]

Diversion programs offer great potential for the incorporation of restorative justice and access to life affirming resources into the criminal justice system to serve a population (children and young adults) highly capable of rehabilitation.

Section 4: What 's Next?

While Washington remains ahead of many states with its ban on JLWOP, prosecutor-initiated resentencing, and resentencing for young adults who were between ages of eighteen and twenty-one at the time of offense and sentenced to mandatory LWOP, there is still more to be done to address significant gaps.

Who Is Left Out?

Washington's juvenile parole (early release granted by the Indeterminant Sentence Review Board for those with eligible offenses committed as children) provides an opportunity for review and early release for those serving twenty years or more for offenses they committed under the age of eighteen, but those with long sentences under twenty years have no review of their sentence. For children prosecuted and sentenced as adults prior to the Washington Supreme Court's decision in *State v. Houston-Sconiers*, many of

[82] "Make It Right," San Francisco District Attorney. Accessed October 1, 2024. https://sfdistrictattorney.org/policy/restorative-justice/make-it-right/.

their sentences failed to account for their young age and developmental maturity at the time of offense. Most of these individuals will remain ineligible for resentencing based on Washington Supreme Court decisions.[83]

Another group left behind are children sentenced as adults to serve twenty years or more and who have had a subsequent conviction after the age of eighteen. Washington law prohibits early release through juvenile parole if a person is convicted of any crime that occurred after their eighteenth birthday.[84]

A group entirely excluded from review of long sentences is people who were young adults at the time of offense, between the ages eighteen and twenty-five, and who were convicted of crimes other than aggravated murder in the first degree. Young adults who were between the ages eighteen to twenty-one and who were convicted of aggravated murder in the first degree and sentenced to mandatory LWOP have a right to resentencing and many have received reduced sentences, but individuals in this same age group convicted of any other offense are not eligible for resentencing or early release through parole. As a result, many people in this age cohort who were convicted of less serious crimes will serve longer sentences than those convicted of the most serious crime in our state.

What More Can Washington Do?

Washington can follow the lead of other jurisdictions including California, Washington D.C., Maryland, and Delaware. By adopting reforms that address these gaps

[83] *In re Domingo-Cornelio*, 196 Wn.2d 255, 474 P.3d 524 (2020); *In re Ali,* 196 Wn.2d 220, 474 P.3d 507 (2020); *In re Hinton*, 1 Wn.3d 317, 525 P.3d 156 (2023); *In re Carrasco*, 1 Wn.3d 224, 525 P.3d 196 (2023)
[84] Revised Code of Washington 9.94A.730 (2015).

Washington can provide a more robust and comprehensive approach to fair sentencing of youth and young adults that aligns with scientific research and serves public safety. In recent years, the Washington Legislature has considered numerous bills that would change sentencing practice in our state and bridge some of the gaps, however, most have failed to pass. Back in 2019, The Washington Sentencing Guidelines Commission acknowledged widespread support for providing those with long sentences opportunities for review.[85] In turn, they suggested that creating a post-conviction review process for the state could incentivize rehabilitation and reduce the prison population while maintaining public safety as a priority of the legislature.[86]

Washington can join the very small group of jurisdictions leading the expansion of *Miller* relief to young adults. Washington D.C. is one of only two places in the nation that provide sentence review to young adults who were under the age of twenty-five at the time of offense.[87] Maryland is the second, permitting those who were eighteen to twenty-four years old at the time of offense to have their sentence reduced after twenty years served, although the law does exclude those with LWOP sentences.[88]

Other means for expanding relief include instituting rehabilitation-based review opportunities as well as judge-initiated resentencing. Delaware has expanded its existing Second Look opportunities by allowing those who have served twenty-five years or more

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[85] Sentencing Guidelines Commission, *Review of the Sentence Reform Act, Fiscal Year 2019*, 30 (Office of Financial Management, 2019), https://sgc.wa.gov/sites/default/files/public/SGC/publications/SRA_review_report_rev20190802.pdf .

[86] Ibid.

