HOUSE DEMOCRATIC POLICY COMMITTEE HEARING

Topic: House Bill 2135
Temple University – Philadelphia, PA
September 13, 2016

AGENDA

10:00 a.m. Welcome and Opening Remarks

10:10 a.m. Panel One:

- **Ron Waters**
  Former Member of Pennsylvania House of Representatives

- **Kariymath McClary**
  Representative from Fight for Lifers

- **Peggy Simms**
  Executive Director of Sisters Returning Home

- **William Cobb**
  Founder of Redeemed PA

11:00 a.m. Panel Two:

- **Kimberly King**
  Community Advocate

- **Dr. Lloyd Thomas Reid**
  Founder of NuStop Recovery Educational Center

- **Penny McDonald**
  Representative from Community Forgiveness and Restoration

- **Tracey Fisher**
  Founder of Gateway to Re-Entry

11:50 a.m. Closing Remarks
House Co-Sponsorship Memoranda

House of Representatives
Session of 2015 - 2016 Regular Session

MEMORANDUM

Posted: May 25, 2016 04:21 PM
From: Representative Jason Dawkins
To: All House members
Subject: Parole Eligibility Expansion for Life Sentences

In the near future, I will be introducing a bill that will abolish life without parole in Pennsylvania and extend parole eligibility to those sentenced to life imprisonment.

Few other nations authorize life without parole (LWOP). Only three European nations have laws permitting life sentences for which the only mechanism for release is executive clemency. There may be as few as 100 inmates serving LWOP in Europe. Additionally, many countries in Latin America and Asia do not have LWOP as part of their penal code. Even among those countries that do impose LWOP, the United States does so far more often than any other. Pennsylvania had the second highest LWOP population in the nation as of 2008.

All life sentences in Pennsylvania are imposed without the possibility of parole. This means that individuals sentenced to life imprisonment may not be considered for parole, no matter how much they have reformed themselves and no matter how unlikely they are to reoffend. Those sentenced to LWOP in Pennsylvania also have no chance at release when they grow so ill or elderly they pose little to no risk to the public. Not only does this represent an injustice to an individual who is a model inmate despite having no chance at life outside of prison, but it also creates an avoidable expense for the corrections system — and the taxpayers who fund it — by incarcerating individuals longer than necessary.

My legislation permits an individual sentenced to life imprisonment under the laws of this Commonwealth to be released on parole after spending at least 15 years in prison. It also extends parole eligibility retroactively to those sentenced prior to the effective date of the legislation. My bill creates no right to parole, and it will not allow our most dangerous inmates to go free. Our Board of Probation and Parole will continue to responsibly reject requests for parole from those who do not deserve it, or who present too great a safety risk to the public.

Please join me in co-sponsoring this legislation so that we may give the Board of Probation and Parole discretion to consider the circumstances of each inmate serving a life sentence.

Introduced as HB2135
AN ACT

Amending Titles 18 (Crimes and Offenses), 42 (Judiciary and Judicial Procedure) and 61 (Prisons and Parole) of the Pennsylvania Consolidated Statutes, in authorized disposition of offenders, further providing for sentence of persons under the age of 18 for murder, murder of an unborn child and murder of a law enforcement officer; in sentencing, further providing for sentences for second and subsequent offenses; and, in probation and parole, further providing for parole power.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 1102.1(a) and (d) of Title 18 of the Pennsylvania Consolidated Statutes are amended to read:

§ 1102.1. Sentence of persons under the age of 18 for murder, murder of an unborn child and murder of a law enforcement officer.

(a) First degree murder.—A person who has been convicted after June 24, 2012, of a murder of the first degree, first degree murder of an unborn child or murder of a law enforcement officer of the first degree and who was under the age of 18 at the time of the commission of the offense shall be sentenced as follows:
including:

(i) Age.
(ii) Mental capacity.
(iii) Maturity.
(iv) The degree of criminal sophistication exhibited by the defendant.
(v) The nature and extent of any prior delinquent or criminal history, including the success or failure of any previous attempts by the court to rehabilitate the defendant.
(vi) Probation or institutional reports.
(vii) Other relevant factors.

