February 16, 2021



7521 Main Street, Suite 103 Omaha, Nebraska 68127

(402) 597-3100

www.voicesforchildren.com

**BOARD OF DIRECTORS**

Bruce Meyers

*President*

Amy Boesen

*Vice President*

Lorraine Chang, JD

*Secretary*

Michael Beverly, Jr., MBA

*Treasurer*

Gary Bren

Wes Cole, MBA

Al Davis

Noah Greenwald, JD

Daniel Gutman, JD

Tim Hron, MA, LIMHP

Susan Mayberger, MA

Melanie Morrissey Clark

John Stalnaker, JD

Charlie Stephan

Katie Weitz, PhD

Aubrey Mancuso, MSW

*Executive DIrector*

Thank you, Chairperson Lathrop and members of the Judiciary Committee. My name is Julie Erickson and today I am representing Voices for Children in Nebraska in support of LB 34.

All children deserve society’s protection to grow into healthy, productive adults. Even children who commit serious offenses are still children, and we should respond to youth behavior in a thoughtful and effective way that preserves community safety, contributes to Nebraska’s future prosperity, and gives both children and communities the protection they need. We support LB 34 because it distinguishes youth offenses from other offenses, acknowledging that developmental factors simply make youth defendants different. Eliminating life without parole as a sentencing option for individuals up to age 21 and removing mandatory minimum penalties for certain felony offenses committed by youth up to age 21, will ensure that youth will receive access to age-appropriate, evidence-based juvenile justice measures.

Sentencing youth to life without the possibility of parole is inconsistent with empirical, evidence-based knowledge of child and adolescent development. Children and youth are not little adults. Youth have poorer impulse control, are more susceptible to peer pressure, and are incapable of weighing long-term consequences because their brains are still developing and changing, even into their twenties. For these reasons, the Supreme Court has consistently ruled that youth are less culpable for their actions and more amenable to rehabilitation, and as a result, must be treated differently.[[1]](#footnote-23421)

The Supreme Court held in 2016 and reaffirmed in 2018 that life without parole sentences as imposed by mandatory statute on a minor are unconstitutional.[[2]](#footnote-3334) Since then, however, twenty-two states and Washington D.C. have banned juvenile life without parole (JLWOP) sentences entirely as of January 2020, including: Alaska, Arkansas, California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Iowa, Kansas, Kentucky, Massachusetts, Nevada, New Jersey, North Dakota, Oregon, South Dakota, Texas, Utah, Vermont, Washington, West Virginia, and Wyoming.[[3]](#footnote-26470) Another six states, Maine, Minnesota, Missouri, New Mexico, New York, and Rhode Island do not have any individuals serving a life without parole sentence for a crime committed as a minor, though they have not banned the practice entirely. This widespread trend in banning and reducing JLWOP sentences signals a crucial normative and practical shift towards evidence-based, age-appropriate youth justice. LB 34 follows in that vein, and I would note a particular strength of the bill is its application up to age 21, which is more aligned with the science of brain development than age 18 or 19 would be.

Voices for Children also supports removing mandatory minimums for juveniles. LB 34 would take a commonsense next step to these court decisions and follow Nebraska’s recent path of legislative juvenile justice reform, by offering judges the discretion to sentence minors below statutory mandatory minimums. To be clear, judges would still have the discretion to sentence minors to lengthy sentences of incarceration if warranted. By allowing the opportunity for individualized consideration at sentencing, however, the bill comports with what we know about children’s capacity for change.

Our responsibility to protect children requires us to hold them accountable in a way that gives them the opportunity for rehabilitation, redemption, and hope for a second chance. At Voices for Children, we believe LB 34 is an important step in this work. I’d like to thank Senator Pansing Brooks for bringing it and would urge the committee to advance it.

1. *See Roper v. Simmons*, 543 U.S. 551; *Graham v. Florida*, 560 U.S. 48; J.D.B v. *North Carolina*, 564 U.S. 261; *Miller v. Alabama*, 567 U.S. 460 [↑](#footnote-ref-23421)
2. *Miller v. Alabama*, 567 U.S. 460; Montgomery v. Louisiana,136 S. Ct. 718 [↑](#footnote-ref-3334)
3. Campaign for the Fair Sentencing of Youth. Available at <https://www.fairsentencingofyouth.org/media-resources/states-that-ban-life/> [↑](#footnote-ref-26470)