

HOUSE BILL 409

E3, E2

(PRE-FILED)

1lr1094
CF SB 494

By: **Delegate J. Lewis**

Requested: October 23, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 14, 2021

CHAPTER _____

1 AN ACT concerning

2 **Juveniles Convicted as Adults – Sentencing – Limitations and Reduction**
3 **(Juvenile Restoration Act)**

4 FOR the purpose of authorizing a court, when sentencing a minor convicted as an adult, to
5 impose a sentence less than the minimum term required by law; prohibiting a court
6 from imposing a sentence of life without the possibility of parole or release for a
7 minor; authorizing a certain individual to file a motion to reduce the duration of the
8 individual's sentence; requiring the court to conduct a hearing on a motion to reduce
9 the duration of a sentence; requiring that an individual be present at a hearing on a
10 motion to reduce the duration of a sentence unless the individual waives the right to
11 be present; specifying that the requirement that an individual be present at a certain
12 hearing is satisfied if the hearing is conducted by video conference; authorizing a
13 certain individual to introduce evidence in support of a certain motion at a certain
14 hearing; authorizing the State to introduce evidence in support of or in opposition to
15 a certain motion at a certain hearing; requiring that notice of a certain hearing be
16 given to a certain victim or victim's representative in a certain manner; authorizing
17 a court to reduce the duration of a sentence for a certain individual under certain
18 circumstances; requiring a court to consider certain factors when determining
19 whether to reduce the duration of a sentence for a certain individual; requiring a
20 court to issue a decision to grant or deny a motion to reduce the duration of a sentence
21 in writing; requiring a certain decision to address certain factors; providing that a
22 subsequent motion to reduce the duration of a sentence may be filed only after a
23 certain period of time; limiting the number of times that an individual may file a
24 motion to reduce the duration of a sentence; providing for the application of a certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



provision of this Act; and generally relating to the sentencing of minors and the reduction of the duration of certain sentences.

BY adding to

Article – Criminal Procedure

Section 6–235 and 8–110

Annotated Code of Maryland

(2018 Replacement Volume and 2020 Supplement)

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

Article – Criminal Procedure

6–235.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW, WHEN SENTENCING A
MINOR CONVICTED AS AN ADULT, A COURT:

(1) MAY IMPOSE A SENTENCE LESS THAN THE MINIMUM TERM
REQUIRED UNDER LAW; AND

(2) MAY NOT IMPOSE A SENTENCE OF LIFE IMPRISONMENT WITHOUT
THE POSSIBILITY OF PAROLE OR RELEASE.

8–110.

(A) THIS SECTION APPLIES ONLY TO AN INDIVIDUAL WHO:

(1) WAS CONVICTED AS AN ADULT FOR AN OFFENSE COMMITTED
WHEN THE INDIVIDUAL WAS A MINOR;

(2) WAS SENTENCED FOR THE OFFENSE BEFORE OCTOBER 1, 2021;
AND

(3) HAS BEEN IMPRISONED FOR AT LEAST 20 YEARS FOR THE
OFFENSE.

~~(A) (B) (1) AN INDIVIDUAL CONVICTED AS AN ADULT FOR AN OFFENSE
COMMITTED WHEN THE INDIVIDUAL WAS A MINOR DESCRIBED IN SUBSECTION (A)
OF THIS SECTION MAY FILE A MOTION WITH THE COURT TO REDUCE THE DURATION
OF THE SENTENCE.~~

(2) A COURT SHALL CONDUCT A HEARING ON A MOTION TO REDUCE
THE DURATION OF A SENTENCE.

1 (3) (I) THE INDIVIDUAL SHALL BE PRESENT AT THE HEARING,
2 UNLESS THE INDIVIDUAL WAIVES THE RIGHT TO BE PRESENT.

3 (II) THE REQUIREMENT THAT THE INDIVIDUAL BE PRESENT AT
4 THE HEARING IS SATISFIED IF THE HEARING IS CONDUCTED BY VIDEO CONFERENCE.

5 (4) (I) THE INDIVIDUAL MAY INTRODUCE EVIDENCE IN SUPPORT
6 OF THE MOTION AT THE HEARING.

7 (II) THE STATE MAY INTRODUCE EVIDENCE IN SUPPORT OF OR
8 IN OPPOSITION TO THE MOTION AT THE HEARING.

9 (5) NOTICE OF A HEARING UNDER THIS SUBSECTION SHALL BE GIVEN
10 TO THE VICTIM OR THE VICTIM'S REPRESENTATIVE AS PROVIDED IN §§ 11-104 AND
11 11-503 OF THIS ARTICLE.

