

# Restore Justice Foundation

## Criminal Justice Issues and Prisoners' Rights

**<https://restorejustice.org/summer-2021-newsletter-to-people-who-are-incarcerated/>**

### Newsletters

Dear Friends,

The 102nd General Assembly swore in new legislators on January 13, 2021 and began meeting that month. As of mid-June, legislators concluded business for this year's regular session.

During the session, members of the General Assembly introduced 7,004 bills. Of those bills, 664 passed through both chambers (the House and Senate) and will now go to the Governor. Thirty-six of the bills that passed relate to the criminal legal or juvenile justice systems.

Once the Governor receives a bill, he can sign it into law, do nothing, or veto it. If he does nothing, it becomes law anyway; if he vetoes it, the Legislature can override the veto with a three-fifths majority and make the bill law. The General Assembly will convene again for the Veto Session in October. We expect the Governor to sign both of Restore Justice's bills that passed, in addition to other criminal legal reform bills.

Below, we recap Restore Justice's 2021 legislation and other bills related to the criminal legal system. We have also included a Guide for Navigating Sentencing Credit in Illinois created by the Illinois Prison Project.

First, you can ask your friends and family to join us in summer legislative meetings. They can email us at [info@restorejusticeillinois.org](mailto:info@restorejusticeillinois.org). We would love for people to meet with their state representatives and state senators. We also host Advocacy Trainings, which help loved ones learn to advance change in Springfield.

Second, we are collecting and sharing the stories of people sentenced under the Theory of Accountability. If you were convicted under this theory and are comfortable sharing your story, please send us a letter with any information you have access to (information about your case, your life before and in prison, a photo of you, etc.) Please ask a relative to get in touch with us at the above email address. We will be sharing these stories on our website, on social media, and with legislators. If you or a family member mail stories or information to Restore Justice, please send them to Alissa Rivera and include accountability on the envelope.

Third, let your family and loved ones know: Based on our legislative effort, IDOC has hired a family Point of Contact. Natalie Mason has joined the Office of Constituent Services as the Department's Family Liaison. In this role, Natalie manages communication between IDOC and the families of individuals in custody to ensure concerns are addressed in an efficient, effective manner. To contact Natalie with questions or concerns, email [Natalie.Mason@illinois.gov](mailto:Natalie.Mason@illinois.gov) or call 217-558-2200 ext. 6226. **Let us know how it goes!**

**The following bills passed through both chambers of the Legislature and will now go to the Governor. If he signs them, they will become law.**

**HB3587, Senate Floor Amendment 5:** If signed into law (which is expected), it would create the Resentencing Task Force to study innovative ways to reduce Illinois' prison population through resentencing. The Task Force would consider ways for incarcerated people, state attorneys, the Illinois Department of Corrections (IDOC), and judges to file resentencing motions to allow someone who previously received a long sentence to be released. The Illinois Sentencing Policy Advisory Council (SPAC) would support the task force, and the Task Force would submit recommendations to the General Assembly and Governor's Office by July 1, 2022. The task force would be made up of a diverse group of stakeholders, including law enforcement representatives and criminal legal system reform advocates. *This bill passed both chambers.*

**SB1976:** *This bill passed unanimously through both chambers!* If signed into law by the Governor (which we expect), it would create a statewide point of contact for the Illinois Department of Corrections (IDOC). This point of contact would be tasked with receiving complaints, suggestions, and requests from visitors. Right now (before this bill becomes law), family members visiting incarcerated loved ones have little to no redress when they are denied access or treated unfairly. People in visiting rooms must rely on staff at a particular facility to address conflicts or concerns with facility staff. These same staff members may be directly involved in the issue. SB1976 would give families someone to call who can investigate complaints and attempt to resolve issues.

**HB1064, House Floor Amendment 1 (previously HB1821):** This bill would bring Illinois into line with the majority of states. Right now, 25 states prohibit life without parole sentences for people younger than 18. In six other states, no one is serving these sentences. HB1064 would abolish life without parole for most people 20 and younger in Illinois. It would build on 2019's Youthful Parole Law, which created the first new parole opportunities in Illinois since the state abolished discretionary parole in 1978. HB1064 would create an opportunity for people younger than 21 when convicted of first-degree murder or sentenced to a term of natural life imprisonment to be eligible for parole review; people with these specific convictions or sentences did not receive parole consideration under the Youthful Parole Law. People could petition the Prisoner Review Board for parole consideration after serving 40 years or more. The legislation would not be retroactive. *This bill passed through the House. It is currently pending in the Senate.*

**HB2989 House Floor Amendment 2,3,4:** This would expand the Youth Firearm Sentencing Law to those 20 and under at the time of the crime. Right now, the law mandates judges add 15 years to life to the sentences of people 18 and older who commit certain crimes with firearms. Fifteen years are added if a firearm is possessed but not discharged; 20 years are added if the gun is personally discharged with no injuries; and 25 years are added if there is a death or grievous injury.

The Youth Firearm Sentencing Law gave judges the authority to decide whether enhancements make sense on a case-by-case basis for people 17 and younger. They can choose not to apply enhancements to the sentences of people younger than 18. HB 2989 would apply that framework to people ages 18 to 20. Judges would be required to consider: 1) The persons age, impetuosity, and level of maturity at the time of the offense, including the ability to consider risks and consequences of behavior, and the presence of cognitive or developmental disability, or both, if any; 2) whether the person was subjected to outside pressure, including peer pressure, familial pressure, or negative influences; 3) the persons family, home environment, educational and social background, including any history of parental neglect, physical abuse, or other childhood trauma; 4) the persons potential for rehabilitation or evidence of rehabilitation, or both; 5) the circumstances of the offense; 6) the persons degree of participation and specific role in the offense, including the level of planning by the defendant before the offense; 7) whether the person was able to meaningfully participate in his or her defense; 8) the persons prior juvenile or criminal history; and 9) any other information the court finds relevant and reliable, including an expression of remorse, if appropriate. However, if the person, on the advice of counsel chooses not to make a statement, the court shall not consider a lack of an expression of remorse as an aggravating factor. *This bill passed out of the House Judiciary-Criminal Committee, but it did not pass through either chamber.*

**HB3564:** This would create the Anthony Gay Law, also known as the Isolated Confinement Restriction Act. This bill would limit the use of solitary confinement in prisons, jails, and immigration facilities by requiring:

The United Nations and the World Health Organization have condemned the use of solitary confinement for extended periods of time, and under international standards, more than 15 days in solitary is considered torture. Yet, in Illinois, there are no limits on how long a person can be held in solitary confinement. A growing body of medical literature establishes that solitary can cause permanent damage to peoples brains and that virtually everyone who spends extended time in solitary suffers severe, and often long-term, adverse impacts on their mental and physical health. *This bill passed through the House and is pending in the Senate. This initiative is led by Anthony Gay and advised by multiple organizations, including Restore Justice and the Uptown Peoples Law Center.*

**SB2123/HB3594:** The Restorative Sentencing Act would allow people sentenced under Truth in Sentencing (before 1998) laws to receive up to five years of sentence credit for good conduct, participation in certain programs, and educational credit. Individuals serving a term of natural life would not be eligible for sentencing credit. *This bill did not move in either chamber.*

**SB2363:** This would create an offense of accountability so a person can only be charged if they have the intent to facilitate or encourage the crime. Right now, under Illinois law, accountability is a theory that allows prosecutors to hold someone responsible for another persons conduct, even if they did not plan or participate in the crime. SB2363 would also ensure a persons sentence reflects their level of involvement in the crime. It sets a series of sentencing guidelines. *This bill did not move in either chamber.*

**HB562:** This comprehensive gun safety measure would modernize Illinois 53-year-old Firearm Owners Identification (FOID) card law while also requiring background checks on private sales of firearms. Under this measure, the Illinois State Police could remove guns from people with revoked FOID cards, including from those who are deemed to be a threat to themselves or the public, and it would create new incentives to get FOID applicants to voluntarily submit fingerprints. It also would invest money in mental health programs in communities and school programs most affected by gun violence. *Led by the Gun Violence Prevention-PAC Illinois and a coalition of gun safety organizations.*

**HB88:** HB88 would revoke the state law that prevents people with drug convictions from being eligible for the Temporary Assistance for Needy Families (TANF) program. Under this measure, people with drug convictions could seek assistance through TANF. Led by the Chicago Coalition for the Homeless, Heartland Alliance, and Shriver Center on Poverty Law.

