

# Illinois Prosecutors

and the

# National Organization of Victims of Juvenile Lifers

## OPPOSE HB 1348 and SB 1858 :

Human Rights Watch (HRW) proposes a legislation that goes far beyond what the United States and Illinois Supreme Courts require.

- ◆ Illinois Supreme Court in People v. Leon Miller (decided in 2002) declared it was a violation of the Constitution to impose a MANDATORY life sentence on juvenile murderers under 17 who were transferred to adult court based on an accountability theory, because it was a violation of the 8th Amendment's prohibition against cruel and unusual punishment.  
**Subsequent decisions in Miller and Graham extend that prohibition against mandatory life sentences to ALL juvenile offenders AND to 17 year olds (currently defined as adults) under Illinois' criminal justice system.**
- ◆ U. S. Supreme Court in Miller v. Alabama (decided in 2012) likewise declared that it was a violation of the 8th Amendment to the Constitution to impose a MANDATORY natural life sentence (without parole) on murderers under age 18. However, in Miller, the Court specifically stated that they were not categorically prohibiting all natural life sentences, merely those that are imposed without consideration of the appropriate factors relating to the offenders age, lack of maturity and opportunity for rehabilitation. (see Page 21) **Miller does NOT prohibit permissive natural life sentences. It expressly requires the trial Court to consider factors relevant to an offenders age and maturity BEFORE making such a determination.**

### THESE PROPOSED BILLS :

- ◆ HRW bills reestablish an indeterminate sentencing system for ALL juvenile offenders (defined as those under 18) sentenced to a term of more the 40 years in prison. Requires that Victims be subjected to a hearing to allow a juvenile murderer, rapist or other serious offender to have a hearing after only 15 years of incarceration, followed by another guaranteed hearing after a period of 10-20 years, and the an optional hearing at age 60 (to provide for the chance at compassionate release of the juvenile offender).  
**Miller does not require multiple hearings that make victims suffer more.**
- ◆ For the first time in Illinois law, a statute will reinvest a trial court with jurisdiction, after a final and appealable order is entered, with the power to change a trial court decision.  
**Miller requires consideration of appropriate factors at the time of sentencing, not intermittently and repeatedly.**
- ◆ Would impose a retroactive application to all of these cases (about 100) despite the fact that NO supreme court decision in the Country has imposed the retroactive application. Illinois Courts and most others have adopted the Teague doctrine, which generally rejects retroactivity. The Illinois Supreme Court will likely consider cases within this year to give us a definitive answer on the issue of retroactive application.  
**Miller does not expressly require retroactive application and the Illinois Supreme Court in People v. Leon Miller was NOT applied retroactively, though decided on the exact same grounds as Miller. Victims OPPOSE the retroactive application of this ruling in part because they often do not have the materials available at the original sentencing. Haven't they suffered enough without requiring an unnecessary hearing?**

**For More Information go to [www.teenkillers.org](http://www.teenkillers.org)**

## Support SB 55

# Written by Prosecutors—Supported by Victims Implements Miller v. Alabama and **NOTHING MORE**

### What it Does:

- ⇒ Eliminates mandatory natural life sentences
- ⇒ Allows a judge to impose a natural life sentence based on appropriate and Constitutional Factors
- ⇒ Provides a mandatory minimum sentence that does not deprecate the seriousness of these horrible crimes.
- ⇒ Allows Victims the finality and peace of mind they deserve after a sentence is properly handed down.

### What it Does NOT Do:

- ⇒ Does NOT return us to indeterminate sentencing.
- ⇒ Does NOT reinvest a court with the power to set aside a final and appealable order for the first time under Illinois law.
- ⇒ Does NOT require retroactive application of this new rule until an appropriate Court makes clear that we should do so.
- ⇒ Does NOT create a “de facto life sentences” for all juvenile offenders receiving a sentence of 40 years, not as a matter of law, but as a matter of public policy.
- ⇒ Does NOT put Victims through a meaningless hearing in which the offender is unable to have their sentence reduced for several more years (Because of mandatory minimum gun enhancements).
- ⇒ Does NOT invite equal protection lawsuits (based on proportionality) between juvenile offenders who receive 39 years (no hearing) and those who receive a sentence of 40+ years (right to 2 hearings plus a chance at a third).