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Section 2. Section 9714(a)(2) of Title 42 is amended to read:

§ 9714. Sentences for second and subsequent offenses.

(a) Mandatory sentence.--

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(2) Where the person had at the time of the commission of the current offense previously been convicted of two or more such crimes of violence arising from separate criminal transactions, the person shall be sentenced to a minimum sentence of at least 25 years of total confinement, notwithstanding any other provision of this title or other statute to the contrary. Proof that the offender received notice of or otherwise knew or should have known of the penalties under this paragraph shall not be required. Upon conviction for a third or subsequent crime of violence the court may, if it determines that 25 years of total confinement is insufficient to protect the public safety,
Section 4. This act shall take effect in 60 days.
James Frazier DF-7876  
SCI Dallas  
1000 Follies Road  
Dallas, PA 18612  
August 8, 2016

Dear Representative Kinsey:

My name is James Frazier and I am an inmate at SCI Dallas, serving a life sentence.

First and foremost I would like to mention my utmost appreciation for you, Rep. Kinsey, Rep. Dawkins, all those in attendance, and everyone involved in the fight to rid our society of this new age caste system known as "mass incarceration."

Like so many sentenced to life without the possibility of parole - Aka- "Death" without the possibility of "Life" in the state of Pennsylvania, I came to prison at an early age (22). And like many of my counterparts as a youth, was shaped by a culture of poverty, drug addiction, violence, and the many other ills affecting our society which are known to motivate negative and illegal acts by our immature behavior which become normal and learned during most of our earliest social institutions (i.e. our household, schools, neighborhoods, etc.) were and still are abnormal, in reality. These abnormal norms are often, if not in every instance, lead to traumatic and highly influential behavior and thinking of the youth.

This bill, if passed, can only deal with the end result of the problems that our communities face. However, this bill would give "Life" a chance and aid in bringing about an end to a cycle. It would give reverence to the idea that not everyone is condemned forever by one horrible, reprehensive act. In no way would this bill excuse anyone from taking the life of a fellow human being. There has to be harsh punishments for taking the life of another.

There were factors considered by the legislators when enacting the sentence of "life without parole" two of which were: 1) deterrence and 2) rehabilitation. It is apparent that issuing a life sentence is not effective and does not deter individuals from committing crime. To that end, can "ANYONE" sentenced to life without parole "EVER" be rehabilitated? Before the juvenile ruling everyone was condemned to life without parole. But because of the progressiveness of the ruling it was noted that rehabilitation was possible for those who committed such crimes at an early age. When in reality, anyone stands a chance of regaining maximum self-sufficiency, and being an asset to his community. However, as it stands, Pennsylvania does not recognize the progression or mitigating circumstances for those who are convicted of first or second degree murder.
When speaking about rehabilitation we must ask ourselves: "What does rehabilitation look like"?

As for myself...I can make my own case but I'll allow my beautiful wife to say a couple of choice words about me if she so pleases. I will say that I have been blessed to have her as she has aided me in paying for and receiving a diploma from Blackstone career institute for a legal assistant/paralegal course, diplomas from Stratford career institute for psychology/Social Work and nutrition/fitness. And I'm currently enrolled in a business course at Stratford career institute. However, we must understand that not everyone is afforded such opportunities. Correctional facilities in Pennsylvania do not provide much free education for those individuals with life sentences.

Again I'd like to thank everyone here today.

Respectfully submitted
James Frazier
Testimony for Public Hearing

State Democratic Policy Committee

For House Bill

NO. 2135

Good Morning, Mr. Chairman and members of the Committee

My name is Peggy Sims, Director of a mentoring program called Sisters Returning Home. Which assist women returning from prison back into the community.

I am here today in support of House Bill 2135.

I have worked in the community as a committee person for 30yrs. I have advocated for men, women, and families in the community for 20yr coming home from prison. In my experience I have ever seen with the support of families, mentoring programs and witness men and women turn their lives around to become productive citizens. This bill 2135 would help relieve the overcrowded prison population, and return fathers and mothers back to their children and community. The bill would give a second chance to many of the voiceless and often forgotten population.