**HB1063, House Amendment 1 (previously SB655):** HIV criminalization in Illinois stigmatizes people living with HIV by making legal behavior like consensual sex illegal, or by increasing penalties for minor crimes such as sharing injection drug equipment. Today in Illinois, people living with HIV can be criminally prosecuted for consensual sex; needle-sharing; and donating blood, tissue, organ, and semen. Though the law is titled the Criminal Transmission of HIV, there is no actual requirement of transmission. That means people living with HIV can face the threat of arrest, prosecution, and incarceration without any actual transmission taking place. HB1063 would end criminal penalties against people living with HIV and would treat HIV like any other chronic disease. *This bill was led by the Illinois HIV Action Alliance.*

**HB2790:** This bill would allow public defenders to continue to represent their clients in immigration court even if their immigration cases are not a direct result of their underlying cases.

**HB3235:** HB3235 would require the Illinois Department of Corrections to provide people with information about IDs, voting, jobs, housing resources, and more at least 45 days before a person is going to leave prison.

**HB3443, Senate Committee Amendments 4 and 5:** It is a trailer bill to the Safe-T Act, which passed in January 2021. The Safe-T Act made changes to policing laws and other elements of the criminal legal system. The trailer bill applies entirely to policing. It relaxes some of the rules around body camera use, removes some language about when use of force is allowed, and extends deadlines for training requirements.

**HB3513:** It would require court clerks to send the Department of Juvenile Justice any police reports about sex offenses allegedly committed or committed by minors in the Departments custody. It requires the Department of Juvenile Justice to maintain and administer state youth centers.

**HB3665:** The Joe Coleman Medical Release Act would allow the Prison Review Board to grant early release for people determined by medical professionals to be medically incapacitated (requiring around-the-clock care to survive) or terminally ill. It defines a terminal

illness as a condition that is likely to cause death in 18 months. Under this measure, crime victims are allowed to submit statements to the Prisoner Review Board. *Initiative led by Chicago Appleseed Center for Fair Court and Illinois Prison Project.*

**SB64:** It removes barriers to restorative justice practices by establishing a privilege for communications made during restorative justice proceedings. This bill would prevent anything said or done during or in preparation for a restorative justice practice from being referred to, used, or admitted in any civil, criminal, juvenile, or administrative proceeding, unless privilege is waived. *Led by the Juvenile Justice Initiative.*

**SB825:** This bill is the Voting Rights omnibus bill that would bring a number of changes to the election code so voting is more accessible, including allowing voters to opt-in to permanent vote by mail status to receive mail-in ballots for every subsequent election in which they are eligible to participate. It also makes voting more accessible to younger voters by making the General Election Day (November 8, 2022) a state holiday for schools and universities and requiring high schools to permit voter registration on premises and provide application information to students. It moves Illinois primary from March to June 28, 2022. It also allows people being held in jail pre-trial (who have not been convicted) to vote. The Governor signed this bill into law on June 17, 2021.

**SB2122:** Under this measure, confessions made by minors would be inadmissible if law enforcement lied to them in order to obtain the confessions.

**SB2129:** This bill says upon the recommendation of the Illinois States Attorney of the county in which the defendant was sentenced, the States Attorney could petition the court for resentencing. It would allow states attorneys to retest sentences, potentially making them shorter, if the original sentence no longer advances the interests of justice. Courts could resentence people as if the accused person had never been sentenced. The new sentence could be the same or shorter, but could never be longer than the original sentence. Courts would be allowed to consider a persons prison disciplinary record and rehabilitation; whether age, time served, or the persons physical condition have reduced the potential for future violence; and any evidence that shows how circumstances have changed since the original sentencing. This bill would ensure credit is given for time served. Victims would be given the rights outlined in the Rights of Crime Victims and Witnesses Act. It provides that resentencing shall not reopen the defendants conviction to challenges that would otherwise be barred. *This initiative was led by the Cook County States Attorneys office.*

**HB111, House Floor Amendment 2:** This measure would raise the age at which a person charged with a misdemeanor offense can be tried as an adult. It changes the age from 18 to 19. *This passed through the House but not the Senate.* Initiative led by the Juvenile Justice Initiative.

**HB803:** This would require the Prisoner Review Board (PRB) to make decisions based on the vote of a majority of members present at a hearing, rather than a majority of total members. Right now, because the vote is based on a majority of the full PRB, a person seeking parole is penalized if members are absent. (The Board has 14 members. As an example, if eight members attend a hearing and seven vote in favor of parole, but one votes against, parole will be denied. Thats because the missing six members count in the total.) *This did not pass through either chamber.*

**SB2333/HB2399:** The Earned Reentry bill would give people with long-term sentences, including natural life, the opportunity for regular review by the Prisoner Review Board. During the first three years of implementation, people older than 50 would have been prioritized for parole. It would ensure every incarcerated person receives parole review after serving 20 years. Provides that if any incarcerated person is released on earned discretionary reentry, his or her sentence shall be considered complete after the term of mandatory supervised release. Applies retroactively. *This initiative was led by Parole Illinois. This did not pass through either chamber.*

**HB3447:** HB3447 would lead to more expungement of criminal records for low-level drug offenses. In addition, people convicted of a crime for which the penalty has been reduced would be able to seek resentencing in accordance with the new statutory penalty. *This passed through the House but not the Senate. This initiative is led by the ACLU of Illinois.*

**HB3512:** This would establish the Prisoner Review Board as the authority for setting Mandatory Supervised Release (MSR) conditions. It would require the Prisoner Review Board to conduct a hearing with at least three members to determine whether or not a minor should be put on MSR or transferred to the Illinois Department of Corrections (IDOC) when the minor turns 21. *This passed through the House, but has not yet passed through the Senate.*

**HB3767/SB65:** This bill limits juvenile detention to cases of teenagers who present a serious threat to the physical safety of person(s) in the community or to secure minors presence in court based on a record of willful failure to appear. It would raise the age at which a child can be held in detention. Right now, children 9 and younger cannot be detained, and HB3767 would raise that to 12 by 2023. (Currently, children 10 and older can be detained. This would change that to children 13 and older.) *This passed through the House but not the Senate. Initiative led by the Juvenile Justice Initiative.*

**HB3958 House Floor Amendment 1:** This bill would prevent any oral, written, or sign language statement of an accused made as a result of a custodial interrogation conducted at a police station or other place of detention from being admissible as evidence in felony criminal proceedings unless an electronic recording is made.

**HJR27:** It will create a task force to assess barriers and opportunities to higher education in prison (HEP) in Illinois. Diverse stakeholders will come together to assess barriers and opportunities to HEP in Illinois and recommend a legislative action to expand access to HEP for all incarcerated and formerly incarcerated scholars. This resolution is currently pending in the House for a concurrence vote. This resolution was led by the Illinois Coalition for Higher Education in Prisons Freedom to Learn Campaign.

#### *DISCLAIMERS!*

-Unfortunately, this omnibus bill is more than 700 pages so we cannot send a copy.

-As mentioned above, legislators passed another bill (HB3443) that will amend the policing sections of the omnibus bill. Restore Justice has not reviewed the new bill (called a trailer bill). We believe the majority of changes relate to policing, not sentencing or IDOC.

-Based on our initial reading, we do not think most of the provisions in the omnibus are retroactive. There may be exceptions, but we are not ready to weigh in on that yet!

-Most provisions will go into effect on July 1, 2021, except for certain provisions that are effective either January 1, 2022, January 1, 2023, or January 1, 2025.

**The bill makes 3 relatively small changes related to sentencing:**

**The bill makes several changes to practices within corrections and county jails:**

SENTENCING CREDITS (revised from summary written by John Maki of the Alliance for Safety and Justice) amended to:

CALCULATION OF TERM OF IMPRISONMENT

PROGRAM ELIGIBILITY

Amends eligibility for programs such that people who have been previously convicted of certain felony drug crimes can be considered as though they had a Class A misdemeanor.

MANDATORY SUPERVISED RELEASE

Changes rules on how mandatory supervised release terms are to be written into the sentencing order:

Creates new, more nuanced tiers of mandated MSR terms by offenses for people convicted BEFORE December 12, 2005 (the effective date of Public Act 94-715)

For people serving at 85% per Truth in Sentencing, and others convicted after 1/1/2009, the term of mandatory supervised release shall be as follows:

PLACE OF CONFINEMENT

PREGNANT WOMEN IN CUSTODY

DEATHS IN CUSTODY

**The bill makes significant and ground-breaking changes to the pretrial system in Illinois, including the end of cash bail.**

ABOLISHING MONEY BOND

RIGHT TO COMMUNICATE

**Much of the bill is related to policing, and we are not qualified to provide a strong analysis of this section of the legislation. We can list some of the provisions, however:**

Creates the **Statewide Use of Force Standardization Act** to establish statewide use of force standards for law enforcement agencies.

