

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.



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

3 BY adding to

4 Article – Criminal Procedure

5 Section 6–235 and 8–110

6 Annotated Code of Maryland

7 (2018 Replacement Volume and 2020 Supplement)

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

10 **Article – Criminal Procedure**

11 **6–235.**

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

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

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

18 **8–110.**

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

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

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

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

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

30 **(2) A COURT SHALL CONDUCT A HEARING ON A MOTION TO REDUCE**
31 **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 ~~(H)~~ (1) THE INDIVIDUAL IS NOT A DANGER TO THE PUBLIC;
20 AND

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

23 ~~(C)~~ (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.