In closing I would like to point out, over the years our society has had many changes so today I ask that we consider a second chance for our people and not throw them away.

I support this bill 2135 and thank you for your time.

Peggy Sims (Director) Sisters Returning Home
Testimonial
Florence Penny McDonald

Thirty years ago my father committed a crime and was given life in prison (20 years).

He served 15 years, and was released because of good behavior. He returned to our community and was a productive working citizen until he became ill and passed away. He was man in his early 50's, and I don't believe the DOC had rehabilitation programs like they do today. He never spoke about it, but he came home a humble and repented man. He certainly was a blessing to our family because we were able to see, touch, my father on a daily basis and receive his wisdom.

My second exposure to the DOC, was when my son, defending himself in his own home, was incarcerated for five years. It could have been longer but he was released on good behavior. He is now married with five children, has a home, with two cars, and being a productive citizen in his community.

My most impactful experience with the DOC began in 2005, while working for State Representative Ronald G. Waters. We met with a group of about 100 men, including lifers, in SCI Graterford. The men had a message they wanted to convey to the community. The message was, they repented of their crimes and were very disturbed about the horrible crimes that were being committed in there community, as well as the large amount of young men coming into the prison with the attitude that going to jail was a piece of cake or a rite of passage to manhood. We visited with them on a weekly, sometimes monthly basis working toward a unified goal to get the message out to the community that going to jail was not cool.

For over 10 years, I have worked with these men, who do not expect to return to their communities, but have dedicated their lives to improve the quality of life for the young men entering SCI Graterford who will be returning back to their communities.

Some of these young boys have left the DOC as men, because they were counseled to identify and develop coping skills from their childhood traumas, personality disorders, depression, suicide,
abandonment and separation disorders. They have been helped with career choices, parenting
skills, financial responsibility, entrepreneurial skills, and legal issues. I have work with a number
of organizations to affect positive changes in the lives of incarcerated men who will be release and
those who will not.

Below are the list of inmates-driven initiatives that I have participated for the past last 10 years:

- **Old School/New School Call Out** – Gathered over 3000 community people to hear
  the message – **End the Violence**

- **Squash it Campaign** – Dialogue for Peace Forum, which including local rap artist

  **Education over Incarceration** – going into trouble schools, with incarcerated men
  speaking directly to the students via technical audio set-up for the purpose of empowering,
  encouraging, and engaging youth about the importance of an education.

- **L.A.C.E.O.** Latin American Cultural Exchange Organization that initiated fundraising to
  give underprivileged college-bound students a $500, & $1,000.00 scholarships

- **Fathers and Children Together (FACT)** – This initiative allows fathers to spend
  quality time in a one-on-one setting with their child to discuss issues affecting their lives;
  such as education, bullying, and trauma from the pain of a child experience due to their
  father’s incarceration.

- **Community Forgiveness and Restoration Initiative (Re Entry Program)**
  This reentry initiative is made up of Clergy, Community Leaders, Community Members,
  and Rehabilitated and Transformed Incarcerated Citizens to provide resources for returning
citizen.
Philadelphia. In 2009, the School District of Philadelphia faced a projected budget shortfall of $147 million, after losing $160 million in state funding. Yet, during this same period, taxpayers spent nearly $290 million to imprison residents from just 11 Philadelphia neighborhoods, home to about one-quarter of the city's population.

As hundreds of millions of dollars are invested in incarcerating people from these select neighborhoods, the corresponding disinvestment in education in those neighborhoods is telling. Sixty-six percent of lower-performing schools are clustered in or very near neighborhoods with the highest rates of incarceration -- where the biggest taxpayer investment in imprisonment is being made. By contrast, 75 percent of Philadelphia's higher-performing schools are in neighborhoods with the lowest rates of incarceration.

What we learn from Los Angeles, Houston, and Philadelphia is that our national priorities are misplaced, and with devastating consequences. In a few select neighborhoods, the heavy investment in incarceration over education correlates with the lowest-performing schools. These neighborhoods send more individuals to prison than to college -- reflecting the pattern of dollars invested. The relationship has not yet been shown to be causal, but we do see a correlative effect between education and incarceration. If states were to properly invest in reopening schools, keeping quality teachers, maintaining sensible classroom sizes, and sustaining the affordability of higher education, it's quite possible -- particularly for economic crimes like low-level drug dealing -- we would not need to imprison so many people and could stop sinking our valuable taxpayer dollars into an investment that has demonstrated scant return.