Creates the **Task Force on Constitutional Rights and Remedies** to review available research, best practices, and effective interventions to formulate recommendations by May 1, 2021.

Some other provisions (not a complete list):

**The bill creates a new law to ensure legislative maps are drawn using incarcerated peoples last known address rather than their address in prison with the No Representation Without Population Act. Provides that:**

**The law amends the Crime Victims Compensation Act.**

**Finally, starting July 1, 2021, Illinois will no longer suspend a license for any ticket debt, fines, or fees.** This change includes suspension and holds due to: parking tickets, vehicle compliance tickets, red-light camera tickets, automatic speed camera tickets, traffic tickets, and abandoned vehicle fees. The Act also reinstates driving privileges for those who have already had their drivers license suspended/revoked for failing to pay red-light camera tickets, speed camera tickets, traffic tickets, and abandoned vehicle fees. Reinstatement is free, automatic, and will occur by July 1, 2021. The law does not eliminate any outstanding ticket debt. You must still pay off your tickets, but your license will no longer be suspended due to the debt.

**Louisiana:** HB 145 passed in both the House and the Senate, and has been sent to the Governor for executive approval. This legislation will allow for parole eligibility after 15 years for people serving a life sentence under three strike laws, that would no longer be considered a life sentence.

**Maryland:** On April 10, 2021 the Juvenile Restoration Act (SB 494) was passed. This new law grants sentencing review to Marylanders who were under the age of 18 at the time of their offense and prohibits children from being sentenced to life without the possibility of parole. This legislation made Maryland the 25th state in the country to ban Juvenile Life Without Parole.

**Mississippi:** This is the second year in a row that lawmakers put a push on criminal justice reform with several pieces of legislation. The center point of the fight seemed to be SB 2795, the Mississippi Earned Parole Eligibility Act. This bill allowed for non-violent offenders, violent offenders who have served 50% or 20 years of their sentence, and non-violent and non-habitual drug offenders to be eligible for parole. This bill does not apply to those charged with sex offenses, trafficking, murder, habitual offenses, or capital offenses.

**New York:** Governor Andrew M. Cuomo signed the HALT Solitary Confinement Act into law, reforming the practice of segregated confinement in New York State correctional facilities. This legislation limits the amount of time an incarcerated person can spend in segregated confinement to 15 days, clearly defines and reduces the number of disciplinary infractions eligible for segregated confinement, and exempts certain vulnerable populations, including the young, elderly, pregnant women, people with disabilities, and individuals with a serious mental illness.

**Kentucky:** To build on Kentuckys juvenile justice reform effort, SB 36 was introduced. This bill prevents the automatic transfer of juveniles to adult courts in certain cases, giving discretion to courts and prosecutors as to where the cases should proceed.

*People v. Derrell Dorsey* In 2017, the Illinois Appellate Court held that Derrell Dorsey was properly denied leave to file a post conviction petition based on *Miller v. Alabama*. Dorsey failed to establish prejudice as his eligibility for day-for-day sentencing credit precluded a finding that his 76-year aggregate sentence constituted a de facto life sentence. In March 2020, the Illinois Supreme Court granted Dorseys petition for leave to appeal. Dorsey argued he established prejudice for his claim that his sentence, for an offense committed when he was 14 years old, constitutes an unconstitutional de facto life sentence. In particular, he argued his eligibility for sentencing credit is not part of the sentence and is inappropriate for review at the leave-to-file stage of his post-conviction petition. He further contended that even if the Court considers his eligibility for statutory sentence credit, he established prejudice because his long sentence violates Illinois Proportionate Penalties Clause. On March 9, 2021, the Illinois Supreme Court held oral arguments, and a decision is pending. This decision would affect whether juvenile offenders serving 40 years or more with eligibility for sentencing credit are eligible for relief under *Miller v. Alabama* and *People v. Buffer*.

*People v. Ashanti Lusby* After the State appealed the Appellate Courts decision granting Ashanti Lusby a new *Miller* sentencing hearing, the Illinois Supreme Court granted the States petition for leave to appeal and reversed. On October 22, 2020 the majority concluded Lusbys 2002 sentencing hearing was *Miller*-compliant. Lusby received the maximum extended-term aggregate sentence of 130 years imprisonment when he was 16 years old based on brutal and heinous conduct indicative of wanton cruelty for the murder, aggravated criminal sexual assault, and home invasion of a teacher. The majority noted that under *People v. Holman*, a juvenile can only be sentenced to life after considering youth and its hallmark features and determining the conduct showed irretrievable depravity, permanent incorrigibility, or irreparable corruption beyond the possibility of rehabilitation. The majority did not mention whether such a determination must be made on the record. However, in a footnote they stated the U.S. Supreme Court was expected to address that question in its decision in *Jones v. Mississippi*. Subsequently, the majority listed the evidence presented on each of the *Holman* factors, noting the defense chose not to present any mitigating evidence, and deferred to the trial court who presided over the case from beginning to end and considered the defendants youth and its attendant characteristics before concluding that his future should be spent in prison. The court later denied Lusbys rehearing petition on February 26, 2021.

*People v. Robert Christopher Jones* This case is pending before the Supreme court. The key question is whether a juvenile who negotiated a guilty plea prior to *Miller* and *People v. Buffer* in exchange for a de facto life sentence in order to avoid mandatory life, is entitled to a resentencing hearing. The parties are briefing the issue, oral argument has not been scheduled yet.

*People v. Antonio House* This pending case asks whether the record on appeal is sufficient to support the Appellate Courts holding that 19 year old Antonio Houses mandatory life sentence for accountability murder violated Illinois proportionate penalties clause. Oral arguments were held May 11, 2021.

Recent successful *Miller*-related challenges in the Appellate Court:

*People v. Matthew Edwards* Matthew Edwards was convicted of murder and attempted murder when he was 17. He was sentenced to consecutive 50- and 40-year terms of imprisonment. The Trial Court gave no consideration to Matthews youth or its attendant characteristics, but instead found that, at 17, Matthew was not at a tender age. After twice affirming Matthews sentence on direct appeal, on January 22, 2021, the Appellate Court reversed and remanded for a new sentencing hearing.

*People v. Philip Vatamaniuc* At 17 years old, Philip Vatamaniuc was sentenced to 54 years imprisonment for a shooting after a marijuana deal went badly. On January 29, 2021, the Appellate Court reversed and remanded for resentencing under *Miller*. The Trial Court made a cursory mention of each *Miller* factor, but did not address how those factors applied to Vatamaniuc. Even if this mention of the factors was sufficient, the record did not reflect whether the Trial Court determined if Philip was among the rarest of juvenile offenders whose crimes reflect permanent incorrigibility. Additionally, there was evidence introduced by a mitigation specialist that Vatamaniuc was amenable to rehabilitation. On remand, the Trial Court was directed to address how each *Miller* factor applied to Vatamaniuc and determine whether he was permanently incorrigible. The Appellate Court clarified that the firearm enhancement applied was discretionary, given some confusion about it at the original sentencing hearing.

*People v. Johnson* The Third District Appellate Court held Johnson is entitled to a new sentencing hearing. In a case of first impression, the Court addressed whether a juveniles plea of 110 years imprisonment for a double murder forfeited his *Miller* challenge. The Court and State both agreed with Johnson that his sentence constituted a de facto life sentence and that he had not forfeited his right to a *Miller* challenge.

*People v. Eloy Simental* The Appellate Court determined whether a juveniles 60-year sentence eligible for day-for-day sentencing credit, when the individual was already released on parole, entitles the individual to a *Miller* sentencing hearing. Eloy Simental was convicted of murder by accountability for a gang-related shooting that occurred when he was 16 years old. He was sentenced to a maximum non-extended term of 60 years imprisonment. Eloy appealed the Trial Courts denial of his subsequent postconviction *Miller* claim. By the time the appeal was decided, Simental had been released on parole or mandatory supervised release (MSR) that was set to expire in 2023. On May 3, 2021, the Appellate Court determined that under *Buffer*, his 60-year sentence is a de facto life sentence regardless of his eligibility for day-for-day credit. The Court also held that his MSR status is irrelevant to his claim, as he was still subject to the 60-year sentence imposed by the trial court and it could be revoked. The states petition for leave to appeal is pending.