[87] *The Second Look Movement: An Assessment of the Nation's Sentence Review Laws*; Code of the District of Columbia § 24-403.03 (2021).

[88] Maryland Code, Criminal Procedure § 8-110.

eligibility for sentence modifications solely based on their rehabilitation.[89] While not directly aimed at those serving sentences for youthful offenses, it provides a significant opportunity for relief – one that is especially important in states without parole like Washington.

While California is currently the only state with judge-initiated resentencing, Washington could easily follow. Washington's prosecutor-initiated resentencing law, SB 6164, has seen minimal uptake by prosecutors. A way to address prosecutors' unwillingness to use this resentencing opportunity is to create another pathway through a judge-initiated resentencing policy similar to California's, where eligibility results from a change in law.

Beyond expanding opportunities for review, there is a need to bridge procedural gaps in policies and implementation. Washington's resentencing and early release laws do not afford defendants the right to counsel. In proceedings where the onus is on the incarcerated individual to petition for resentencing or review, no access to defense counsel presents a high potential for disparate outcomes.

More than 60 percent of petitions for resentencing filed by prosecutors as a result of Washington's prosecutor initiated resentencing were for defendants who had representation.[90] Because the statute does not provide a right to counsel, most people sought sentencing review without an attorney. In a review of Washington's resentencing outcomes, waiting for counsel is amongst the reasons why eligible individuals have not

[89] Delaware S.B. 10, 153rd General Assembly.
[90] *Prosecutor-Initiated Resentencing in Washington: The Impact of SB 6164*.

received relief and remain incarcerated.[91] Currently, individuals eligible for early release from the ISRB for offenses committed prior to age eighteen in Washington unable to hire counsel rely on the pro bono and volunteer services provided by organizations like the Seattle Clemency Project or go before the Board without counsel.[92]

Reforms should not be limited to the post-conviction stage; to be effective Washington also must address existing sentencing schemes generating excessively long sentences. Excessively long sentences may be prevented by establishing Young Adult Courts where specific considerations and support can be provided for emerging adults. The few operating Young Adult Courts in this country have shown that providing this specialized venue is a means of providing better outcomes for those involved and improved public safety. San Francisco County's court has had over 70 percent of participants avoid rearrest in the County.[93] Cook County's courts have seen participants have recidivism rates over 50 percent lower than their peers in the traditional court system.[94] Young Adult Courts may be key to providing up front relief and sentencing reform for young adults who have been left out of the original policy and sentencing changes in the wake of the *Miller* decision. These courts should also be equitably distributed throughout the state as without that, relief becomes location based (often called "justice by geography").

Addressing life, life equivalent (sometimes called "virtual life"), and very long sentences for young people, and the sentencing schemes that generate them, is not only

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[91] *Sentencing Reform in Washington State: Progress and Pitfalls*.
[92] Kaitlyn Laibe (former Research and Writing Specialist for the Seattle Clemency Project), interview with author, February 2025.
[93] "Young Adult Court Fact Sheet".
[94] *Restorative Justice, Community, & The Courts*.

an issue of juvenile justice, but one of racial equity as well. Lengthy prison sentences, like the rest of the criminal justice system, disproportionately burden youth of color. Nationwide, 52 percent of children sentenced to JLWOP are Black and 58 percent of children sentenced to virtual life sentences are Black.[95] In Washington, although Black youth only made-up 9 percent of the state's youth population from 2018 to 2022, they were 37 percent of juvenile declines and 17 percent of adjudications.[96]

A major facet of juvenile justice disparity lies in who, as a child, is tried as an adult – known as a juvenile decline or auto-adult court jurisdiction. Youth of color are harmed by bias that makes them more likely to be perceived as more adult than their white peers and as a result less capable of rehabilitation.[97] It has been consistently shown in studies that children of color are transferred to adult court at higher rates than their white peers. In Washington, from 2009 to 2022, only 1 percent of cases involving white children were declined, while 3 percent involving Latino and 4 percent involving Black youth were declined.[98] Although over time the number of declines in Washington has decreased, the racial disproportionately off these cases has only increased.[99]

