

HOUSE BILL 274

By Akbari

AN ACT to amend Tennessee Code Annotated, Title 40,
relative to sentencing juveniles convicted in
criminal court.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 40, is amended by adding the following
new chapter 40:

40-40-101.

In addition to other factors required by law to be considered prior to the
imposition of a sentence, in determining the appropriate sentence to be imposed on a
person who was less than eighteen (18) years of age at the time of the offense or
offenses, and has been tried and convicted as an adult, the court shall consider the
following mitigating circumstances with respect to such person:

- (1) Age at the time of the offense;
- (2) Level of participation in the offense and whether and to what extent
an adult was involved in the offense;
- (3) The relationship between any abuse, neglect, or exploitation of the
juvenile and the commission of the offense;
- (4) Impulsivity and immaturity of the juvenile;
- (5) Family and community environment;
- (6) Ability to appreciate the risks and consequences of the conduct;
- (7) Intellectual capacity;
- (8) The outcomes, if available, of a comprehensive mental health
evaluation conducted by an adolescent mental health professional licensed in

this state, which includes family interviews, prenatal history, developmental history, social history, medical history, and a psychological evaluation;

- (9) Peer or familial pressure;
- (10) Ability to participate meaningfully in the person's defense;
- (11) Capacity for rehabilitation;
- (12) School records and special education evaluations;
- (13) Trauma history, including any adverse childhood experiences;
- (14) Emotional, psychological, or physical maturity;
- (15) Faith and community involvement;
- (16) Involvement in the child welfare system; and
- (17) Any other mitigating factor or circumstance.

40-40-102.

(a) Notwithstanding any other provision of law to the contrary, unless an inmate is subject to earlier eligibility for parole pursuant to any other provision of law, an inmate who was sentenced as an adult for an offense or offenses that were committed when the inmate was less than eighteen (18) years of age is eligible for release on parole as follows:

(1) An inmate serving a period of incarceration for having been convicted of an offense or offenses that did not result in the death of a victim, regardless of the original sentences that were imposed, including any applicable sentencing enhancements, is eligible for release on parole from all offenses after the inmate has served fifteen (15) calendar years of incarceration, including any time served in a county jail or juvenile facility.

(2) An inmate serving a period of incarceration for having been convicted of an offense or offenses that resulted in the death of a victim, regardless of the original sentences that were imposed, including any applicable sentencing enhancements, is eligible for release on parole from all offenses after the inmate

has served twenty (20) calendar years of incarceration, including any time served in a county jail or juvenile facility.

(b) During a parole hearing involving a person who was less than eighteen (18) years of age at the time of the offense or offenses, in addition to other factors required by law to be considered by the parole board, the parole board shall take into consideration the following:

(1) The inmate's age and maturity at the time of the offense or offenses;

(2) Educational and court documents related to the offense or offenses;

(3) Information from the department of correction as to whether the inmate has substantially complied with the rules of the institution or institutions to which the inmate has been confined since reaching twenty-one (21) years of age, and whether the inmate has completed any educational, vocational, or other prison program, where available;

(4) The recommendation of the district attorney in any district where the crimes were prosecuted;

(5) Any statement, oral or otherwise, provided by the victim or the victim's family if the victim is deceased, including participation in the parole hearing by video conference at the request of the victim or the victim's family if practicable;

(6) Evidence that the inmate is sincerely remorseful about the inmate's role in the offense or offenses;

(7) Whether the inmate has demonstrated maturity, rehabilitation, and a fitness to reenter society sufficient to justify a sentence reduction;

(8) Any reports of physical, mental, or psychiatric examination of the inmate conducted by licensed healthcare professionals;

(9) Evidence that the inmate does not pose an unreasonable danger to the safety of any person or the community and that the interests of justice warrant that the inmate be granted parole;

(10) The inmate's family and community circumstances at the time of the offense, including any history of abuse, trauma, or involvement in the child welfare system or additional adverse childhood experiences;

(11) The mitigating circumstances listed in § 40-40-101; and

(12) Any other factors or circumstances the parole board considers relevant.

(c) The provisions of this section have retroactive application. Any inmate who has pled to or been convicted of a sentence longer than fifteen (15) calendar years in prison for a crime or crimes committed before the inmate reached the inmate's eighteenth birthday is eligible for parole in accordance with this section, including those serving sentences of imprisonment for life without the possibility of parole or imprisonment for life with the possibility of parole, notwithstanding any other law to the contrary.

40-40-103.

A sentence of imprisonment for life without the possibility of parole shall not be imposed or inflicted upon any person convicted of crimes punishable by imprisonment for life without possibility of parole if, at the time of the commission of the crimes, the person was less than eighteen (18) years of age. As to such a person, the maximum punishment that may be imposed is imprisonment for life with the possibility of parole.

SECTION 2. This act shall take effect July 1, 2017, the public welfare requiring it.