*People v. Jaime Ruiz* Similar to *Simental*, this case involved the issue of day-for-day good-conduct credit in determining whether a sentence was de facto life. At 17, Jaime Ruiz was convicted for murder and attempted murder and sentenced to a manditorily consecutive

20-year sentence for an earlier gang murder by accountability. At his resentencing hearing, the Court resentenced him to 50- and 30-year concurrent terms. The Trial Court found it had not imposed de facto life given James ability to earn day-for-day good-conduct credit. On May 25, 2021, the Appellate Court held the potential to earn such credit was irrelevant in measuring de facto life. The Court concluded that both the 50- and aggregate 80-year sentences violated *Miller*, where there was no finding of permanent incorrigibility and the lower court had not believed it was imposing a life sentence. The Appellate Court acknowledged that *Jones v. Mississippi* imposed no mandatory finding of permanent incorrigibility, but noted that *Jones* allows states to provide greater protections. As a result, it was bound by the more protective holdings in *Holman* until and unless the Illinois Supreme Court held otherwise. On remand, the Trial Court was instructed to consider *People v. Reyes*, 2016 IL 119271, and the aggregate effect of the unrelated 30-year sentence. Any aggregate sentence, regardless of whether it is imposed for a single or separate crime, which by operation of law exceeds de facto life as defined by *Buffer*, is unconstitutional unless it is also made in tandem with a finding that the defendant is beyond rehabilitation.

#### Successful Proportionate Penalties Challenges for Emerging Adults:

*People v. James Lenoir* James Lenoir was 18 when he was convicted of murder and attempted murder by accountability for a retaliatory gang shooting. Lenoir was sentenced to mandatory consecutive terms of 30- and 18-years imprisonment. On January 22, 2021, the Appellate Court reversed the Trial Courts denial of James motion for leave to file a subsequent post conviction petition raising a *Miller* challenge to his de facto life sentence. The Court found prejudice under the cause-and-prejudice test and compared the facts of the case to those in *House*. The Court focused on Lenoirs guilt by accountability, the circumstances surrounding the shooting, Lenoirs allegation in the petition that he did not know his co-defendants were planning on shooting anyone, his averments that he was young and susceptible to peer influence, and the developmental studies he cited.

*People v. Willie Chambers* Willie Chambers was 18 when he, and a group of drunk and high youth, beat and robbed several random individuals on the street, one of whom died. Chambers pleaded guilty to murder in exchange for the states agreement not to pursue extended-term sentencing and his cooperation against the remaining participants. At sentencing, the Trial court Considered his deeply troubled childhood, his developmental disability, his history of serious mental illness, the effect of peer pressure, his prior juvenile record, the nature of the offense, and deterrence, and sentenced him to 42 years. The Trial Court denied a Proportionate Penalties and Eighth Amendment *Miller* post-conviction challenge. On February 10, 2021, the Appellate Court rejected the applicability of the Eighth Amendment, but reversed and remanded for stage two proceedings on the Proportionate Penalties claim. The Appellate Court found that if a 40-year sentence is de facto life for youth, the same is logically true for an adult. The Court explained that its arguable if *Miller* indirectly applies to an emerging adult Proportionate Penalties claim, the *Miller* factors also apply.

*People v. Anthony Jones* Anthony Jones was sentenced to 35 years for an accountability murder plus a mandatory 15-year firearm enhancement for a botched robbery attempt when he was 19. On March 31, 2021, the Appellate Court reversed and remanded for a new sentencing hearing. The Court relied on *Buffer* and *People v. Antonio House* the offense was less serious than in *House*, Jones though armed, did not fire his weapon, and was beaten unconscious by the robbery targets. As in *House*, the Appellate Court concluded the record was sufficiently developed to support a new sentencing hearing. *Lusby* was found wholly inapplicable given its worse facts and the finding of depravity in that case.

*People v. Lamontreal Glinsey* The Trial Court denied Lamontreal Glinsey leave to file a subsequent post-conviction petition raising an Eighth Amendment and Proportionate Penalties *Miller* challenge to his 45-year sentence. Glinsey was convicted of murder by accountability following a retaliatory gang shooting 11 days after he turned 18. The shot hit a bystander. On March 31, 2021, the Appellate Court reversed and remanded for stage-two proceedings, relying on the broader protections of the Proportionate Penalties clause. The majority rejected the States argument that such relief only applies to mandatory life sentences. It cited the many ways in which the law treats those under age 21 as less responsible. And it noted that, at sentencing, the Trial Court made no mention of Glinseys youth nor suggested he was beyond rehabilitation.

#### Recent Unsuccessful Proportionate Penalties Challenges for Emerging Adults:

*People v. Richard Cortez* On March 11, 2021, the Appellate Court affirmed the denial of Richard Cortezs post conviction petition at stage one based on Eighth Amendment and Proportionate Penalties *Miller* claims. Cortez was 18 at the time of his offense which involved breaking into a neighbors house and fatally stabbing her after she rejected his romantic advances. The court concluded that the Trial Court considered substantial evidence on *Miller*-related factors at sentencing and the courts comments regarding the nature of the offense reflected that they saw Cortez as a permanently incorrigible youth.

*People v. Reginald Benford* At 21 years old, Reginald Benford was convicted of murder for a gang shooting, and was sentenced to 40 years imprisonment. On March 26, 2021, the Appellate Court rejected his Eighth Amendment claim, reasoning *Miller* is limited to those under 18. It concluded that even if Benford established cause, he could not establish prejudice because he was not sentenced to de facto life. Also, his MSR term could not be considered in determining the length of the sentence under *Buffer*. In a footnote, the court stated his Proportionate Penalties challenge to a less-than-life sentence is forfeited if not raised on direct appeal.

*People v. Torolan Williams* On May 14, 2021, the Appellate Court concluded that Torolan Williams failed to allege a gist of a constitutional claim that *Miller* should apply to him as a 22-year old. Williams was convicted of five counts of first degree murder that occurred during a robbery he planned and participated in. As a result, he was sentenced to mandatory life. The court rejected his Eighth Amendment claim and concluded his Proportionate Penalties claim failed to allege any facts particular to him that rendered him the functional equivalent of a juvenile. This is because he cited only general articles that the brain continues to mature into ones mid-twenties. The court further determined that the record showed Williams participation in the offense was not impulsive or reckless consistent with a developing brain. They held that as a 22 year old, he fell outside recent legislative protections, such as parole review, for those 18-21.

*Brett Jones v. Mississippi* In this case, the United States Supreme Court addressed what states must do before imposing a JLWOP sentence. Brett Jones was sentenced to life without parole at the age of 15 for the 2004 murder of his grandfather. The Supreme Court of Mississippi later ordered the resentencing of Jones in light of *Miller*, instructing the Trial Court to consider the *Miller* factors youth and its hallmark features. However, at resentencing, the judge once again sentenced Jones to LWOP. Appealing to the U.S. Supreme Court,

Jones contended that *Miller* requires the sentencing judge and/or jury to determine whether Jones is permanently incorrigible before sentencing him to LWOP. The State of Mississippi on the other hand, argued *Miller* only requires the sentencing court to consider the offenders age and its hallmark features in mitigation but does not require a finding of permanent incorrigibility.

On April 22, 2021, Justice Kavanaugh wrote for the 6-3 majority, holding that there does not need to be a finding of permanent incorrigibility to issue a JLWOP sentence. The majority relied on specific quotes in *Montgomery v. Louisiana* to determine that *Miller* does not impose a formal finding of incorrigibility or an on the record sentencing explanation. Rather, a States discretionary sentencing system is both constitutionally necessary and constitutionally sufficient. The majority concluded *Miller* only requires a sentencer follow a certain process considering an offenders youth and attendant characteristics before imposing a life without parole sentence. In the dissent, Justice Sotomayor charged the majority with mischaracterizing *Millers* essential holding that a lifetime in prison is a disproportionate sentence for all but the rarest children, those whose crimes reflect irreparable corruption. Further, Sotomayor contends that the sentencing judge and/or jury must actually make the judgment that the juvenile in question is one of the rare children who is permanently incorrigible and thus eligible for JLWOP.

As the dissent pointed out, the *Jones* majority failed to acknowledge the presumption against JLWOP sentences. The majority also ignored the proportionality principle in *Miller* and *Montgomery*, that such sentences are disproportionate for all but the rare juvenile whose offense reflects permanent incorrigibility. The Court sadly narrowed *Miller*, asserting the case merely banned mandatory JLWOP sentences. An on-the-record explanation or finding of incorrigibility is unnecessary, the Court noted, because discretion allows the judge to consider youth and its hallmark features. We can therefore assume the judge appropriately considers youth, unless the judge expressly refuses to on the record.