Racial disparities plague all facets of juvenile justice, with bias earlier in the process rendering cumulatively more unequal outcomes.[100] These disparities are most present at the front-end where decision makers are afforded more discretion and may be explained by

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[95] Ibid, 13.
[96] Evans, Heather, and Emily Knaphus-Soran, *The Persistence of Racial Disparities in Juvenile Decline in Washington State, 2009-2022* (2024), https://www.courts.wa.gov/subsite/mjc/docs/2024/2.4%20The%20Persistence%20of%20Juvenile%20Declines%20in%20Washington%20State_4_9_2024.pdf.
[97] Ibid, 3.
[98] Ibid, 4.
[99] Ibid, 13.
[100] Ibid, 1-2.

racial bias/racialization of the youth.[101] A recent report on Diversion in Washington found that Native American and Latinx youth are less likely than their white peers to receive more than one chance to access diversion programs.[102] The same 2025 report found that there is extreme evidence of race impacting Black youths' access to formal diversion in King and Pierce counties.[103] In Washington, Latinx youth are convicted at rates almost two times that of their white peers while Native American and Black children are convicted at rates almost three and four times that of white youth.[104]

Diversion programs for youth and young adults must be available across the state, so that youth are equitably diverted across demographics. These interventions are not only less punitive but can also provide youth the opportunity to engage with life affirming resources they might not otherwise have access to on their own. They can be designed to address demographic inequities imbued into the traditional justice system. King County's Restorative Community Pathways program outlined one of its purposes was to reduce the unequal impact of the carceral system on youth of color.[105] To achieve more equitable juvenile justice outcomes, race and its impacts must remain a key consideration for reform in all steps of the criminal justice process.

