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'Second Chance' bill for youths serving life sentences endures

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Michael and Jessica Brown began corresponding with each other in 2014 while Michael was in prison serving a life plus 41 1/2 years for the 1994 slaying of his grandparents when he and his co-defendants were teens. The Browns married in 2019 in a proxy ceremony. (Courtesy of Jessica Brown)

UPFRONT



Joline Gutierrez
Krueger

What they had fought for, hoped for, prayed and campaigned for came finally at 9:55 a.m. Jan. 24.

Senate Executive Message No. 22, signed by Gov. Michelle

Lujan Grisham authorized the addition of their “Second Chance” bill to the governor’s call, paving the way for its consideration during the ongoing short 30-day legislative session that runs through Feb. 17.

Put simply, Senate Bill 43 seeks to prohibit imposing life sentences without parole on a child and to make children sentenced as adults eligible for parole after serving 15 years.

If passed, the bill would be enacted retroactively, providing but not

guaranteeing a second chance for some 75 inmates now serving lengthy sentences for crimes they were convicted of when they were kids.

A similar bill passed the Senate 28-11 during last year's 60-day session but died before making it through the House when the session ended. This session is half as long, and the call came nearly a week into it.

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"We had started to lose hope," said Jessica Brown, a founding member of the New Mexico Coalition for the Fair Sentencing of Youth, which has fought for the bill. "We had already started to say, well, next year. We'll keep fighting for next year. And then we got the bill on the governor's call. So it's go time."

For Brown and others like her, the bill is personal. She is the wife of one of the 75 inmates. Michael Brown was 16 when two teenage friends stabbed his 80-year-old grandparents to death Feb. 3, 1994, in Rio Rancho.

Although he never inflicted a single stab wound, prosecutors argued that he had prompted the attack on Marie and Ed Brown. For that, he was convicted of their

murders and sentenced in 1995 to life plus 41½ years. He would have been nearly his grandparents' age before being eligible for parole were it not for a successful appeal that resulted in his sentence being amended in November, making him eligible for parole in February 2024. If SB 43 passes, he could be a free man this year.

Those of you who follow me are aware that I have written about Michael Brown since 2006, getting to know the man he is, the kid he was and the need to reconsider how we deal with juveniles who commit serious, deadly crimes.

Jessica Brown began reconsidering her position on juvenile justice, too, after meeting Michael, by letter and phone call, in 2014 through her best friend, whose fiancé was his cellmate.



Michael Brown, then 17, listens on Jan. 26, 1995 as the jury foreman reads his guilty verdicts on two counts of first-degree murder in the slayings of his grandparents. (Pamela Angell/Associated Press)

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Before then, her view was colored by her family, many who are or have been in law enforcement, including her brother, State Police Officer James Archuleta, killed in a crash while on duty in 2006.

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Michael, she said, opened her eyes to the way the system works – or doesn't – for juvenile offenders.

“There's so much misinformation out there, so much that harms more than it helps,” she said. “So much that doesn't work.”

Jessica said she wasn't looking for love or a cause to champion. She was ending her marriage and just wanted someone to talk to, but at a distance, not around her daughters, then 11, 13 and 17.

She found that in Michael.

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He was smart, thoughtful and kind, not hardened, not evil, not the dangerous killer some might imagine.

Their calls and correspondence developed unexpectedly into something deeper, and in 2019 they were married. Because a New Mexico marriage license requires both parties to be present, she flew to Kansas, where proxy marriages are legal, and held the ceremony by phone.

“My daughters are supportive and love him, and so do my mom and grandmother,” she said. “I’m OK with those who don’t. I know what type of person Michael is.”

Our conversation is interrupted by Michael, who is calling from the Northeast New Mexico Correctional Facility near Clayton, a long, lonesome three-hour drive from Jessica’s home in Santa Fe.

It is his second allotted 20-minute call to Jessica of the day but probably not the last.

If anybody is a good example of why SB 43 matters, it’s Michael. In the nearly 28 years he has spent behind bars, he has managed to remain hopeful, improving himself so that if – when – the day the prison doors swing open he is ready to rejoin the world and the world is ready to accept him.

“I went from a terrible kid who took everything for granted and hurt the people I love to the man I am today,” he said. “I grew

up. I changed. If we truly believe people can change, then we have to give people the opportunity to change. We don't throw away children under any other circumstance. We shouldn't do so here."

Attorney Denali Wilson, who has fought for Michael Brown's freedom and fair sentencing for other juveniles, said there are many others like Brown who deserve the second chance SB 43 would offer.

"Michael is great, but he is not exceptional," Wilson said. "I've met hundreds more like him who have turned out well despite the system, not because of it."

Because of COVID-19, Jessica and Michael Brown haven't been able to take photos together since late 2019, the year they were married. (Courtesy of Jessica Brown)

On Friday, the bill was passed 5-1 by the Senate Health and Public Affairs Committee and moves on to the Senate Judiciary Committee before it can head to the full Senate and then the House.

The bill – sponsored by Sen. Antoinette Sedillo Lopez and Reps. Gail Chasey and Dayan Hochman-Vigil, all Albuquerque Democrats – would bring New Mexico in line with 25 other states and the District of Columbia, which have banned life in prison without parole for children, and the U.S. Supreme Court case law, which has largely found that sentencing juveniles to life without parole is cruel and unusual punishment, a violation of the Eighth Amendment.

The bill also provides juvenile offenders the opportunity for parole after 15 years, but the parole board, with input from the victims and their families, will still decide whether the inmate is sufficiently rehabilitated and no longer a risk to public safety.

The bill takes heed of brain science and demonstrates the capacity a young mind, unfinished and malleable, has for change and rehabilitation, Dr. George Davis, a child/adolescent psychiatrist and adolescent

development researcher, writes in support of the bill.

“Judges who sentence children as adults make impossible predictions about capacity for rehabilitation,” he writes. “Because brain development is incomplete in adolescence, determining future character based on teenage behavior is impossible. Fortunately, the passage of time is all that is required to know the answer.”

That capacity for change is evident in Michael Brown, now 44. Since being incarcerated, he has obtained his GED, continues to take college classes, is studying to be a drug and alcohol counselor, learned to play music, weld, fix a car, create art, become a husband. He is a peer educator through UNM Project ECHO, an inmate observer who watches over suicidal inmates and a prison barber.

“I understand that people are sick of crime,” he said. “I understand that some believe we should stay locked up. But if locking up a kid like me was supposed to be a deterrent and crime is worse than ever, it didn’t work. Why not try something different, focus on education and rehabilitation and preparation to return as better, mature people into society. As adults.”

With that, his 20-minute time limit is up. Perhaps soon, his time behind bars will be up as well.

UpFront is a front-page news and opinion column. Reach Joline at 730-2793, jkrueger@abqjournal.com.

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