

Restore Justice Foundation

Criminal Justice Issues and Prisoners' Rights

<https://restorejustice.org/about-us/resources/know-more/know-more-de-facto-life-sentences/>

Policy Issue Resources

The criminal legal and prison systems in Illinois can often feel like a jigsaw puzzle, full of interlocking laws, policies, and eccentricities that can be overwhelming even to experienced advocates. Restore Justice publishes a series of [Know More](#) posts. Each post will provide a straightforward overview of a different aspect of the Illinois criminal legal system.

In 2019, the Illinois Supreme Court ruled more than 40 years serves as a de facto life sentence for people younger than 18. In [People v. Buffer](#), the Court held 41 years or more amounts to a life sentence for a child, allowing some people serving extreme prison terms for youthful convictions the opportunity to seek new sentences.

De facto life sentences (also known as virtual life sentences) refer to non-life sentences that are so long the sentenced person will likely die or live out a significant majority of their lives before they are released.

As mentioned above, the Illinois Supreme Court established more than 40 years as a de facto life sentence. (The [United States Sentencing Commission](#) defines the cutoff for de facto life at 470 months, just shy of 40 years.)

In 2009, the US Supreme Court ruled in [Miller v. Alabama](#) that sentencing people younger than 18 to mandatory life without the possibility of parole was unconstitutional. While the interpretation was narrow, the ruling has allowed people in Illinois serving life in prison for crimes that happened when they were children to be re-sentenced and in many cases released. The *Buffer* ruling has extended these *Miller* protections and allowed some people sentenced as children to more than 40 years the opportunity to seek new sentences.

However, there are **hundreds of people in Illinois sentenced for crimes that occurred when they were emerging adults (18 20) who continue to serve non-life sentences of 40, 60, or more than 100 years.** A case pending before the Illinois Supreme Court could potentially allow people serving de facto and natural life sentences for crimes that occurred when they were 18, 19, and 20 to seek new sentences.

In [People v. House](#), an Appellate Court decided a life sentence given to a 19 year old violated the proportionate penalties clause of the Illinois Constitution. The Court said, The designation that after age 18 an individual is a mature adult appears to be somewhat arbitrary, especially in the case at bar. The Court ruled the 19 year old, Antonio House, should receive a new sentencing hearing. Illinois Attorney General Kwame Raoul appealed this decision and asked the states highest court to uphold the life sentence; the Illinois Supreme Court is expected to rule in 2021.

Previously, in 2018, in [People v. Harris](#), the Illinois Supreme Court said emerging adults have the right to challenge de facto life sentences as unconstitutional under the Illinois Constitution. Darien Harris received a 76-year sentence for a crime that happened when he was 18. The Court did not declare his sentence unconstitutional but did say Harris should file a post-conviction petition explaining how brain development science applies to his circumstances.

At our core, Restore Justice believes in second chances. For that reason, and wherever possible, we advocate for legislative changes that would bring relief to all individuals serving extreme sentences, up to and including those serving life without parole.

Other reform and advocacy organizations use different definitions for de facto life. The **Sentencing Project**, for instance, defines virtual life at fifty years: for national statistics, check out their [broad look at extreme sentences](#).

Linked Sources

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Nellis, A. (2017). Still Life: Americas Increasing Use of Life and Long-Term Sentences. Washington, DC. The Sentencing Project. Retrieved from <https://www.sentencingproject.org/publications/still-life-americas-increasing-use-life-long-term-sentences/>

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