

HB0853/663024/1

BY: Judiciary Committee

AMENDMENTS TO HOUSE BILL 853
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “**A. Johnson,**”; in the same line, strike “**and Young**” and substitute “**Young, Stinnett, and Kaufman**”; in line 2, strike “**Criminal Procedure – Petition to Reduce**” and substitute “**Postconviction Review – Procedure to Reduce Duration of**”; strike beginning with “an” in line 4 down through “sentences” in line 5 and substitute “a certain individual to file a motion to reduce the duration of a certain sentence”; in line 6, strike “establishing” and substitute “applying”; strike beginning with “applying” in line 6 down through “retroactively;” in line 7; in the same line, strike “a sentence or sentences” and substitute “duration of sentence”; in line 8, strike “adding to” and substitute “repealing and reenacting, with amendments,”; and strike line 10 in its entirety and substitute “Section 8–110”.

AMENDMENT NO. 2

On pages 1 through 5, strike in their entirety the lines beginning with line 16 on page 1 through line 15 on page 5, inclusive, and substitute:

“8–110.

(a) This section applies only to an individual who:

(1) **(I) was convicted as an adult for an offense committed when the individual was a minor;**

[(2)] (II) was sentenced for the offense before October 1, 2021; and

[(3)] (III) has been imprisoned for at least 20 years for the offense; OR

(2) (I) WAS CONVICTED OF AN OFFENSE COMMITTED WHEN THE INDIVIDUAL WAS AT LEAST 18 YEARS OLD BUT YOUNGER THAN 25 YEARS OLD;

(II) WAS NOT SENTENCED TO LIFE WITHOUT THE POSSIBILITY OF PAROLE;

(III) IS NOT A SEX OFFENDER, AS DEFINED IN § 11-701 OF THIS ARTICLE; AND

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

(b) (1) An individual 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.

(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) (I) Notice of the hearing under this subsection shall be given to the victim or the victim's representative as provided in §§ 11-104 and 11-503 of this article.

(II) A VICTIM OR VICTIM'S REPRESENTATIVE MAY SUBMIT A VICTIM IMPACT STATEMENT TO THE COURT REGARDING THE IMPACT OF THE CRIME AND THE PROPOSED SENTENCE REDUCTION.

(III) A VICTIM MAY NOT BE CROSS-EXAMINED WHEN PRESENTING A VICTIM IMPACT STATEMENT UNDER THIS SECTION.

(c) Notwithstanding any other provision of law, after a hearing under subsection (b) of this section, the court may reduce the duration of [a] THE sentence [imposed on an individual for an offense committed when the individual was a minor] if the court determines that:

- (1) the individual is not a danger to the public; and
- (2) the interests of justice will be better served by a reduced sentence.

(d) 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;
- (5) whether the individual has demonstrated maturity, rehabilitation, and fitness to reenter society sufficient to justify a sentence reduction;
- (6) any statement offered by a victim or a victim's representative;
- (7) any report of a physical, mental, or behavioral examination of the individual conducted by a health professional;
- (8) the individual's family and community circumstances at the time of the offense, including any history of trauma, abuse, or involvement in the child welfare system;

(9) the extent of the individual's role in the offense and, **IF THE INDIVIDUAL WAS A MINOR AT THE TIME OF THE OFFENSE**, whether and to what extent an adult was involved in the offense;

(10) the diminished culpability of a juvenile as compared to an adult, including an inability to fully appreciate risks and consequences, **IF APPLICABLE**; and

(11) any other factor the court deems relevant.

(e) (1) The court shall issue its decision to grant or deny a motion to reduce the duration of a sentence in writing.

(2) The decision shall address the factors listed in subsection (d) of this section.

(3) (I) THE COURT SHALL ORDER AN INDIVIDUAL TO STAY AWAY FROM AND REFRAIN FROM CONTACT WITH A VICTIM AND VICTIM'S FAMILY IF THE INDIVIDUAL IS RELEASED, UNLESS THE VICTIM REQUESTS OTHERWISE.

(II) THE COURT MAY IMPOSE ANY OTHER CONDITIONS OF RELEASE NECESSARY TO PROMOTE VICTIM SAFETY AND PEACE OF MIND.

(f) (1) If the court denies or grants, in part, a motion to reduce the duration of a sentence under this section, the individual may not file a second motion to reduce the duration of that sentence for at least 3 years.

(2) If the court denies or grants, in part, a second motion to reduce the duration of a sentence, the individual may not file a third motion to reduce the duration of that sentence for at least 3 years.

(3) With regard to any specific sentence, an individual may not file a fourth motion to reduce the duration of the sentence.”.

On page 5, in line 16, strike “3.” and substitute “2.”.