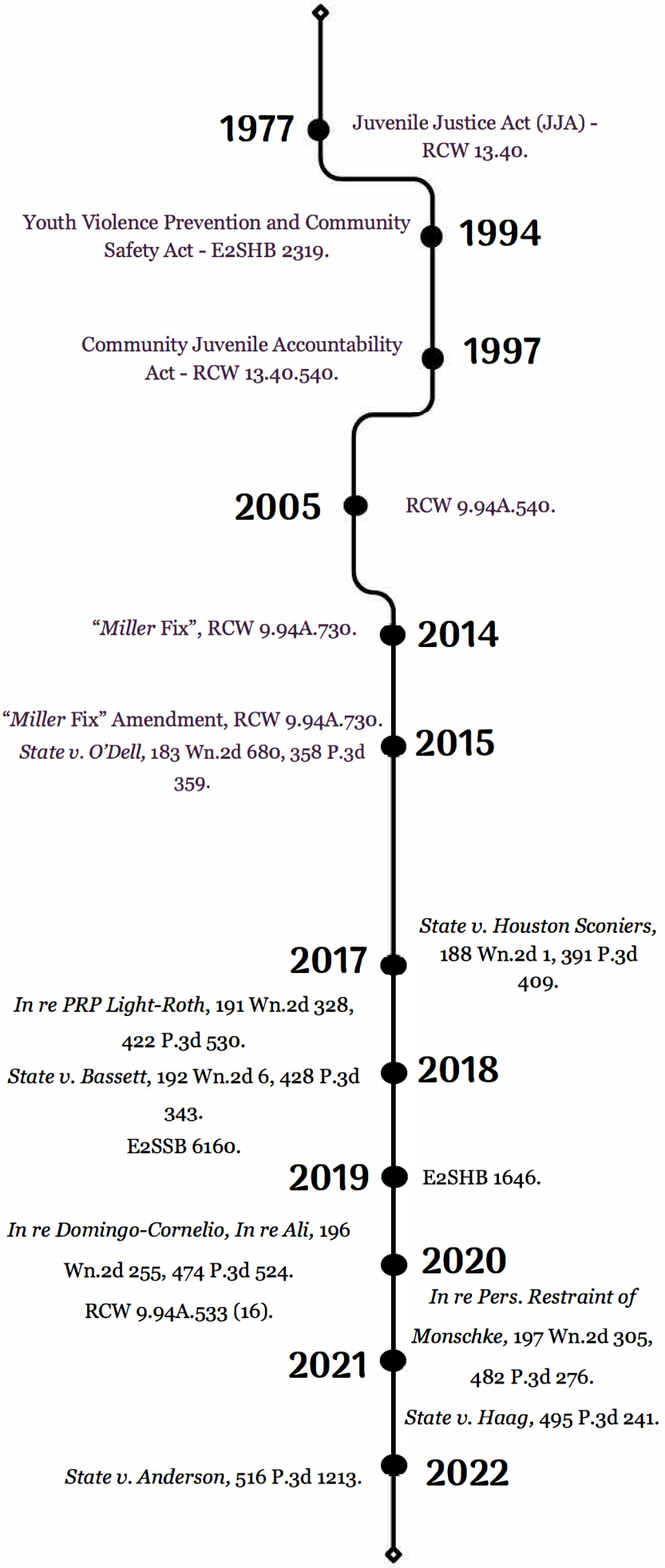
Conclusion

[101] Ibid, 1-3.
[102] *Statewide Youth Diversion Report 2025,* 60-61.
[103] Ibid, 65.
[104] Evans, Heather, and Steven Herbert, *Juveniles Sentenced As Adults in Washington State, 2009-2019* (2021), https://www.courts.wa.gov/subsite/mjc/docs/2024/2.5%20Juvenile%20Sentenced%20as%20Adults-2021_AOCreport.pdf .
[105] Sundberg, Amy, "King County Looks to Replace Program Diverting Youth from Jail," The Urbanist, October 30, 2025, https://www.theurbanist.org/2025/10/30/king-county-looks-to-replace-program-diverting-youth-from-jail/.

Washington is a leader in juvenile justice reform. To maintain this, our state must continue the work it started by creating widescale review of long sentences accessible to all children prosecuted as adults and must include relief for people who were young adults at the time of offense. We must continue to invest in and expand alternatives to lengthy incarceration. Life and long sentences for young people fail to account for their developmental maturity and their capacity for rehabilitation, growth, and transformation.

Greater consideration for young adults and the disparate outcomes based on race will be key to the future of justness in this field. As we move towards a more equitable future, we cannot forget those who have been left behind.

Washington Laws and Cases Impacting Sentencing of Youth/Young Adults



Appendix A
State Legislative[1] and/or Court Decisions in Response to *Miller* and *Graham*

Table 1: States Banning JLWOP

State	Legislation/Laws	Court Decisions	Notes
Arkansas	Arkansas Fair Sentencing of Minors Act of 2017, S.B. 294, 91st General Assembly, (2017)		
California	SB 394 (Cal. 2017); AB 1308 (Cal. 2017); California Penal Code § 3051(2019)		
Colorado	Colorado Revised Statutes §§ 18-1.3-401.4 – 18-1.3.401.8 (2021)		
Connecticut	SB 796; Connecticut Public Act No. 15-84 (2015) 54-125a(f)(1)		
Delaware	SB 9 147th General Assembly Regular Session (Delaware 2013); Delaware Criminal Code Title 11 § 4204A (2013)		
Hawaii	HB 2116, 27th Legislative Session (Hawaii 2014) ; Hawaii Revised Statutes §§ 706-656 – 706-657 (2014)		
Iowa		*State v. Sweet,* 879 N.W.2d 811 (2016).	State constitutional grounds
Maryland	Maryland Code, Criminal Procedure § 6-235 (2021)		
Massachusetts	Massachusetts H. 4307, 188th Legislative Assembly (2014)	*Diatchenko v. District Attorney for Suffolk Dist.,* 1 N.E.3d 270 (2013)	State constitutional grounds
Nebraska	Nebraska Revised Statues § 28-105.02 (2013)		
Nevada	Nevada A.B. 267, 78th Legislative Assembly, (2015)		
New Jersey	A 373, 217th Legislative Assembly (N.J. 2017); New Jersey Statutes § 2A:4A-44(d) (2017)	*State v. Zarate*, 249 N.J. 359 (2022). *State v. Comer,* 249 N.J. 359 (2022).	State constitutional grounds
New Mexico	New Mexico Statute § 31-18-15.3 (2022)		
North Dakota	N.D. H.B. 1195, 65th Legislative Assembly (N.D. 2017; North Dakota Century Code § 12.1-32-02 (2017)		
Oregon	S.B. 1008, 80th Legislative Assembly (Oregon 2019)		

[1] "Legislation Eliminating Life-Without-Parole Sentences for Juveniles." The Juvenile Sentencing Project, 2026. https://juvenilesentencingproject.org/legislation-eliminating-lwop/.

