

HOUSE BILL 754

E3, E2

2lr2736
CF 2lr2734

By: **Delegate Lopez**

Introduced and read first time: February 3, 2022

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; establishing a presumption that the sentencing of a minor
5 convicted as an adult should be transferred to the juvenile court, under certain
6 circumstances, and authorizing the court to do so; authorizing the juvenile court to
7 simultaneously make a juvenile determination and determine an adult sentence; and
8 generally relating to the sentencing of minors convicted as adults.

9 BY repealing and reenacting, with amendments,
10 Article – Criminal Procedure
11 Section 6–235
12 Annotated Code of Maryland
13 (2018 Replacement Volume and 2021 Supplement)

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

16 **Article – Criminal Procedure**

17 6–235.

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

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

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

(II) THE CAPACITY OF THE MINOR FOR REHABILITATION;

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

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

(V) THE INTELLECTUAL CAPACITY OF THE MINOR;

(VI) PEER AND FAMILIAL PRESSURE;

(VII) THE LEVEL OF PARTICIPATION OF THE MINOR IN THE OFFENSE;

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

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

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

(XI) FAITH AND COMMUNITY INVOLVEMENT OF THE MINOR;

(XII) IF A COMPREHENSIVE MENTAL HEALTH EVALUATION OF THE MINOR WAS CONDUCTED BY A MENTAL HEALTH PROFESSIONAL LICENSED IN THE STATE TO TREAT ADOLESCENTS, THE OUTCOME OF THE EVALUATION; AND

(XIII) ANY OTHER MITIGATING FACTOR OR CIRCUMSTANCE.

(2) A COURT MAY NOT REQUIRE THAT A COMPREHENSIVE MENTAL HEALTH EVALUATION BE CONDUCTED ON A MINOR.

(C) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IF THE COURT DETERMINES BY CLEAR AND CONVINCING EVIDENCE THAT THE MINOR IS A VICTIM OF A SEX CRIME UNDER TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW

1 ARTICLE OR A VICTIM OF HUMAN TRAFFICKING UNDER TITLE 3, SUBTITLE 11 OF
2 THE CRIMINAL LAW ARTICLE COMMITTED AGAINST THE MINOR WITHIN 1 YEAR
3 BEFORE THE OFFENSE FOR WHICH THE MINOR WAS CONVICTED, THE COURT MAY
4 TRANSFER THE MINOR TO THE JUVENILE COURT FOR SENTENCING.

5 (2) THERE IS A PRESUMPTION THAT THE SENTENCING OF A MINOR
6 DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHOULD BE CONDUCTED BY
7 THE JUVENILE COURT.

8 (3) (I) IF A JUVENILE IS TRANSFERRED TO THE JURISDICTION OF
9 THE JUVENILE COURT UNDER THIS SUBSECTION, THE JUVENILE COURT MAY
10 SIMULTANEOUSLY MAKE A JUVENILE DISPOSITION AND DETERMINE AN ADULT
11 SENTENCE.

12 (II) IF THE MINOR SUCCESSFULLY COMPLETES THE TERMS OF
13 THE JUVENILE DISPOSITION, THE COURT SHALL VACATE THE ADULT SENTENCE.

14 (III) IF THE MINOR VIOLATES THE CONDITIONS OF THE
15 JUVENILE DISPOSITION, THE COURT MAY IMPOSE THE ADULT SENTENCE.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2022.