Although the decision limits the impact of *Miller*, the *Jones* decision has some bright spots. First, despite the arguments in the dissent, the majority stated *Miller* and *Montgomery* are still good law and does not overrule those precedents. Second, in a footnote, the majority implicitly acknowledges that *Miller* announced a substantive proportionality rule, not just a procedure. The majority quotes *Montgomery* in stating that states are not free to sentence a child whose crime reflects transient immaturity to life in prison, and doing so would be disproportionate under the Eighth Amendment. Despite the Courts rejection of permanent incorrigibility as an eligibility criterion, it favorably cites transient immaturity as a live standard to determine whether a JLWOP sentence is proportionate. Third, the majoritys language supports the principle that discretion has substance. The Court noted that the exercise of discretion allows the judge to meaningfully consider youth and its attendant characteristics in order to determine eligibility of the juvenile for LWOP. Thus, *Miller* is not just about mandatory vs. discretionary LWOP but about considering youth-specific factors that address the youths diminished culpability. Fourth, the decision carves out a special role for the states to impose additional youth protections at sentencing. Its holding expressly does not prohibit states from creating and imposing additional limits on JLWOP sentences. Finally, *Jones* noted the decision does not address whether Jones LWOP sentence is proportionate. The majority stated, this case does not properly present and thus we do not consider any as-applied Eighth Amendment claim of disproportionality regarding Jones sentence. Therefore, *Jones* does not govern proportionality challenges of a LWOP sentence on a specific juvenile.

Since the *Jones* decision is only a few months old, it is not clear how it will affect Illinois cases. The State has moved in a number of pending cases to file a supplemental petition to cite *Jones* and some judges at resentencing have asked for briefing on whether *Jones* applies to those cases. We will continue to monitor the effect of the *Jones* decision.

## **MSR CHANGES**

Please see page 10 for the MSR provisions in the criminal law omnibus bill. (Also, read the legislative updates section on page 7 for information about HB3512; however, this bill did not pass.)

## **HOW YOUR FAMILY CAN OBTAIN A COPY OF OUR NEWSLETTER**

Your loved one can visit our website to view this newsletter virtually at:

[www.restorejustice.org/category/newsletters](http://www.restorejustice.org/category/newsletters)

**PHONES:** We are all excited to see how the new phone apps on Securus Tablets will be implemented. Let us know if and when you receive your Securus tablet, and how it compares to the GTL Tablet. Also, let us know if you are able to access the phones and internet from your cell.

## **PELL GRANTS**

Last December, Congress passed a bill that reinstated Pell Grant access to people in prison. The new law will go into effect in July 2023; students in prison will be able to apply for a Pell Grant through the Free Application for Federal Student Aid (FAFSA) by October 2022 for the 2022-2023 school year. This could potentially happen earlier if the US Department of Education chooses. Pell Grants are a form of federal financial aid that help people with low income pay for college. In 1994, President Bill Clinton and Congress banned people in prison from receiving the grants, as part of the Violent Crime Control and Law Enforcement Act (the Crime Bill). While Pell Grants had previously funded the education of many people in prison, the ban ended this, causing a large number of prison education programs to shut down. Illinois currently has nine higher education programs at seven correctional institutions, but lifting the ban could lead to the creation of more programs. We do not have more Illinois-specific information at this time but will monitor the changes and will provide information as it becomes available.

## **Understanding Sentencing Credits:**

### **A Guide for Navigating Sentencing Credit in Illinois**

Provided courtesy of Illinois Prison Project

In this guide, we will describe how sentencing credit works in Illinois and explain how to determine whether and by how much



someones prison sentence can be reduced through sentencing credits.

Sentencing credit reduces the amount of time that an incarcerated person spends in prison. Credit changes the date upon which an incarcerated person will be released: for example, one month of sentencing credit would change a March out-date into a February out-date. Rules around sentencing credit are set forth in 730 ILCS 5/3-6-3, which was recently modified in the SAFE-T Act. ***Those changes, which are reflected in the explanations in this guide, go into effect on July 1, 2021.***

To find out if a persons sentence can be reduced through sentencing credit, and if so how much, this document will walk you through the follow steps:

### Step One: Statutory Sentencing Credit

730 ILCS 5/3-6-3(a)(2)-(2.6)

**What is Statutory Sentencing Credit?** By law, people serving sentences for everything but murder committed after June 18, 1998 are eligible to earn statutory sentencing credit-sometimes called good time-which reduces their prison sentences. Importantly, statutory sentencing credit is automatic. That means that incarcerated people do not need to participate in specific programs to earn it. When an incarcerated person is first admitted into the prison system, their Projected Parole Date-what we sometimes just call their out date or the date that they can expect to be released from custody-already assumes that they will receive all of their statutory sentencing credit. Credit can be taken away for disciplinary infractions, often called tickets.

Different sentences come with different eligibility to earn statutory sentencing credit, programming credit, and earned discretionary credit. There are four kinds of sentences:

**100%** People with sentences in this category must serve their sentence in its entirety. They will not be awarded statutory sentencing credit.

**85%** People with 85% sentences will automatically earn 4.5 days of statutory credit per month.

**75%** People with 75% sentences will automatically earn 7.5 days of statutory credit per month.

**Day-for-day** People serving day for day sentences will automatically earn one day of statutory credit for every day served.

**How do I determine what type of sentence a person is serving?** To determine how much a sentence can be reduced through sentencing credit, you must know two things: *1) the date of the conduct underlying the conviction, and 2) the formal offense(s) of conviction. Please search for the persons offense of conviction to determine eligibility in the table.*

Offenses that are not listed in the table below are automatically day-for-day sentences. Additionally, offenses listed in the table *but committed before the date listed* are automatically day-for-day sentences. (This is because unless and until specifically identified as requiring 100%, 85%, or 75% of the sentence to be served by the state legislature, all offenses are considered day-for-day.

**What if someone is serving on multiple counts or multiple charges?** Often, a person will be serving a sentence for two different counts in the same case, or two sentences on two different cases. The rules around sentencing credit apply to each individual count, not the sentence as a whole. Be sure to determine the category for each individual sentence *Example:* Terry is serving a 10-year sentence for armed robbery and a 10-year sentence for gunrunning for offenses committed in 2008. The sentences were imposed **consecutively**, meaning one must be served after the other. Armed robbery is eligible for day-for-day credit, and gunrunning must be served at 75%. Terry can receive 5 years of statutory sentencing credit for the armed robbery, and 2.5 years of statutory sentencing credit for the gunrunning. Without any additional credit, Terry can expect to serve 12.5 years.  
*Example:* Terry is serving a 10-year sentence for armed robbery and a 10-year sentence for gunrunning for offenses committed in 2008. The sentences were imposed **concurrently**, meaning they are served together. Armed robbery is eligible for day-for-day credit, and gunrunning must be served at 75%. Terry can receive 5 years of statutory sentencing credit for the armed robbery, and 2.5 years of statutory sentencing credit for the gunrunning. Without any additional credit, Terry can expect to serve 7.5 years.

### Step 2: Programming Credit

**What is Programming Credit?** Programming credit is credit that an incarcerated person can earn against their sentence for participating in a variety of programs, including some jobs, educational programs, and treatment programs. Different kinds of programs have different rules and will earn different amounts of sentencing credit.

#### Traditional Programs

730 ILCS 5/3-6-3(a)(4) Incarcerated people can earn one day of credit for every day they spend participating in any of the following IDOC programs, if those programs are satisfactorily completed as determined by IDOC:

- full-time substance abuse programs
- correctional industry assignments
- educational programs
- work-release programs or activities
- behavior modification programs
- life skills courses
- IDOC re-entry planning
- adult transitional programs

**What about programs completed in the county jail?** People who successfully complete a full-time, 60-day or longer program provided by the county Department of Corrections or County Jail can also earn sentencing credit. Calculation of this county program credit should be done at sentencing, and should be included in the sentencing order. People can earn sentencing credit for participation in:



## **What about traditional programming an incarcerated person has already completed?**

730 ILCS 5/3-6-3(a)(4)(B), (C), and (D)

There have been very few recent changes to the award of traditional programming credit. The biggest change was to include adult transition centers in the kinds of programs that could earn one day of credit for each day of participation. For all other programs, most incarcerated people should have already received credit.

Some people, however, may have completed programs in the past for which they did not receive credit. For example, the law recently changed to provide that many people convicted of offenses committed before June 19, 1998 are now entitled to either **45 or 90 days of sentencing credit** for programs they successfully completed before January 1, 2020, although they may not have received credit for it at the time. This includes people serving for first-degree murder who were convicted before 1998. Eligible programs are full-time substance abuse programs, correctional industry assignments, educational programs, behavior modification programs, life skills courses, or re-entry planning.