To shift our funding priorities, national and state policy-makers will have to choose cost-effective criminal-justice policies and focus on public-safety strategies that curb crime and reserve more of our tax dollars for our children's education. Gov. Arnold Schwarzenegger of California noted in his 2010 State of the State address: "Spending 45 percent more on prisons than universities is no way to proceed into the future. ... What does it say about any state that focuses more on prison uniforms than on caps and gowns?" Only when we make meaningful investments in schools -- not prisons -- will our nation reap the benefits through increased earnings for families, reduced unemployment, increased tax revenues from more vibrant local economies, reduced reliance on public assistance, increased civic engagement, and improved public -- safety outcomes for neighborhoods at risk of violence and victimization.
FACT POINTS

SENTENCED CITIZENS
PAROLE REVIEW AND ELIGIBILITY FOR LIFE
Gerrymandering

There are a number of negative outcomes of our PA prison system such as Gerrymandering. Citizens from surrounding counties are being counted in the counties where they are imprisoned. This allowed that county to receive more education money or government benefits because of the incarcerated citizen.

http://prospect.org/

**Education vs. Incarceration**

* STEVEN HAWKINS

DECEMBER 6, 2010

More money must go to schools than to prisons before high-crime neighborhoods can truly be reformed.

Since 1980, the U.S. prison population has grown significantly, expanding from approximately 500,000 to 2.3 million people in just three decades. America now has the dubious distinction of leading the world in prison population: We account for 25 percent of all prisoners but only 5 percent of the global population. Our penchant for punishment has come at a cost. We spend almost $70 billion annually to place adults in prison and jails, to confine youth in detention centers, and to supervise 7.3 million individuals on probation and parole. Indeed, confinement costs have claimed an increasing share of state and local government spending. This trend has starved essential social programs -- most notably education.

Nearly 75 percent of imprisonment spending happens at the state level, where dollars are drawn from a general fund that is meant to pay for a range of public needs, including health care, housing, public assistance, and education. Whether we look back over the last two decades, or just the last two years, education, in particular, has become a casualty of state budget battles. Analysis by the National Association of State Budget Officers shows that elementary and high schools receive 73 percent of their state funding from this discretionary fund; colleges and universities count on the fund for half of their budgets. However, $9 out of every $10 that support imprisonment come from the same pot of money. With tens of billions of dollars in prison spending annually, states are finding that there is simply less discretionary money available to invest in education, especially in these lean economic times.
Incarceration of Tears
By Terrell Carter

The eyes of the courtroom wept streams of sunlight that filtered through the curtain cracks, highlighting a swarm of dust particles that floated lazily in the air. The movement of the dust had a slow-motion effect, and it could become hypnotizing if you stared too long. Slowly I dragged my eyes away, but I got a sensation that the sunshine was freedom and to look away would be to lose it somehow.

My eyes moved to the judge sitting high up on his throne-like bench. Wrinkles creased his forehead. He was studying some papers on his desk. All I could see were those wrinkles and the top of his balding, age-spotted head. My mind began to wander: what if I'm found guilty? I could feel the pounding of my heart as its rate increased. My mouth became bone-dry while sweat covered my palms and trickled slowly down my back. Anxiety had invited fear to take up residence within my soul, and anger was pounding on the front door. I took a quick glance behind me at the rows of seats filled with family and friends. Could my loved ones see my fear? Did my face betray my anxiety? I struggled to keep my face blank; after all, I had an image to uphold—powerful, soldier, thug, afraid of nothing, one who looks fear in the eye and spits in its face.

