

SENATE BILL 494

E3, E2

1lr1599
CF HB 409

By: ~~Senators West, Sydnor, and Carter~~ Carter, Hettleman, Jackson, Smith, Sydnor, and Waldstreicher

Introduced and read first time: January 20, 2021

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: February 26, 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; requiring a
13 State's Attorney to provide certain notice to a victim and a victim's representative of
14 a hearing; providing that a victim and a victim's representative have a certain right
15 to attend a hearing; authorizing a court to reduce the duration of a sentence for a
16 certain individual under certain circumstances; requiring a court to consider certain
17 factors when determining whether to reduce the duration of a sentence for a certain
18 individual; requiring a court to issue a decision to grant or deny a motion to reduce
19 the duration of a sentence in writing; requiring a certain decision to address certain
20 factors; providing that a subsequent motion to reduce the duration of a sentence may
21 be filed only after a certain period of time; authorizing a court to impose certain
22 preconditions to granting a motion to reduce the duration of a sentence for a certain
23 individual; limiting the number of times that an individual may file a motion to
24 reduce the duration of a sentence; and generally relating to the sentencing of minors.

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.



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

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

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

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

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

(5) THE STATE'S ATTORNEY SHALL GIVE NOTICE TO EACH VICTIM AND VICTIM'S REPRESENTATIVE WHO HAS FILED A CRIME VICTIM NOTIFICATION REQUEST FORM UNDER § 11-104 OF THIS ARTICLE OR WHO HAS SUBMITTED A WRITTEN REQUEST TO THE STATE'S ATTORNEY TO BE NOTIFIED OF SUBSEQUENT PROCEEDINGS UNDER § 11-503 OF THIS ARTICLE THAT A MOTION TO REDUCE THE DURATION OF A SENTENCE HAS BEEN FILED UNDER THIS SECTION.

(6) A VICTIM OR A VICTIM'S REPRESENTATIVE IS ENTITLED TO AN OPPORTUNITY TO ATTEND AND TESTIFY IN THE MANNER PROVIDED BY MARYLAND RULE 4-345.

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

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

(2) THE COURT DETERMINES THAT:

(I) THE INDIVIDUAL IS NOT A DANGER TO THE PUBLIC; ~~AND~~

(II) THE INTERESTS OF JUSTICE WILL BE BETTER SERVED BY A REDUCED SENTENCE; AND

(III) THE STATE'S ATTORNEY HAS SATISFIED THE REQUIREMENTS FOR PROVIDING NOTICE TO VICTIMS OR VICTIMS' REPRESENTATIVES UNDER SUBSECTION (A) OF THIS SECTION.

(C) A COURT SHALL CONSIDER THE FOLLOWING FACTORS WHEN DETERMINING WHETHER TO REDUCE THE DURATION OF A SENTENCE UNDER THIS SECTION:

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

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

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

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

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

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

6 (7) ANY REPORT OF A PHYSICAL OR BEHAVIORAL EXAMINATION OF
7 THE INDIVIDUAL CONDUCTED BY A HEALTH PROFESSIONAL;

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

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

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

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

17 (D) (1) THE COURT SHALL ISSUE ITS DECISION TO GRANT OR DENY A
18 MOTION TO REDUCE THE DURATION OF A SENTENCE IN WRITING.

19 (2) THE DECISION SHALL ADDRESS THE FACTORS LISTED IN
20 SUBSECTION (C) OF THIS SECTION.

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

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

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

1 **(F) AS A PRECONDITION TO GRANTING A MOTION TO REDUCE THE**
2 **DURATION OF A SENTENCE UNDER THIS SECTION, A COURT MAY REQUIRE THAT AN**
3 **INDIVIDUAL COMPLETE ANY OF THE FOLLOWING:**

4 **(1) PRE-RELEASE PROGRAMMING;**

5 **(2) ALCOHOL AND SUBSTANCE ABUSE TREATMENT;**

6 **(3) A GED PROGRAM OR OTHER EDUCATIONAL OR JOB SKILLS**
7 **TRAINING PROGRAM; OR**

8 **(4) A REENTRY PROGRAM.**

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.