To get credit, the incarcerated person must prove that they satisfactorily completed the program. To prove that, the incarcerated person may rely on:

Documentation from IDOC that the person participated in and satisfactorily completed an eligible program;

An affidavit or other documentation from the person that they participated in and satisfactorily completed an eligible program; or

An affidavit or other documentation from a third party that the incarcerated person likely participated in and satisfactorily completed an eligible program.

Sometimes there are disagreements between the incarcerated person and IDOC about how much time had been earned. If IDOC provides documented proof of a lesser amount of days of participation in those programs, that proof controls. If IDOC provides no documentary proof, the incarcerated person's proof (i.e., affidavit or other documents) controls.

*A note about seeking credit for programs completed before 2020:* For those seeking sentencing credit for programs completed before 2020 who are required to register as sex offenders, they must either have completed or be participating in sex offender treatment before applying for credit for a program completed before 2020. If they are waiting to receive treatment, but are unable to do so due solely to the lack of IDOC resources, IDOC may waive this requirement.

## **What if an incarcerated person starts a program but has to stop? 730 ILCS 5/3-6-3(a)(4)(D)**

If an incarcerated person starts an educational, vocational, substance abuse, work-release programs, behavior modification program, life skills course, re-entry planning, or correctional industry programs but cannot complete it because of illness, disability, transfer, lockdown, or another reason outside of their control, they shall receive prorated sentence credits for the days in which they did participate.

## **Degrees and Diplomas**

730 ILCS 5/3-6-3(a)(4.1)

Incarcerated people can earn sentencing credit for earning their G.E.D. and/or a college degree. New changes in the law allow people to receive credit for their degrees whenever they were earned, and to receive credit for an Associates Degree. Credit is available to people who earn their diploma or certificate in custody *or* in pre-trial detention on the current case.

**GED** - Incarcerated people who earn their G.E.D. or high school equivalency can earn 90 days of sentencing credit, in addition to any other sentencing credit.

**Associates Degree** - Incarcerated people who earn their Associates Degree can earn 120 days of sentencing credit, in addition to any other sentencing credit.

**Bachelors Degree** - Incarcerated people who earn their Bachelors Degree can earn 180 days of sentencing credit, in addition to any other sentencing credit.

**Masters Degree** - Incarcerated people who earn their Masters Degree can earn 180 days of sentencing credit, in addition to any other sentencing credit.

**Professional Degree** - Incarcerated people who earn their Professional Degree can earn 180 days of sentencing credit, in addition to any other sentencing credit.

## **Other Programming**

730 ILCS 5/3-6-3(a)(4.2)

Changes to the law now allow incarcerated people to earn .5 days of credit for other work, including:

self-improvement program

volunteer work

work assignments that are not otherwise eligible activities

**Day-for-Day** People who are eligible for day-for-day credit are able to earn programming credit without restriction.

*Example:* Terry has been sentenced to 60 months for an offense that is eligible for day-for-day credit. Terry will receive 30 months of statutory sentencing credit, resulting in 30 remaining months. There are no restrictions on how much additional programming credit Terry can earn.

**75%** People in this category are able to earn programming credit as long as they serve 60% of their sentence, unless they have been convicted of gunrunning committed after August 13, 2007. People convicted of gunrunning must serve 75% of their sentence.

*Example:* Terry has been sentenced to 60 months for an offense that requires that they serve 75% of their sentence. Terry will receive 15 months of statutory sentencing credit, resulting in 45 remaining months. Because Terry must serve at least 36 months (60 x .60), Terry

may earn up to an additional 9 months of programming credit

*Example:* Terry has been sentenced to 60 months for an offense that requires that they serve 75% of their sentence. Terry received 15 months of statutory sentencing credit, but lost 6 months of that credit through good time revocation, resulting in 51 remaining months. Terry must serve at least 36 months ( $60 \times .60$ ), which would mean that Terry can earn up to 9 months of programming credit, but in this case Terry can earn up to an additional 6 months, for a total of up to 15 months of programming credit (because even if they earn 15 months of programming credit, they will still have served 60% of their original sentence).

*Example:* Terry has been sentenced to 60 months for gunrunning that requires that they serve 75% of their sentence. Terry received 15 months of statutory sentencing credit. Because Terry must serve at least 45 months ( $60 \times .60$ ), Terry is not eligible for programming credit.

**85%** People in this category are able to earn programming credit as long as they serve 85% of their sentence

*Example:* Terry has been sentenced to 100 months for an offense that requires that they serve 85% of their sentence. Terry will receive 15 months of statutory sentencing credit, resulting in 85 remaining months. Because Terry must serve at least 85 months ( $100 \times .85$ ), Terry is not eligible for programming credit.

*Example:* Terry has been sentenced to 100 months for an offense that requires that they serve 85% of their sentence. Terry received 15 months of statutory sentencing credit, but lost 6 months of that credit through good time revocation, resulting in 51 remaining months. Because Terry must serve at least 85 months ( $100 \times .85$ ), Terry may earn up to an additional 6 months of programming credit.

**100%** People in this category are not able to earn programming credit.

*Example:* Terry has been sentenced to 20 years (240 months) for an offense that requires that they serve 100% of their sentence. Terry is not eligible to earn programming credit.

### **Step 3: Earned Discretionary Sentencing Credit**

730 ILCS 5/3-6-3(a)(3) and 20 Ill. Admin. Code 107.210

Earned Discretionary Sentencing Credit (EDSC) is additional credit that IDOC can award incarcerated people. Whether a person is eligible for EDSC depends on what the person is incarcerated for and for how long they have been incarcerated. EDSC is discretionary; IDOC can consider many factors in deciding whether to award it.

#### **Who is eligible for EDSC?**

Anyone is eligible for EDSC if they;

Have already served 60 days of incarceration

Serving a sentence for anything other than murder or terrorism

Has received an IDOC risk/needs assessment or other relevant evaluation or assessment

Has met the eligibility criteria established by rule for earned sentence credit

Is in compliance with IDOC rules and regulations

Are determined by IDOC to be of service to IDOC, service to a community, or service to the State.

#### **Disqualifying Events**

Incarcerated people are not eligible for EDSC if they have:

Been found guilty of, or has a pending charge resulting from, a criminal offense committed during his or her current term of incarceration.

Had a 100-level ticket during the last 12 months

Been sentenced to a term of natural life or has been sentenced to death

Been sentenced for first degree murder or for the offense of terrorism

#### **How much EDSC can someone receive?**

People serving sentences less than five years are eligible to receive up to 180 days of EDSC. People serving sentences of five years or longer are eligible to receive up to 365 days of EDSC.

#### **Who is eligible for EDSC?**

730 ILCS 5/3-6-3(a)(4.7)

An incarcerated persons ability to earn programming credit as described below will depend on their credit category, as outlined in Step One.

**Day-for-Day** People who are eligible for day for day credit are able to earn up to 180 days of EDSC if they are serving a sentence of less than 5 years, or up to 365 days of EDSC if they are serving a sentence of 5 years or longer.

**75%** People in this category are able to earn EDSC as long as they serve 60% of their sentence, unless they have been convicted of gunrunning. People convicted of gunrunning must serve 75% of their sentence.

**85%** People in this category are able to earn EDSC as long as they serve 85% of their sentence (but in practice, that may mean that many people serving at 85% cannot benefit from EDSC).

**100%** People in this category are not able to earn EDSC.

### **Step 4: Additional Requirements for Special Situations**

Some incarcerated people will need to participate in and complete specialized treatment before they are eligible to earn programming credit or earned discretionary sentencing credit.

#### **Substance Abuse**

If the courts sentencing order recommends substance abuse treatment and the offence was committed on or after September 1, 2003, the incarcerated person must complete substance abuse treatment to be eligible for EDSC. IDOC has waived that requirement if it finds that the incarcerated person is not a good candidate for medical, programming, or operational reasons.

If treatment is not available and the requirement to complete the treatment has not been waived by IDOC, the incarcerated person shall be placed on a waiting list. While on the waiting list, the incarcerated person may be permitted to participate in and complete a substance abuse education class or attend substance abuse self-help meetings in lieu of a substance abuse treatment program, but that is at IDOCs discretion.

### **Sex Offenses**

To be eligible for EDSC, people convicted of sex offenses must either have successfully completed or be currently participating in sex offender treatment OR receive a waiver from IDOC based on a lack of IDOC resources. Waivers are at the sole discretion of IDOC.