South Dakota	S.B. 140, 2106 South Dakota Session Laws (2016); South Dakota Code § 22-6-1 (2016)		
Texas	Texas S.B. 2, 83rd Legislative Special Session (Texas 2013)		
Utah	Utah H.B. 405, 2016 Session, (2016)		
Vermont	H. 62, 73rd Session (Vermont 2015); Vermont Statues Title 13 § 7045 (2015)		
West Virginia	H.B. 4210, 81 Legislature., 2d Session (West Virginia. 2014); West Virginia Code §61-11-23 (2014); West Virginia Code §62-12-13b (2014)		
Wyoming	Wyoming H.B. 23, 62nd Legislative Assembly (2013)		
Washington D.C.	B-21-0683; D.C.Act 21-568; Comprehensive Youth Justice Amendment Act of 2016, D.C. Law 21-238 (2016)		
Washington	Washington SSSB 5064, 63rd Legislative Session (2014); Revised Code of Washington 9.94A.730; 10.95.030	*State v. Bassett*, 192 Wn.2d 67 (2018)	State constitutional grounds

Table 2:
States with New Procedures or Narrowed Offenses Eligible for JLWOP

State	Legislation	Court Decisions	Notes
Michigan	Michigan Compiled Laws § 769.25 (2014)	*People v. Taylor,* 987 N.W.2d 132 (Mich. 2022).	Prosecutor must file notice of intent to seek JLWOP
Missouri	Missouri Revised Statues § 565.034 (2016)		State must file intent to seek JLWOP before arraignment, must have aggravating circumstances to seek sentence.
North Carolina	North Carolina General Statue §§ 7B-2200, 15A-1340.19A, 19 B (2019), (2012)		Court holds hearing to determine LWOP or life with parole, with consideration of mitigating circumstances
Pennsylvania	Pennsylvania Consolidated Statutes Annotated Title 18 §1102.1 (2018)		Prosecutor can seek JLWOP in some cases.

Table 3:

States with JLWOP on the Books, Not in Use[2]

State	Legislation
Maine	17-A Maine Revised Statutes §1603.1
Montana	Montana Code Annotated §46-18-219
New York	New York Penal Law §70.00
Rhode Island*	Rhode Island General Laws § 11-23-2

*Most eliminated through existing Second Look legislation

Table 4:
States that Allow Early Release (Parole) of Children Prosecuted as Adults

State	Legislation/Laws	Court Decisions	Notes
Alabama	Alabama Code § 13A-6-2		Must serve 30 years prior to 1st parole consideration.
Arkansas	Arkansas Code Annotated § 5-10-101; Arkansas Code Annotated § 5-10-102	*Kelley v. Gordon*, 2015 Ark. 277, 2015 WL 3814285	Minimum of 25 to 30 years served required before parole eligible for capital murder and 1st degree murder respectively.
California	California Penal Code § 3051		Under 18 or under 25; varies from 15 to 25 years minimum served depending on length of sentence.
Colorado	Colorado Revised Statutes §§ 18-1.3-407, 18-1.3-407.5. 17-34-101		Youth convicted as adults, after serving 20-25 years, can petition to participate in a specialized program for early parole; later modified to include people under 21 at time of offense, after serving 20-30 years.
Connecticut	Connecticut General Statutes 54-125a(f)(1)		Dependent on length of sentence, range of 12 to 30 years served required before parole eligible.
Florida	921.1401, 775.082, 921.1402		Sentence review by court of original jurisdiction after 15, 20 or 25 years, some exclusions.
Illinois	30 Illinois Compiled Statutes § 730 ILCS 5/5-4.5-115		Dependent on length of sentence, range of 20 to 40 minimum years served before eligible for parole review.
Massachusetts	Massachusetts General Laws Ch. 279 § 24		Murder offenses: Created minimum term of not less than 20 years but no more than 30 years before eligible for release.

