

HOUSE BILL 170

E3, E2

3lr0887
CF 3lr0951

By: **Delegates Simpson, Bartlett, Crutchfield, Foley, Hill, Kerr, Lopez, and Moon**
Introduced and read first time: January 18, 2023
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Minors Convicted as Adults – Sentencing – Transfer to Juvenile Court**

3 FOR the purpose of requiring a court to consider certain factors before sentencing a minor
4 convicted as an adult and to state on the record its consideration of the factors at the
5 time of sentencing; establishing a presumption that the sentencing of a minor
6 convicted as an adult should be transferred to the juvenile court, under certain
7 circumstances, and authorizing the court to do so; requiring the juvenile court to
8 make a juvenile determination under certain circumstances; and generally relating
9 to the sentencing of minors convicted as adults.

10 BY repealing and reenacting, with amendments,
11 Article – Criminal Procedure
12 Section 6–235
13 Annotated Code of Maryland
14 (2018 Replacement Volume and 2022 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
16 That the Laws of Maryland read as follows:

17 **Article – Criminal Procedure**

18 6–235.

19 **(A)** Notwithstanding any other provision of law, when sentencing a minor
20 convicted as an adult, a court:

21 (1) may impose a sentence less than the minimum term required under
22 law; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) may not impose a sentence of life imprisonment without the possibility
2 of parole or release.

3 **(B) (1) BEFORE IMPOSING A SENTENCE UNDER THIS SECTION, THE**
4 **COURT SHALL CONSIDER THE FOLLOWING FACTORS:**

5 **(I) THE AGE OF THE MINOR AT THE TIME OF THE OFFENSE;**

6 **(II) THE CAPACITY OF THE MINOR FOR REHABILITATION;**

7 **(III) THE MINOR'S FAMILY AND COMMUNITY ENVIRONMENT;**

8 **(IV) THE MINOR'S ABILITY TO APPRECIATE RISKS AND**
9 **UNDERSTAND THE CONSEQUENCES OF ACTIONS;**

10 **(V) THE INTELLECTUAL CAPACITY OF THE MINOR;**

11 **(VI) PEER AND FAMILIAL PRESSURE;**

12 **(VII) THE LEVEL OF PARTICIPATION OF THE MINOR IN THE**
13 **OFFENSE;**

14 **(VIII) THE ABILITY OF THE MINOR TO MEANINGFULLY**
15 **PARTICIPATE IN THE MINOR'S LEGAL DEFENSE;**

16 **(IX) THE INVOLVEMENT OF THE MINOR IN THE CHILD WELFARE**
17 **SYSTEM;**

18 **(X) PRIOR EXPOSURE OF THE MINOR TO ADVERSE CHILDHOOD**
19 **EXPERIENCES AND TRAUMA HISTORY;**

20 **(XI) INVOLVEMENT OF THE MINOR IN THE COMMUNITY;**

21 **(XII) IF A COMPREHENSIVE MENTAL HEALTH EVALUATION OF**
22 **THE MINOR WAS CONDUCTED BY A QUALIFIED MENTAL HEALTH PROFESSIONAL, THE**
23 **OUTCOME OF THE EVALUATION; AND**

24 **(XIII) ANY OTHER MITIGATING FACTOR OR CIRCUMSTANCE.**

25 **(2) A COURT SHALL STATE ON THE RECORD ITS CONSIDERATION OF**
26 **THE FACTORS LISTED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

27 **(C) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF THE**
28 **COURT DETERMINES BY CLEAR AND CONVINCING EVIDENCE THAT THE INDIVIDUAL**

1 AGAINST WHOM THE MINOR IS CONVICTED OF COMMITTING THE OFFENSE
2 PREVIOUSLY COMMITTED A SEX CRIME UNDER TITLE 3, SUBTITLE 3 OF THE
3 CRIMINAL LAW ARTICLE OR HUMAN TRAFFICKING UNDER TITLE 3, SUBTITLE 11 OF
4 THE CRIMINAL LAW ARTICLE AGAINST THE MINOR WITHIN 3 MONTHS BEFORE THE
5 OFFENSE FOR WHICH THE MINOR WAS CONVICTED, THE COURT MAY TRANSFER THE
6 MINOR TO THE JUVENILE COURT FOR SENTENCING.

7 (2) IF A JUVENILE IS TRANSFERRED TO THE JURISDICTION OF THE
8 JUVENILE COURT UNDER THIS SUBSECTION, THE JUVENILE COURT SHALL MAKE A
9 JUVENILE DISPOSITION.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2023.