

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3024

By: Virgin and Calvey of the
House

and

Griffin of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to juvenile offenders; prohibiting
12 sentences of life imprisonment without parole for
13 juveniles; directing court to consider mitigating
14 circumstances; establishing parole eligibility for
15 certain juvenile offenders; making parole eligibility
16 requirements apply retroactively; directing Governor
17 and Pardon and Parole Board to consider certain
18 factors during parole hearings; authorizing attorney
19 representation during parole eligibility hearings;
20 providing for codification; and providing an
21 effective date.

22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. NEW LAW A new section of law to be codified
24 in the Oklahoma Statutes as Section 69 of Title 21, unless there is
created a duplication in numbering, reads as follows:

A. A person shall not be sentenced to death or life
imprisonment without the possibility of parole for an offense if the

1 person was less than eighteen (18) years of age at the time the
2 offense was committed.

3 B. In addition to other factors required by law to be
4 considered prior to imposition of a sentence, when determining the
5 appropriate sentence for a person who has been certified as an adult
6 pursuant to certification procedures authorized in the Oklahoma
7 Juvenile Code and who has been subsequently tried and convicted of a
8 felony offense as an adult, the court shall consider the following
9 mitigating circumstances:

- 10 1. Age at the time of the offense;
- 11 2. Immaturity, impetuosity and the ability to appreciate the
12 risks and consequences of the conduct;
- 13 3. Family and community environment;
- 14 4. Intellectual capacity;
- 15 5. The outcomes of a comprehensive mental health evaluation
16 conducted by a mental health professional licensed to treat
17 adolescents in the State of Oklahoma; provided, the provisions of
18 this paragraph shall not be construed to require a comprehensive
19 mental health evaluation be conducted on the person;
- 20 6. Peer or familial pressure;
- 21 7. Level of participation in the offense;
- 22 8. Ability to participate meaningfully in his or her defense;
- 23 9. Capacity for rehabilitation;
- 24 10. School records and special education evaluations;

- 1 11. Trauma history;
- 2 12. Faith and community involvement;
- 3 13. Involvement in the child welfare system; and
- 4 14. Any other mitigating factors or circumstances.

5 SECTION 2. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 332.7b of Title 57, unless there
7 is created a duplication in numbering, reads as follows:

8 A. Notwithstanding any other provision of law to the contrary,
9 a person who was convicted and sentenced for an offense that was
10 committed before, on or after the effective date of this act and
11 before he or she was eighteen (18) years of age is eligible for
12 release on parole as follows:

13 1. A person who was convicted and sentenced for any offense
14 committed before he or she was eighteen (18) years of age and in
15 which the death of another person did not occur, and that was
16 committed before, on or after the effective date of this act, is
17 eligible for release on parole no later than after serving twenty
18 (20) years of incarceration, unless by law the person is eligible
19 for earlier parole eligibility; or

20 2. A person who was convicted and sentenced for any offense
21 committed before he or she was eighteen (18) years of age, in which
22 the death of another person occurred, and that was committed before,
23 on or after the effective date of this act, is eligible for release
24 on parole no later than after twenty-five (25) years of

1 incarceration, unless by law the person is eligible for earlier
2 parole eligibility.

3 The provisions of this section apply to any person whose crimes
4 were committed before he or she was eighteen (18) years of age,
5 regardless of the original sentence or combination of sentences that
6 were imposed or the sentences the person is currently serving,
7 including life imprisonment or life imprisonment without the
8 possibility of parole. The provisions of this section also apply
9 regardless of any mandatory minimums, sentencing enhancements or
10 multiple sentences ordered to be served consecutively or
11 concurrently.

12 B. This section shall apply retroactively to any person whose
13 crimes were committed before he or she was eighteen (18) years of
14 age, regardless of the original sentence or combination of sentences
15 that were imposed.

16 C. The Governor and Pardon and Parole Board shall ensure that a
17 hearing to consider the parole eligibility of a person under this
18 section takes into account how a child offender is different from an
19 adult offender and provides the person with a meaningful opportunity
20 to be released on parole based on demonstrated maturity and
21 rehabilitation.

22 D. During a parole hearing involving a person under the
23 provisions of this section, the Board shall take into consideration
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1 in addition to other factors required by law to be considered by the
2 Board, the following:

3 1. The diminished culpability of children as compared to that
4 of adults;

5 2. The hallmark features of youth;

6 3. Subsequent growth and increased maturity of the person
7 during incarceration;

8 4. Age of the person at the time of the offense;

9 5. Immaturity of the person at the time of the offense;

10 6. The family of the person and community circumstances at the
11 time of the offense, including any history of abuse, trauma and
12 involvement in the child welfare system;

13 7. The participation of the person in available rehabilitative
14 and educational programs while in prison, if those programs have
15 been made available, or use of self-study for self-improvement; and

16 8. Other factors the Board deems relevant.

17 E. A person eligible for parole under this section may have an
18 attorney present to represent him or her at the parole eligibility
19 hearing.

20 SECTION 3. This act shall become effective November 1, 2018.

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22 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 03/01/2018 -
23 DO PASS, As Amended and Coauthored.

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