



## OFFICE OF THE GOVERNOR

### EXECUTIVE ORDER #288

#### Relating to the Creation of a Juvenile Life Sentence Commutation Process

**WHEREAS**, Article V, Section 6 of the Wisconsin Constitution vests in the Governor the exclusive and discretionary power to grant reprieves, commutations, and pardons;

**WHEREAS**, a growing body of neuroscientific and psychological research has demonstrated that an individual's brain, behavior, and personality undergo significant changes throughout their teen years and into their twenties;

**WHEREAS**, this research indicates that, prior to maturity, an individual's brain is not yet fully formed, is more susceptible to external pressures from peers, and is less capable of understanding the consequences of criminal actions;

**WHEREAS**, individuals who commit crimes in their youth therefore possess increased potential for rehabilitation, a diminished degree of culpability, and a lower chance of reoffending once they have reached maturity;

**WHEREAS**, in 2012 the U.S. Supreme Court in *Miller v. Alabama* acknowledged these scientific developments by holding that, regardless of the offense committed, mandatory life sentences without the possibility of parole are unconstitutional with respect to juvenile defendants;

**WHEREAS**, in recognition of the importance of providing rehabilitated incarcerated individuals with a second chance at becoming productive members of their communities, I have issued Executive Order #287 to establish a Commutation Advisory Board ("Board") to review commutation applicants and provide me with commutation recommendations;

**WHEREAS**, commutations may be particularly appropriate for individuals in their youth who were sentenced to life imprisonment given our deepening understanding of brain development and the significant potential for positive growth and rehabilitation; and

**WHEREAS**, to prioritize the identification and review of those applicants who were sentenced to life imprisonment for an offense committed before full maturity, it is beneficial to create a commutation application and review process separate from that described in Executive Order #287.

**NOW, THEREFORE, I, TONY EVERS**, Governor of the State of Wisconsin, by the authority vested in me by the Constitution and the Laws of the State, hereby create a commutation process specifically for individuals who were tried as adults and sentenced to life imprisonment for a crime committed in their youth (a "juvenile life sentence commutation" or "JLS commutation") according to the following guidelines:

#### 1. Applications for JLS Commutation.

- a. In the interest of uniformity, all JLS commutation applicants shall apply using an application that has been provided by the Office of the Governor subsequent to this Order.
- b. Any application provided by the Office of the Governor pursuant to subsection (a) of this Section may contain additional conditions,

requirements, and procedures for commutation. The Governor may modify these conditions, requirements, and procedures as necessary.

- c. Applications for JLS commutation relating to particularly egregious crimes as determined by the Governor, which may include crimes of a sexual nature or crimes by adults against children, will not be considered by the Board.
- d. Applications for JLS commutation submitted by individuals prior to the issuance of this Order will not be considered by the Board. These individuals may submit a new application using the above procedures.

## **2. Notice.**

### **a. Judicial and District Attorney Notice**

- i. An applicant for JLS commutation must provide notice of the application to the circuit court and district attorney's office that oversaw the conviction, if they can be found.
- ii. The notice shall include the applicant's name, the crime of which the applicant was convicted, the date and term of sentence, and the date of the applicant's hearing, if known. The notice shall be made using a form provided by the Office of the Governor and shall inform the circuit court and district attorney's office of the manner in which they may provide written statements or otherwise participate in the hearing.
- iii. An applicant for JLS commutation must provide this notice at least three weeks before the hearing.
- iv. All reasonable efforts must be made to provide this notice. In the application, an applicant must authorize the Board and the Governor's Office to contact the circuit court(s) and district attorney(s)' office(s) directly to request input regarding the application.

### **b. Victim Notice**

- i. The Governor's Office or, at the discretion and direction of the Board or the Governor's Office, the Office of Victim Services and Programs ("OVS"), shall provide notice to victims registered with OVS and facilitate input from such victims on applications for JLS commutation.
- ii. The Governor's Office and/or OVS shall make a reasonable attempt to provide this notice at least three weeks before the hearing of the application. The notice shall also be published in a newspaper of general circulation in the county where the offense was committed, at least once a week for two successive weeks before the hearing.

## **3. State Agency Cooperation.**

- a. The Department of Corrections shall provide records and information at the request of the Board or the Governor's Office.
- b. OVS shall, at the discretion and direction of the Board or the Governor's Office, provide notice to victims registered with OVS and facilitate input from such victims on applications for JLS commutation, in accordance with the procedure set forth in Section 2 of Executive Order #288.

## **4. Operations.**

- a. Hearings shall be held publicly and at the discretion of the Chair of the Board, as defined in Section 1.a. of Executive Order #287, on a date and at a place set at least three weeks in advance.
- b. Five members, including the Chair, constitute a quorum for executive action by the Board.

## **5. Recommendations.**

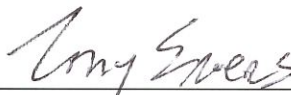
- a. After the conclusion of each hearing, the Board shall meet in closed session, as is permitted by Section 19.85(1)(a) of the Wisconsin Statutes, for the purpose of generating a recommendation as to each

heard application. The Board's recommendation shall include what the sentence should be commuted to and any conditions on the Board's recommendation.

- b. In evaluating applications, the Board shall consider, among other factors:
  - i. The impact of a JLS commutation on victims, survivors, and community members;
  - ii. Whether a JLS commutation is consistent with public safety and in the interests of justice;
  - iii. An applicant's prison conduct record; and
  - iv. An applicant's personal growth and development since conviction, including the completion of rehabilitative programs, treatment, education, and work history during their incarceration.
- c. If the Board recommends a JLS commutation, the Chair shall convey the Board's recommendation to the Governor.
- d. A recommendation from the Board is not binding on the Governor.
- e. The Chair shall have the discretion to forward an application for JLS commutation directly to the Governor with a non-binding recommendation, without a hearing or executive action by the Board if:
  - i. The submitted application meets the eligibility requirements and complies with Sections 1 and 2 of Executive Order #288; and
  - ii. Sufficient time has elapsed to preclude depreciation of the severity of the applicant's offense.



**IN TESTIMONY WHEREOF**, I have hereunto set my hand and caused the Great seal of the State of Wisconsin to be affixed. Done at the Executive Residence in the Village of Maple Bluff this third day of April in the year of two thousand twenty-six.

  
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TONY EVERS  
Governor

By the Governor:

  
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SARAH GODLEWSKI  
Secretary of State