12 ~~(B)~~ (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AFTER A
13 HEARING UNDER SUBSECTION ~~(A)~~ (B) OF THIS SECTION, THE COURT MAY REDUCE
14 THE DURATION OF A SENTENCE IMPOSED ON AN INDIVIDUAL FOR AN OFFENSE
15 COMMITTED WHEN THE INDIVIDUAL WAS A MINOR IF:

16 ~~(1)~~ ~~THE INDIVIDUAL HAS BEEN IMPRISONED FOR AT LEAST 20 YEARS;~~
17 ~~AND~~

18 ~~(2)~~ THE COURT DETERMINES THAT:

19 ~~(1)~~ (1) THE INDIVIDUAL IS NOT A DANGER TO THE PUBLIC;
20 AND

21 ~~(2)~~ (2) THE INTERESTS OF JUSTICE WILL BE BETTER SERVED
22 BY A REDUCED SENTENCE.

23 ~~(D)~~ (D) A COURT SHALL CONSIDER THE FOLLOWING FACTORS WHEN
24 DETERMINING WHETHER TO REDUCE THE DURATION OF A SENTENCE UNDER THIS
25 SECTION:

26 (1) THE INDIVIDUAL'S AGE AT THE TIME OF THE OFFENSE;

27 (2) THE NATURE OF THE OFFENSE AND THE HISTORY AND
28 CHARACTERISTICS OF THE INDIVIDUAL;

29 (3) WHETHER THE INDIVIDUAL HAS SUBSTANTIALLY COMPLIED WITH
30 THE RULES OF THE INSTITUTION IN WHICH THE INDIVIDUAL HAS BEEN CONFINED;

1 (4) WHETHER THE INDIVIDUAL HAS COMPLETED AN EDUCATIONAL,
2 VOCATIONAL, OR OTHER PROGRAM;

3 (5) WHETHER THE INDIVIDUAL HAS DEMONSTRATED MATURITY,
4 REHABILITATION, AND FITNESS TO REENTER SOCIETY SUFFICIENT TO JUSTIFY A
5 SENTENCE REDUCTION;

6 (6) ANY STATEMENT OFFERED BY A VICTIM OR A VICTIM'S
7 REPRESENTATIVE;

8 (7) ANY REPORT OF A PHYSICAL, MENTAL, OR BEHAVIORAL
9 EXAMINATION OF THE INDIVIDUAL CONDUCTED BY A HEALTH PROFESSIONAL;

10 (8) THE INDIVIDUAL'S FAMILY AND COMMUNITY CIRCUMSTANCES AT
11 THE TIME OF THE OFFENSE, INCLUDING ANY HISTORY OF TRAUMA, ABUSE, OR
12 INVOLVEMENT IN THE CHILD WELFARE SYSTEM;

13 (9) THE EXTENT OF THE INDIVIDUAL'S ROLE IN THE OFFENSE AND
14 WHETHER AND TO WHAT EXTENT AN ADULT WAS INVOLVED IN THE OFFENSE;

15 (10) THE DIMINISHED CULPABILITY OF A JUVENILE AS COMPARED TO
16 AN ADULT, INCLUDING AN INABILITY TO FULLY APPRECIATE RISKS AND
17 CONSEQUENCES; AND

18 (11) ANY OTHER FACTOR THE COURT DEEMS RELEVANT.

19 ~~(D)~~ (E) (1) THE COURT SHALL ISSUE ITS DECISION TO GRANT OR DENY
20 A MOTION TO REDUCE THE DURATION OF A SENTENCE IN WRITING.

21 (2) THE DECISION SHALL ADDRESS THE FACTORS LISTED IN
22 SUBSECTION ~~(C)~~ (D) OF THIS SECTION.

23 ~~(E)~~ (F) (1) IF THE COURT DENIES OR GRANTS, IN PART, A MOTION TO
24 REDUCE THE DURATION OF A SENTENCE UNDER THIS SECTION, THE INDIVIDUAL
25 MAY NOT FILE A SECOND MOTION TO REDUCE THE DURATION OF THAT SENTENCE
26 FOR AT LEAST 3 YEARS.

27 (2) IF THE COURT DENIES OR GRANTS, IN PART, A SECOND MOTION TO
28 REDUCE THE DURATION OF A SENTENCE, THE INDIVIDUAL MAY NOT FILE A THIRD
29 MOTION TO REDUCE THE DURATION OF THAT SENTENCE FOR AT LEAST 3 YEARS.

30 (3) WITH REGARD TO ANY SPECIFIC SENTENCE, AN INDIVIDUAL MAY
31 NOT FILE A FOURTH MOTION TO REDUCE THE DURATION OF THE SENTENCE.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2021.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.