*Last Updated July 2021*

## **FROM THE DESK OF**

### **Jobi Cates, Executive Director**

Im writing this with my recently-broken leg propped up on some pillows. For stress relief during the pandemic, I took up long walks in the morning, eventually adding photography to the routine. Even more recently, I started exploring different forest preserves and state parks. Last weekend, I was trying to take a photograph of a lovely deer on the opposite side of a stream from where I was standing in a Cook County Forest Preserve in Morton Grove. I lost my footing, and down I went! I made it to the hospital and got it all taken care of, and now I am home resting. We often hear everything happens for a reason. I am not sure if that is the case, but I have found I am happier when I take advantage of even the seemingly bad things that happen. I can appreciate how lucky I am to have access to health care. And I can practice gratitude for the privilege of having full use of my legs; my freedom to move around my home, and to enjoy nature. Being grounded is also an opportunity to catch up on things I had been neglecting while out on my walks, such as reading, craft projects, and family time. Finally, after a very long 16 months, before my injury I was able to take advantage of IDOC visitation opening back up. It was a relief to see my loved one was well, and to get a big hug. I know this has been a hard in many cases the hardest year for many of you, of us. I hope that even in dark times there is some kindness, some relief, and some hope in your day. Like all of us at Restore Justice, I am happy to wake up every day knowing I get to work to reduce long-term incarceration.

### **Julie Anderson, Outreach Director**

We are hopefully nearing the end of covid and the pandemic. I want to personally thank each of you that received the vaccine. I know there are many mixed emotions and messages and theories circulating. The staff at RJ has fully embraced the vaccine, we feel that any issues or complications are overcome by the greater good it will do. I want visits to return, I want all of you to be able to go to the yard, resume your jobs and if available attend classes. I have always been an outgoing person, and working from home and not seeing the people I love was difficult for me. As I read your letters and emails I was humbled, so many of you wrote about the real fear of covid in prison, and about your fears for your mothers, fathers, grandmothers and all of your loved ones. How worried you were about them, some of us were cut off from communicating with each other for days and even weeks and it was tough. As you read this letter you can see that legislatively it was also a tough year. On a brighter note we did get our Point of Contact Bill Passed, this is the first step in acknowledging that your loved ones matter, if visiting issues arise they will have a contact person in Springfield. You matter to us, I know we have a long road ahead of us to just return to what we had before the pandemic hit, but know we are here for you.

### **Lindsey Hammond, Policy Director**

Hello! I joined Restore Justice as the Policy Director during the middle of the spring legislative session in March. We had a successful session, especially considering that we had to advocate remotely. Now that session is over, Ill be continuing to get to know the wonderful people that make up the Restore Justice family and focusing on our remaining legislative priorities. I am excited to be part of the Restore Justice team to advocate for reform with you and your families. Before joining Restore Justice, I worked on criminal legal reform, including ending money bond and Truth In Sentencing, as well as restoring rights and opportunities for people with criminal records. As Illinois reopens, I look forward to working with people in person again, meeting with state legislators in their district offices, and, hopefully, visiting with some of you! Please know that I am thinking of you. I hope you and your loved ones are staying safe and healthy.

### **Alissa Rivera, Communications Manager**

Hello! I hope things are safer and calmer for you than they were the last time we sent our newsletter. It has been a scary year, and our teams thoughts have been with you. Hopefully, things will continue to get safer. We are starting to plan to return to the office; I will be grateful to see everyone in person. With the busy legislative session behind us, we are focused on building support for our policies. I am working with some of our incredible interns to tell the stories of people convicted through accountability. If you were charged through accountability and would like to share your story, we included the information above. Know that we are thinking of you this summer.

### **Wendell Robinson, Program Manager**

Hello Again! As always, I give it to you as I see it. So in this entry Ill be talking about FLAP, the Future Leaders Apprenticeship Program, particularly James Swansey and Harold HagermanFLAPs two current participants. I chose to speak about Mac and Swan because I think you all need to hear how well our brothers are doing after long-term incarceration. FLAP is a Restore Justice program that allows individuals to come in after serving lengthy sentences and learn about the non-profit space. We provide integrated training so that participants can understand Restore Justice workings in this space. On many occasions, Ive found myself marveling at how well these guys are taking to this work. Its amazing how natural both of these guys are gravitating towards their prospective areas. James is focused on policy, and Harold is focused on mentorship. I certainly never doubted them, but I am just paying homage to some exceptional individuals. I make mention of this platform because I want this space to really grow. I want it to grow so that when

incarcerated individuals gain their liberation we have a space for testimony, a space where your voice can be heard, appreciated, and, in some instances, revered. We envision building out FLAP to really aid in this criminal justice reform battle. Imagine being able to provide for yourself purely based on your incarceration. Yes, our lived experience of incarceration lends us a level of expertise that can't be simulated anywhere else. It's on us to learn how to convey our pain, our struggles, and our accomplishments while incarcerated. Please believe RESILIENCE is still the name of the game! Until next time forever in Solidarity Wendell

*More about FLAP:*

FLAP is a 20-week comprehensive apprenticeship program for formerly incarcerated individuals in Illinois who served lengthy adult sentences (20+ years) as youth. Participants will receive a combination of on-the-job training at Restore Justice and related academic instruction to develop and build skills for careers in nonprofit management, advocacy, or other social justice related occupations. Specifically, participants will receive the following:

#### **Alice Swan, Office Manager**

Hi all, I hope many of you have been experiencing some semblance of return to normal with the recent downturn of COVID cases (I'm too paranoid to declare it over yet!) I am looking forward to returning to our office this summer and getting to see my colleagues in person again instead of just on screens. This springs legislative session was my first real session with RJ, and it was fascinating to be able to watch committee hearings and floor debates online while working on my everyday admin tasks. I've been busy onboarding our growing staff and having our financial records from the last two years audited (this is a standard non-profit procedure to show donors that we were fiscally responsible, not because the IRS suspects us of anything). Our team hasn't rested for a single day since the session ended; they are already hard at work on summer plans to position our agenda for next year's session.

#### **Nelson Morris, Program Associate**

Hello it is so good to have this moment with you all, my brothers and sisters. It has been almost 11 months since I've been released from prison. And basically the same length of time I've been working for Restore Justice and nothing brings me more peace than knowing I am a part of this team of advocates who give their all to fight for your best interest. Hopefully Covid is in our rearview and we can move on in more effective ways to help you. I know first hand how you feel so stay strong and motivated.

#### **Kayla Rueda, Policy Associate**

Hello everyone! I hope you all are doing better since we last spoke. I know this year has been extremely challenging for many of you, and I hope that some sense of normalcy is beginning to return. Now that the legislative session has come to an end, I'm excited to work together with the rest of our Policy team on our path forward in the upcoming year. There are a lot of great policies and ideas in the works! I've also been busy working on our Womens project. If you returned a survey to us, thank you so much for participating. I have read every letter that has been sent to me; they have been really helpful and insightful. We are working on sending another round of surveys and information to the women in that project, so please be on the look-out. Please continue to stay well during the Summer.

#### **Harold Hagerman, 2021 Future Leadership Apprentice**

Wow what a difference a year makes. Just as I was sitting here contemplating what words of encouragement and inspiration I could offer my incarcerated brothers and sisters, it dawned on me that just barely over a year ago, I myself was sitting on a bunk reading newsletters such as this one; and now here it is 14 months later and I'm submitting an entry of my own from a computer at a desk in an office downtown! [Ok well not quite, we're still working remotely due to the pandemic, but you all get the picture!] (smile) The funny thing is, I remember how I felt when I read the very first submission from the desk of my brother Mr. Wendell Robinson. That feeling of elation was indescribable; because not only is he one of my closest friends, but we were also former cell mates, at a time when he had natural life without the possibility of parole and I was serving a 61 year sentence. Yet, we both somehow always knew that our stories wouldn't end that way; that our lives had a greater purpose. So the thought that someone, somewhere, is sitting on their bunk right now reading this and feeling the exact same way that I felt, is the very reason why we work so fervently everyday to change the narrative when it comes to long term incarceration, and to prove the value and importance of second chances.

I swear it feels like just yesterday; I was waking up every morning looking forward to either going to the yard, going to my assignment, or going to chow. Now me and my fellow returning citizens wake up every morning looking forward to using our voices and lived experience as a platform to advocate for change within the criminal justice system, and to completely alter society's perception of individuals who have served, and are serving, extreme prison sentences. Wow what a difference a year makes.