[2] Bennett, J.Z., Daphne M. Brydon, Jeffrey T. Ward, et al., "In the Wake of Miller and Montgomery: A National View of People Sentenced to Juvenile Life without Parole." *Journal of Criminal Justice* 93 (July – August 2024), https://doi.org/10.1016/j.jcrimjus.2024.102199.

Minnesota	Minnesota Statutes § 244.05.4b		Range of 15 to 30 minimum years required to be served before parole eligible, dependent on sentence.
Missouri	Revised Statutes of Missouri § 558.047		Eligible for review by the parole board after 25 years served may petition again after 35 years.
Nevada	Nevada Revised Statutes § 213.12135		Dependent on offense, range of 15 to 20 minimum years required to be parole eligible. No early parole for youth if offense resulted in two or more deaths.
New Jersey	New Jersey Statutes § 2C:11-3	*State v. Comer, State v. Zarate*, 249 N.J. 359 (2022).	Statute requires minimum of 30 years before parole for murder; Court held that a person can petition for resentencing after 20 years served.
New Mexico	New Mexico Code § 31-21-10.2		Dependent on sentence, range of 15 to 25 minimum years required to be served before parole eligible.
North Carolina		*State v. Kelliher*, 381 N.C. 558 (2022).	Eligible for parole after 40 years served.
Ohio	Ohio Revised Code § 2967.132		Dependent on sentence and offense, range of 18 to 30 minimum years required to be served before parole eligible.
Oregon	Oregon Revised Statutes § 144.397		Eligible for release after 15 years served.
Rhode Island	Rhode Island General Laws § 13-8-13		Dependent on sentence, eligible for parole after 15 to 25 years served If under 22 at time of offense and not serving LWOP, parole eligible at 20 years or earlier.
Tennessee		*State v. Booker*, 656 S.W.3d at 55 (TN 2022).	Those serving JLWOP receive parole hearings after serving 25 years.
Texas	Texas Government Code § 508.145(b)		If serving a life sentence, eligible for parole after 40 years served (not specific to those under 18 at time of offense).
Virginia	Code of Virginia § 53.1-165.1.E.		Eligible for parole after at least 20 years served.
Washington	Revised Code of Washington 9.94A.730; Revised Code of Washington 10.95.030		Crimes other than aggravated murder 1, eligible for parole after serving 20 years (some exceptions), aggravated murder 1 eligible for parole after

			serving 25 or more years, with minimum term set by court.
West Virginia	West Virginia Code § 61-11-23		Eligible for parole after at least 15 years served.
Wyoming	Wyoming Statutes § 6-10-301		If sentenced to JLWOP, eligible for parole after serving 25 years.

Table 5:
States that Allow Resentencing or Sentence Modification for Youth/Young Adults

State	Legislation	Court Decisions	Notes
Delaware	Delaware S.B. 10, 153rd General Assembly, (2025) 11 Delaware Code § 4204A		Persons under 18 at time of offense can petition the Supreme Court for sentence modification after serving 20 years for crimes other than murder 1, and after 30 years for murder 1. Compassionate Release Reform (2025) A person may apply to the sentencing court for sentence modification based on medical condition, age (60+) and other persons based on rehabilitation after serving 25 years.
Florida	Florida Statutes § 921.1402		Eligible for sentence review in the trial court after 15, 20, or 25 years served depending on original sentence length. Excludes several violent felonies.
Iowa		*State v. Sweet*, 879 N.W. 2d 811 (2016)	Those sentenced to JLWOP are entitled to resentencing.
Maryland	Maryland Code, Criminal Procedure, § 8-110		Under 18 or under 25 at time of offense. For those over 18 but under 25, not eligible if serving a LWOP sentence or certain sex offenses. Eligible to file with the court for sentence reduction.
New Jersey	New Jersey Statutes § 2C:11-3	*State v. Comer, State v. Zarate,* 249 N.J. 359 (2022)	Statute requires minimum of 30 years before parole for murder; Court held that a person can petition for resentencing after 20 years served.
North Dakota	North Dakota Century Code § 12.1-32-13-1		If under 18 at time of offense, can file a motion for a sentence modification after serving 20 years.
Utah		*State v. Mullins,* 2025 UT 2	Those serving JLWOP sentences are entitled to resentencing.