Always "the man," I donned my mask of indifference. I smirked, something I always do when I want to hide my fear. Right at that moment, I locked eyes with my five-year-old baby sister. She called out my name and reached her tiny arms out for me. What could I do? I couldn't go to her. I couldn't pick her up. I couldn't place kisses on her cheeks. I could feel the desperation of my tears as they struggled to be free from prison that my eyes had become. I took a deep breath and secured the locks of their incarceration, blew my baby sister a kiss, and faced forward again with my image still intact.

Not a second had passed before the judge peered over his horn-rimmed glasses. He stared at me as if he could see through me. He cleared his throat. A hush fell over the courtroom. There was no emotion in those cold, blue eyes or his voice. "Mr. Carter, would you please stand." Now not only could I feel my heart pounding, I could hear it vibrating against my eardrums. The judge continued, "I find you guilty of murder in the second degree, which carries a mandatory minimum sentence of life without parole."

The courtroom erupted into shouts and cries of despair. My father, uncles, aunts, brothers, sisters, and friends all stood. Fingers of accusation were pointed like arrows at the judge. The sudden shift in mood made the sheriffs nervous. Like the shiftiness of a hummingbird in flight, their eyes darted back and forth, searching the crowd for signs of trouble as they quickly gathered around me.

When the judge uttered those words that robbed me of my freedom, time stopped; I became trapped in that moment—not by the judge's words, but by the pandemonium in that courtroom. Now twenty years later, the commotion of that day has settled in my mind, and the judge's words of condemnation are one of two things that I remember so vividly. But at the time, those words had little impact on me, Reason being: a scream. Like the terrifying wail of an air-raid siren warning the people that bombs were dropping from the sky, a cry erupted from my mother. This scream silenced all other voices in that courtroom. It was unadulterated pain begged by tragedy that manifested in a sound I can only describe as a guttural scream soaked in wretchedness and dragged through an alley of anguish. Everything ceased to exist except my mother and me. This scream seemed to emanate from a place deep within her that only a woman who had given birth would know. Never in my life have I experienced the hurt that I felt at hearing this sound that came from the woman who kissed me on the cheek, tucked me in the bed, and chased the bogeyman away. It sliced through me, cutting me deep to my core.

The atmosphere in that courtroom was filled with sorrow, and self-pity thickened it. It became hard for me to breathe. My throat became tight and I swallowed. But at that point it was all about me. The grief in that courtroom became a coat that I cloaked myself in, shielding myself from the chill of responsibility. Why me? The DA is a racist. The judge is a racist. This wouldn't happen to me if I was white. I was so engrossed in my self-pity that I failed to take into account my actions and what part I played in the circumstances that I found myself in.

Suddenly it was as if God wanted to show me how self-pity blinded me to responsibility and that my mother's pain was an old pain and her wail was a cry that had been echoing across this land for centuries. Slowly the commotion in that courtroom began to fade. There was a white blinding light and I could feel a sensation of
disembodiment. I was floating, connected to nothing. A myriad of colors shooting past me, then, the reality that I knew was gone. I had been dropped off into a place that time seemed to forget: Gray clouds fill the skies and the rain falls in a misty haze. I stand as a child shivering in my mother's arms upon a wooden auction block. The judge now is a slave auctioneer. His cold blue eyes latch on to me, sizing me up like a calf on its way to the butcher. He sneers. There is no humanity in that sneer or those arctic seas of blue, no compassion, no mercy. Pale hands reach out. They are huge, growing larger as my fear amplifies them. I flinch right before he grabs me. His hands are cold, hard, and the calluses that cover his palms scrape against the naked flesh of my bare shoulder. I shiver from the cold of his touch and my fear. He squeezes tight and his vise-like grip sends pain shooting down the length of my arm. I cry out, but my cries are the cries of the calf being sold to the butcher. They are just noises of an animal. What does the butcher care for the cries of his food? Then I'm snatched away from the safety of my mother's arms. "We got one healthy nigger boy-child. Let the bidding began at two bits." Dozens of white faces stand in front of the auction block leering at me, and when the thick southern drawl of the auctioneer's voice commences the bidding, hands shoot in the air and competing shouts of purchase erupt from the crowd. In a matter of seconds life as I know it will be over. I will be sold to another human being who hates me, moved to a place unknown, never to see my mother again.

