



SB 248

Senator Adriane Johnson

Establish Consistency: Give People Sentenced as Children a Chance to File a Petition Based on U.S. Supreme Court Ruling

In Illinois, judges must consider a person's youth during sentencing. Yet, many people are serving life without parole sentences for youthful convictions because they were sentenced before changes in the law.

Why this is a Problem:

In the 2012 ruling *Miller v. Alabama*, the **U.S. Supreme Court** announced a substantive constitutional change **requiring judges to consider age, brain development, and environmental circumstances** when sentencing people under 18. In 2014, Illinois passed bipartisan Public Act 99-0069, codifying *Miller* and expanding judicial discretion when sentencing people under 18.

Additionally, the **Illinois Supreme Court** later recognized that those youthful factors identified in *Miller* could apply to **people under 21** and that such claims are best raised in post-conviction petitions.

However, the law generally allows one post-conviction petition. It's nearly impossible to file another petition. To file more than one **post-conviction petition**, a person must first obtain the court's permission (i.e., "leave"). Leave of the court may be granted only if a petitioner demonstrates both **cause**, or the reason, for their failure to raise the claim in their initial post-conviction proceedings and **prejudice**, or a violation of due process.

As a result, people who filed their first petition before *Miller* are left unable to have their sentences reviewed under modern sentencing standards simply due to the timing of their first petition.

Solution:

SB 248 would eliminate the "cause" requirement for people under 21 to file a successive post-conviction petition claiming their sentence violates the Illinois Constitution. Petitioners must still show "prejudice" before filing a petition.

The bill does not grant a new hearing or counsel—it simply removes one of two procedural hurdles to file a successive post-conviction petition for a review of their sentence in light of the Supreme Court's ruling to consider youth.

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