Washington	Revised Code of Washington § 10.95.030	*State v. Houston-Sconiers*, 188 Wn.2d 1 (2017); *In re Domingo-Cornelio*, 196 Wn.2d 2554 (2020); *In re Ali,* 196 Wn.2d 220 (2020); *In re Hinton*, 1 Wn.3d 317 (2023); *In re Carrasco*, 1 Wn.3d 224, (2023)	Resentencing of youth convicted of aggravated murder in the first degree and sentenced to mandatory LWOP. Some people under 18 sentenced prior to *St v. Houston-Sconiers* 2017 decision eligible for resentencing.
Washington D.C.	Code of the District of Columbia § 24-403.03 (2021)		2016- Under 18 at time of offense can petition for resentencing after serving 15 years. In 2021 expanded to apply to those under 25 at time of offense.

Table 6:
States That Allow for Early Release or Resentencing of Young Adults

State	Legislation	Court Decisions	Notes
California	California Penal Code § 3051		Parole for those under 18 or under 25; varies from 15 to 25 years minimum served depending on length of original sentence. Some exclusions, including LWOP for offense after age18.
Colorado	Colorado Revised Statutes §§ 18-1.3-401.4 17-34-102 17-22.5-403, 405		Youth convicted as adults, after 20-25 years; later modified to include those under 21 at time of offense, after 20-30 years
Connecticut	Connecticut General Statutes § 53a-39		Trial court can resentence with the following limits (1) If convicted pursuant to plea agreement and sentence of 7 years or more, must have prosecutor and defendant's

			agreement, (2) does not apply to mandatory minimums.
Maryland	Maryland Code § 8-110 (2025)		Under 18 or under 25. Under 18 and served 20 years, for those over 18 who have served 20 years; excludes = LWOP sentence, sex offender, or convicted of murder of first responder. Eligible to file with the court for sentence reduction.
Massachusetts		*Commonwealth v. Mattis*, 224 N.E.3d 410, (2024)	Mandatory LWOP is unconstitutional for 18–20-year-olds. Young adults serving these sentences are entitled to individualized resentencing.
Michigan		*People v. Taylor* & *People v. Czarnecki*, Nos. 144428 and 166654, 2025 WL 1085247, (2025)	Mandatory LWOP is unconstitutional for 18–20-year-olds. Young adults serving these sentences are entitled to individualized resentencing.
Washington		*In re Pers. Restraint of Monschke,* 197 Wn.2d 305 (2021)	Mandatory LWOP is unconstitutional for 18-20 year olds. Young adults serving these sentences are entitled to individualized resentencing.
Washington D.C.	Code of the District of Columbia § 24-403.03 (2021)		For offenses committed under age 25, eligible to file for sentence modification

			with the court after at least 15 years served.

Table 7:
States That Allow Prosecutor Initiated Resentencing

State	Legislation	Notes
California	California Penal Code § 1172, 1172.1 (2021); California Penal Code § 1170 (2018)	Pilot program that each participating district attorney's office develops.
Illinois	725 Illinois Compiled Statutes § 5/122-9 (2022)	No limitations on eligibility; prosecutor may seek resentencing when sentence no longer serves the interest of justice.
Minnesota	Minnesota Statues § 609.133 (2025)	No limitations on eligibility; prosecutor may seek resentencing when sentence no longer serves the interest of justice. Others may petition for prosecutorial review.
Oregon	Oregon Revised Statutes § 137.218 (2022)	Excludes aggravated murder offenses. Person serving sentence may jointly petition with prosecutor, must come to agreement amongst themselves.
Washington	Revised Code of Washington § 36.27.130 (2020)	No limitations on charges or eligibility; prosecutor may seek resentencing when sentence no longer serves the interest of justice.

