

ABOUT THE LAW

In 2012, the United States Supreme Court held in *Miller v. Alabama* that it is unconstitutional to sentence a juvenile offender to *mandatory* life-without-parole. The *Miller* Court did not determine if the decision should be applied retroactively and left that question to the states. In 2013, the Pennsylvania Supreme Court decided in *Commonwealth v. Cunningham* that *Miller* was not retroactive.

In January 2016, however, the United States Supreme Court disagreed. It held in *Montgomery v. Louisiana* that *Miller* should, in fact, be applied retroactively and should therefore apply to cases decided prior to the 2012 ruling. In practical terms, this means that juvenile offenders previously sentenced to mandatory life-without-parole can seek resentencing by the trial court.

WHAT DOES THIS MEAN FOR ME?

Pennsylvania has the largest number of individuals who were juveniles at the time they committed their crimes and were later sentenced to life-without-parole (a group otherwise known as juvenile lifers). In Pennsylvania, a life sentence excludes the possibility of parole. However, if an individual's sentence is modified to make him or her eligible for parole in the future, or if an individual otherwise becomes eligible for parole consideration, the Department of Corrections (DOC) will prepare those offenders for release.

The DOC has provided each institutional law library with information relating to the *Montgomery* decision to assist offenders who may be impacted by the new ruling. If you are an offender who is eligible, these law libraries can be a resource for accessing legal documents. You may use the library resources to work with your private attorney or public defender to petition the courts for relief.

The DOC has also prioritized programming and developed detailed plans to prepare you for your possible return to society. You will face many unique reentry challenges, especially since you have been incarcerated since your youth. Much has changed on the outside since your incarceration, and the DOC is doing all it can to determine your needs, prepare you, ensure that your reentry process runs smoothly, keep you connected to appropriate treatment, and set you up for success.

FREQUENTLY ASKED QUESTIONS

What do I do now?

You will need to complete a Post-Conviction Relief Act (PCRA) form, which you or your attorney will then submit to the judge. If you are resentenced and your new minimum equals the time you have already served (or is very close to it), you will be eligible to go in front of the Parole Board. You cannot be released before your minimum has been served and your programming has been completed. The *Montgomery* decision does NOT constitute a "get out of prison free" program but offers the chance for juvenile lifers to be considered for parole. You may be eligible for parole, not be eligible for parole and have to return to prison, or be resentenced to life. The decision will depend on your case.

What role does the DOC play in sentencing or paroling decisions?

The DOC has no formal or legal role in any sentencing or paroling decisions, which are independently made by the courts and the Parole Board. In PA, juvenile lifer cases will be reviewed by the courts. The process includes input from several entities, including the DOC, sentencing judge, District Attorney, and crime victims. In the end, however, only the Parole Board decides whether those who have reached their minimum are eligible for parole.

What programs and opportunities will DOC offer to help me be successful after my release?

As a juvenile lifer, you will be prioritized for admission to recommended programs aimed to help maximize and support your success on the outside. Some of these

programs include Thinking for a Change, Violence Prevention, Batterer's Intervention, Alcohol and Other Drug (AOD) Outpatient and Therapeutic Community, Parenting, and Long-Term Offenders Programs. To help you to "catch up" to many changes that have happened on the outside since your incarceration, additional reentry workshops will be available and will include relationship, technology, budgeting, and employment workshops.

How do I continue treatment, medication, and insurance for health and mental health issues?

Medical and mental health staff will assist you with COMPASS applications and coordination of MH services upon determination of release date and prior to release.

If I am resentenced unfavorably, can I apply for commutation? Who can I call for legal advice and information?

Yes. You can apply for commutation if you are resentenced unfavorably. To do so, you will need to purchase an Application for Clemency through the PA Board of Pardons. More information is available in all institutional libraries or from your unit staff. Family members can also go to the PA Board of Pardon's website at <http://www.bop.pa.gov> to purchase an application online. Your attorney can provide additional legal advice and answer other questions you might have.

Where do I learn more about the rules of Parole and what to expect?

For information about parole and the parole process, submit all questions via request slip to your Institutional Parole Officer.