#### **James Swansey, 2021 Future Leadership Apprentice**

I smile as I write this! For those of you guys that know me, you know why, for those that do not. This is my first chance to extend a hand to all, not just those that know me. And those that know me, know that is me. I love the space that I am in right now because I am still in the fight for the betterment of the homies, and getting the chance to do the right thing the right way, all while living life to the fullest!!! So much to be grateful for, and now so much time to do it. In short I recently came home December 9, 2020, I am a juvenile lifer that has been given a second chance. With that chance I have hit the ground running, and now have the chance to really make a difference for everyone who has experienced what I have in some form or fashion. And just so you know, there is a lot of hard work, and time put into the fight to assist us in our path to reenter society with better chances, and not only better opportunities, but more positive ones. So my advice to all as a fairly new citizen, stay hopeful, get yourself together mentally by taking responsibility for yourself, and know that the best way to get out of the system is to want to get out. Take care of yourself and stay safe.

#### **Greetings from our SUMMER INTERNS!**

**Sydney:** Hi everyone! I am going into my third year at the University of Minnesota Law School where I study human rights. I grew up in Minnesota and attended DePaul University for undergrad where I studied Criminology, Sociology, and Womens and Gender Studies. While in Chicago, I worked at Voice of the People promoting quality, safe, and affordable housing for low-income families. I also

provided pro bono legal services in Panama and studied systemic discrimination in Germany. In law school, I have further developed my passion for human rights work through volunteering as a court observer in cases involving women and children to improve the judicial system. Last summer, I worked for the Center for Disability and Elder Law in Chicago serving low income elderly and disabled individuals. For the last year I have worked as a student attorney representing Indigenous families in Minnesota in child custody proceedings. I am thrilled to be at Restore Justice as I have always wanted to work on criminal legal reform. After living through George Floyd's murder and subsequent racial justice revolution in Minneapolis, I want to continue my advocacy this summer. I believe in abolition and a complete overhaul of our criminal legal system. I look forward to working with Restore Justice and all of you.

**Zufan:** Hi! My name is Zufan and I'm a rising senior at Smith College in Northampton Massachusetts. I am studying Sociology with a concentration in Community Engagement and Social Change (CESC). I'm passionate about community youth engagement and social justice especially as it relates to education. Before Restore Justice I interned at an afterschool program called Project Coach where I helped tutor/mentor young people. I'm super excited to work with Restore Justice and all of the wonderful people over the summer.

**Anna:** Hi everybody! My name is Anna, and I am going into my third year at Tulane University studying Computer Science and Sociology and minoring in Political Science. I am originally from just outside of Chicago and have worked in various organizations and capacities over the past several years researching and advocating for criminal legal system reform, so I am passionate about the work of Restore Justice. I feel very privileged to get to work in this position! Outside of this work, I am also passionate about cooking as well as writing, including short stories, academic pieces, and poetry. I am excited about my time with Restore Justice this summer and look forward to contributing to the research, storytelling, and advocacy efforts of this amazing team!

**Katie:** Hi everyone, my name is Katie. I'm from southern New Mexico. I will be starting my final year at Swarthmore College this fall where I am studying Peace & Conflict Studies, Psychology, and Education. Before coming to Restore Justice I was working with the Petey Greene Program, tutoring incarcerated individuals in Pennsylvania. I am so excited to be working with Restore Justice, where I will primarily focus on legislative research. I hope to continue uplifting the voices of folks who are incarcerated and advocating for, both restorative and transformative justice.

**Rachel:** Hi Y'all, I'm Rachel! I live in Florida, about an hour north of Miami. I am currently pursuing my masters degree in criminology and criminal justice at Florida Atlantic University, where I also earned my bachelors degree in criminal justice. I currently work for Pretrial Services as an interviewer. Before that, I was working for the Public Defenders Office of the 15th Judicial Circuit in Florida as a bond specialist, helping people detained pretrial in the county jail post their bonds by contacting their families and friends to prevent them from being detained pretrial for the duration of their case. I am extremely passionate about criminal justice reform and advocating for those who can't advocate for themselves. For my research project, I am analyzing felony disenfranchisement policies from various states and voting in prisons, which is something I am very passionate about. When I'm not studying or working, I am playing with my dog Luna or watching Law and Order SVU.

**Julia:** Hi! My name is Julia and I just recently graduated from the University of Wisconsin-Madison with a degree in Community and Nonprofit Leadership, and two minors in Criminal Justice and Public Policy. Ever since an introduction to criminal justice course my freshman year of college, I knew I needed to be involved in changing the criminal justice system as it is. Last summer I was an intern with the Baltimore Office of the Public Defender, and while I learned a lot, I realized law is not what I want to study. This August I will be moving to Boston to work towards my Masters in Public Policy, where I will be concentrating in social policy. I am incredibly grateful to be interning with Restore Justice this summer, I am currently researching the history behind truth in sentencing laws in Illinois and the impact that truth in sentencing has had. Outside of work, I am excited to be vaccinated and spending time with family and my labrador retriever Olive, and reading some new books this summer. Thinking of you all.

**Ally:** Hi everyone! I am a rising senior at University of Michigan, where I am studying sport business and social work. I just started as a summer intern with Restore Justice last week, and I am so excited about the opportunity to support all of RJ's initiatives to make meaningful changes to the criminal legal system in Illinois. I am from outside of Chicago in Evanston, so I am really looking forward to working with a local organization. I will primarily be focusing on policy research, donor outreach, and helping plan RJ events. I have previously helped facilitate creative writing, theater, and visual art workshops with artists who are incarcerated in various facilities around Michigan. I also worked with a national advocacy organization last summer called the Justice Arts Coalition that works to showcase the talent and creativity of folks in prison. I am passionate about ending mass incarceration and promoting policies and initiatives that are truly effective in doing so, because I believe we are all capable of redemption and deserve second chances. We have all done things we aren't proud of, and we all deserve a chance to make amends, be forgiven, and not be defined by our worst mistakes. I hope to support y'all in any way I can.

**Lindsay:** Hello all! I am a rising senior at Stanford University where I'm majoring in Political Science and minoring in Human Rights. I am incredibly passionate about criminal justice reform and ending mass incarceration. In previous summers I have interned with the Arizona Justice Project, which is a chapter of the nationwide Innocence Project, and Alliance for Safety and Justice, a multi-state organization working to replace over-incarceration with more effective public safety solutions. At Restore Justice, I will primarily be researching unfair plea bargaining practices in Illinois, with the aim of curating a resource for individuals who are experiencing these practices as well as their loved ones. Have courage, stay safe, and know that each and every one of you is valued by all of us fighting to change this system.

**Clare:** Hey all! My name is Clare and I just graduated from Wesleyan University in Connecticut where I studied Spanish and Cultural Anthropology. I recently joined the Restore Justice team for the summer and am really excited to be doing this work. In my time at college, I was exposed to a lot of education and conversations about US policing and prison systems that really changed the way I view public safety and carceral systems. I am passionate about grassroots activism and community building, which to me means tearing down systems of harm while also building up healthy, loving communities. I was born and raised here in Chicago and use my free time trying to support community activism, cooking and eating with my family, and going for bike rides along the lake.

**Jane:** Hi there! My name is Jane and I'm a rising junior at DePaul University where I am currently studying communication and media as well as graphic design. I have been using my time with Restore Justice to create engaging social media posts to reach a greater number of people. I am very passionate about human rights and social activism in addition to my love of art and design, so my goal is to

communicate and break down laws, practices, circumstances, and more in order to create a greater awareness and understanding of the criminal justice system in Illinois and what Restore Justice does. I have already learned a lot in the short time I have been interning here, and I hope to share that knowledge and information with people who are potentially less aware of such issues. Change starts with awareness, and I intend to create plenty of awareness.

How do I sign up my Fiance for this newsletter there is useful information in it that he would like to hear about.

Please email [info@restorejusticeillinois.org](mailto:info@restorejusticeillinois.org), and we will add him!

This is an outstanding newsletter, so clear and informative, thank you!! I'm making a note to share these newsletters with my classes, when we cover these issues.

Thank you for sharing, Christina! Glad it is informative!

Restore Justice Foundation  
PO Box 101099  
Chicago, IL 60610

First Name

Last Name

Email address:

Street Address

City

State

ZIP

Country

United States

2020 Restore Justice & Restore Justice Illinois. All Rights Reserved.

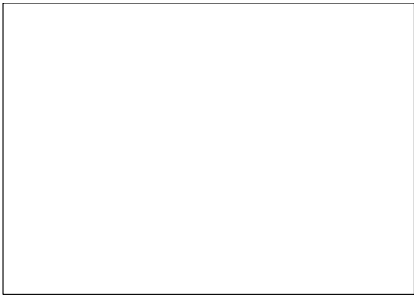
Please leave us a message and we will respond as soon as possible.

**Your Name (required)**

**Your Email (required)**

**Your Phone Number**

**Your Message**



Submit your email address to be notified of crucial legislative action items, fundraisers, and news about our progress.

[mc4wp\_form id="18939"]