

**STATEMENT OF**  
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**HEARING ON HOUSE BILL 5650**  
**COMMITTEE ON THE JUDICIARY**  
**RHODE ISLAND HOUSE OF REPRESENTATIVES**  
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Members of the Committee on the Judiciary, I welcome the opportunity to submit this testimony for the record on behalf of Amnesty International USA regarding today's hearing on House Bill 5650.

Amnesty International is a global movement of 7 million people in more than 190 countries who campaign for a world where human rights are enjoyed by all. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

We thank you for holding a hearing on House Bill 5650, which would revise the Rhode Island statute on the sentencing of life without parole for individuals (R.I. Gen. Laws § 12-19.2) to limit that sentence from being imposed against individuals who were younger than eighteen (18) at the time they committed the offense. Rhode Island's abolition of this practice would set an example for the 33 other states and the federal government that currently sentence juveniles to life without parole. As many as 2500 people are serving such sentences across the United States.

The U.S. Supreme Court has been addressing this issue as a Constitutional matter for the past ten years. The Court has relied on the Eighth Amendment's ban on cruel and unusual punishment to strike down a juvenile sentencing practice three times since 2005. In 2012, the U.S. Supreme Court issued a landmark ruling in the case of *Miller v. Alabama*, 132 S.Ct. 2455 (2012), holding that the U.S. Constitution prohibits mandatory life-without-parole sentences for crimes committed under the age of 18, including homicide. The *Miller* ruling evolved from the Court's previous decisions in *Roper v. Simmons*, 543 U.S. 551 (2005) (prohibiting juveniles being sentenced to death) and *Graham v. Florida*, 560 U.S. 48 (2010) (banning life without parole sentences for juveniles convicted of non-homicidal crimes), finding that age and child status must be considered in the context of criminal justice laws and policies.

The Court in *Miller* did not consider the question of whether there should be a categorical prohibition on the imposition of life without parole against children. However, the Court in its *Miller* opinion did state that "given all we have said in *Roper*, *Graham*, and this decision about children's diminished culpability, and heightened capacity for change, we think appropriate occasions for sentencing juveniles to this harshest possible penalty will be uncommon". (*Miller v. Alabama*, 132 S. Ct. 2455, 2469).

Life without parole for those under 18 outside the USA certainly is uncommon. Indeed, the USA is believed to be the only country in the world currently imposing such sentences on people who were under 18 at the time of the crime.

Recognition of the special attributes of children – the sort of characteristics so clearly outlined in the Miller ruling – lie behind the international prohibition of the use of the death penalty or life without parole for anyone who was under 18 year old at the time of the crime, whatever the crime. The UN Convention on the Rights of the Child expressly prohibits life imprisonment without the possibility of release for crimes committed by people under 18 years of age. All countries except the USA and South Sudan have ratified the Convention. Somalia just recently ratified the treaty in January 2015 and South Sudan has already begun the process to become a signatory to the Convention.

As is widely recognized, including by the United States Supreme Court, children differ from adults in a number of ways of relevance to the justice system, including the fact that they have a particular potential for personal development and change. House Bill 5650 would ensure that the criminal justice system in Rhode Island recognizes this difference by ensuring that individuals who commit crimes as juveniles have a chance to rehabilitate and reform rather than spending the remainder of their lives in prison.

International standards emphasize that in all actions concerning children, a primary consideration should be the child's best interest. Furthermore, in the case of children who come into conflict with the law, a primary objective should be maximizing the potential for the individual to be reintegrated into society and for him or her to be able to assume a constructive role in it.

These principles are contained in, among other international instruments, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice, the International Covenant on Civil and Political Rights (ICCPR) and the UN Convention on the Rights of the Child (CRC). The ICCPR, which the USA ratified in 1992, acknowledges the need for special treatment of children in the criminal justice system and emphasizes the importance of procedures that take account of their age and facilitate their rehabilitation.

The USA has signed the CRC, and in so doing bound itself under international law not to defeat the object and purpose of the treaty pending the decision on whether to ratify it. Amnesty International welcomes the fact that the USA told the UN Human Rights Council in 2011 that it supports US ratification of the CRC on the grounds that "we support its goals", and said that it would seek to move forward on ratification.

In an authoritative interpretation of principles of juvenile justice under the CRC (General Comment No. 10 issued in 2007) the UN Committee on the Rights of the Child emphasized, among other things, that "children differ from adults in their physical and psychological development, and their emotional and educational needs" and such differences "require a different treatment for children". The Committee continued that "the protection of the best interests of the child means, for instance, that the traditional objectives of criminal justice...must give way to rehabilitation and restorative justice objectives in dealing with child offenders. This can be done in concert with attention to effective public safety."

The Committee's General Comment no 10 also states:

“For all sentences imposed upon children the possibility of release should be realistic and regularly considered. In this regard, the Committee refers to article 25 of CRC providing the right to periodic review for all children placed for the purpose of care, protection or treatment. The Committee reminds the States parties which do sentence children to life imprisonment with the possibility of release or parole that this sanction must fully comply with and strive for the realization of the aims of juvenile justice enshrined in article 40 (1) of CRC. This means inter alia that the child sentenced to this imprisonment should receive education, treatment, and care aiming at his/her release, reintegration and ability to assume a constructive role in society. This also requires a regular review of the child’s development and progress in order to decide on his/her possible release. Given the likelihood that a life imprisonment of a child will make it very difficult, if not impossible, to achieve the aims of juvenile justice despite the possibility of release, the Committee strongly recommends the States parties to abolish all forms of life imprisonment for offences committed by persons under the age of 18.”

With the above international standards in mind, Amnesty International supports passage of HB 5650 as providing an opportunity for the state to recognize the potential rehabilitation of juvenile offenders rather than sentencing them to life without the possibility of parole.