My mother, tears streaming down her face, reaches out for me, but her motherly instinct to protect me is answered by a savage kick to the face and an unmerciful beating. This brave African woman still cries out, not from the pain of the beating but from the agony of losing her firstborn son.

I guess God deemed my lesson learned, and it was; for I saw through the eyes of the truly condemned who bled their innocence on the wooden planks of an auction block. I could feel the pain of my ancestors who lost their freedom through no fault of their own, who, through the following centuries, paved a path with their lives so that I could be free. Free to do what though? Take for granted the lives sacrificed for my own, so that I could then relinquished the freedom that others died for? Who am I to feel sorry for myself? I'm the one who brought to life our tortured past to be relieved through the misery of a mother losing her firstborn son. It was I who opened the door of my mother's soul allowing the echoed agony of our ancestors to vibrate through her heart.

The tragedy of that auction block began to fade. God picked me up again and carried me out of that time where my predecessors lived and died as chattel.

We traveled along the echoes of a mother's cry passing through a deluge of shame that soaked me to my core. A barrage of colors passed before my eyes. There was a faint sound of voices. They became louder and, just as I realized what I was hearing, I was dumped back into the commotion of that courtroom.

At that point my mother's scream began a symphony of grief. It was a sad melody that infiltrated my entire being, building up to a havoc of dissonant chords of emotions within my soul. Tired of knocking, anger burst through the door of my anxiety, and fear. I just wanted to shout, I ain't dead y'all stop fucking crying!

At twenty-three, I just couldn't understand the enormity of the circumstance. I couldn't understand what was obvious to everyone else in that courtroom: that there now existed a very strong possibility that I would never see the outside of a prison wall again. Was I in denial? I don't think so. It was just that life-without-parole was so far outside of my life experience that I had no way knowing what it meant. To me five years was a lifetime, so the idea of spending the remainder of my life behind a prison wall was just too alien for me to understand. I was lost, my youth blinding me to the concept of time.

Instead of shouting, though, I simply dropped my head and told the sheriff, "Yo, get me the fuck out of here." The handcuffs clicking around my wrist, in a perverse way, felt comfortable because it signaled my exit out of that maelstrom of grief. A slight nudge by the sheriff and I began the long walk through that center aisle of sorrow.

I avoided looking at the faces of my loved ones. The anguish and the tears were just too much to bear. I could feel my incarcerated tears once again begin their struggle to break free from the prison of my eyes, and once again I secured their locks. I couldn't let my family see that kind of weakness in me. After all grown men don't cry, do they? I took a quick glance to my right. Oh, shit! Are those tears streaming down my father's face? Naw, that has to be my eyes playing tricks on me. I quickly faced forward again, resisting the urge to look his way again. At the time I couldn't deal with a challenge to my concept of manhood. This idea of what a man is and how he conducts himself during times of stress is what I clung to in order to maintain my composure and sanity. My machismo was my strength; the warrior in me enabled me to fight. Tears streaming down my
father's face would have destroyed this idea. The very foundation that would have given me the strength and the will to fight would be no more and I would have fallen into a black hole of despair. So instead, I kept my eyes glued to the top of the exit where portraits of old white men hung, those whose judgments populated penitentiary graveyards across the state. Who are these men? And why can't I see myself in those images. Instead, I'm reminded of the men handcuffed and shamed who've walked this path before and how they all look like me. Before I could fully explore this thought I entered the City Hall corridor.

As soon as I stepped into that hallway time slowed and a moment became an eternity. Another one of my sisters, just a few years younger than I, was doubled over in agony, sobs wracking her body and tears pouring from her eyes. Then she looked up. The hurt that was etched across her face became seared into my mind, a constant reminder of the terrible pain I caused. It was at that moment, as I locked eyes with my sister, unable to comfort her, that I realized that my life and how I lived it not only affected me but affected other people as well. My anxiety and fear were so distracted by anger bursting through the front door, that they were totally unaware when sorrow crept through the back to take sole possession of my soul. The sheriff nudged me forward again, and the tears that I had been holding prisoner finally broke free. I couldn't incarcerate them any more. Liberated, they covered my face with signs of their escape.