

SENATE BILL 1038

E3, E2

0lr3713
CF HB 1437

By: **Senator Sydnor**

Introduced and read first time: February 17, 2020

Assigned to: Rules

A BILL ENTITLED

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 court to reduce the duration of a sentence for a certain individual under certain
14 circumstances; requiring a court to consider certain factors when determining
15 whether to reduce the duration of a sentence for a certain individual; requiring a
16 court to issue a decision to grant or deny a motion to reduce the duration of a sentence
17 in writing; requiring a certain decision to address certain factors; providing that a
18 subsequent motion to reduce the duration of a sentence may be filed only after a
19 certain period of time; limiting the number of times that an individual may file a
20 motion to reduce the duration of a sentence; and generally relating to the sentencing
21 of minors.

22 BY adding to
23 Article – Criminal Procedure
24 Section 6–235 and 8–110
25 Annotated Code of Maryland
26 (2018 Replacement Volume and 2019 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

(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

1 **(II) THE INTERESTS OF JUSTICE WILL BE BETTER SERVED BY A**
2 **REDUCED SENTENCE.**

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

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

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

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

11 **(4) WHETHER THE INDIVIDUAL HAS COMPLETED AN EDUCATIONAL, A**
12 **VOCATIONAL, OR ANOTHER PROGRAM;**

13 **(5) WHETHER THE INDIVIDUAL HAS DEMONSTRATED MATURITY,**
14 **REHABILITATION, AND FITNESS TO REENTER SOCIETY SUFFICIENT TO JUSTIFY A**
15 **SENTENCE REDUCTION;**

16 **(6) ANY STATEMENT OFFERED BY A VICTIM OR A VICTIM'S**
17 **REPRESENTATIVE;**

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

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

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

25 **(10) THE DIMINISHED CULPABILITY OF A JUVENILE AS COMPARED TO**
26 **AN ADULT, INCLUDING AN INABILITY TO FULLY APPRECIATE RISKS AND**
27 **CONSEQUENCES; AND**

28 **(11) ANY OTHER FACTOR THE COURT DEEMS RELEVANT.**

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

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

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

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

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

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2020.