Table 8:
States That Allow Judge Initiated Resentencing

State	Legislation	Court Decisions	Notes
California	Cal Penal Code 1172.1 (2023)		Judges can recall and resentence an individual if the sentence would be shorter under current sentencing schemes, due to changes from caselaw or new statutory authority.

Appendix B
Further Reading on Second Look and Alternatives to Traditional Sentencing

Nationwide

Liebman Dershowitz, Hanna. "Second-Look Laws Allow Courts to Reconsider Long Prison Sentences." Reason Foundation, March 11, 2026. https://reason.org/commentary/second-look-laws-allow-courts-to-reconsider-long-prison-sentences/.

Rempel, Michael, Melissa Labriola, Priscillia Hunt, Robert C Davis, Warren A Reich, and Samantha Cherney, *NIJ's Multisite Evaluation of Prosecutor-Led Diversion Programs: Strategies, Impacts, and Cost-Effectiveness*, (National Institute of Justice, 2018), https://www.ojp.gov/pdffiles1/nij/grants/251665.pdf.

Reilly, Dennis and Corey Calabrese, *Young Participants in Adult Drug Courts, Practitioner Perspectives*, (Center for Court Innovation), https://www.innovatingjustice.org/wp-content/uploads/2013/08/Young-Participants-in-Adult-Drug-Courts_final.pdf.

California

Shem-Tov, Yotam, Steven Raphael, and Alissa Skog, *The Impacts of the Make-It-Right Program on Recidivism Policy Brief*, (California Policy Lab, 2022), https://www.capolicylab.org/wp-content/uploads/2024/01/Impacts-of-the-Make-it-Right-Program-on-Recidivism.pdf.

Henderson-Frakes, Jennifer, Sengsouvanh (Sukey) Leshnick, and Hannah Diaz, *An Evaluation of San Francisco's Young Adult Court (YAC): Findings on Planning and Early Implementation*, (Social Policy Research Associated, 2017), https://sf.courts.ca.gov/system/files/yac-interim-report_05252017.pdf.

Cauffman, Elizabeth, *Evaluating a Young Adult Court (YAC) to Address Inequalities for Transitional Age Youth in Orange County*, (National Institute of Justice, Accessed November 6, 2024), https://nij.ojp.gov/library/publications/evaluating-young-adult-court-yac-address-inequalities-transitional-age-youth.

Illinois

Chicago Appleseed Center for Fair Courts, and Chicago Council of Lawyers, *Restorative Justice, Community, & The Courts: An Analysis of the Impact, Benefits, and Elements "Constantly in Conflict" in Chicago's Restorative Justice Community Courts*, (Chicago Appleseed Center for Fair Courts, 2024), https://www.chicagoappleseed.org/wp-content/uploads/2024/02/20240222_Restorative-Justice-Community-Courts-Report-FINAL.pdf.

New York

Pooler, Tia and Kimberly Dalve, *The Brooklyn Young Adult Initiative, Perceptions and Impacts of a New Approach to Young Adult Justice*, (Center for Court Innovation, 2019),

https://www.innovatingjustice.org/wp-content/uploads/2019/10/brooklyn_young_adult_initiative_report_2019.pdf.

Washington State

Beckett, Katherine, and Laibe, Kaitlyn, *Left Behind: Juveniles and Emerging Adults Serving Long and Life Sentences in Washington State*, (2025).

Appendix C
Organizations that Study or Report on Sentencing of Youth/Young Adults

National

Campaign for the Fair Sentencing of Youth
Center for Justice Innovation
The Sentencing Project
Juvenile Law Center
The Juvenile Sentencing Project

Based In Washington

ACLU of Washington
Seattle Clemency Project
Washington State Institute for Public Policy
Washington State Sentencing Guidelines Commission