

SENATE BILL 842

By Akbari

AN ACT to amend Tennessee Code Annotated, Title 37, Chapter 1, Part 1; Title 39, Chapter 13, Part 2 and Title 40, Chapter 35, relative to minors sentenced as adults.

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

SECTION 1. Tennessee Code Annotated, Section 40-35-501, is amended by adding the following new subsections:

(v)

(1)

(A) If a person is sentenced for commission of crimes committed when the person was less than eighteen (18) years of age, the person's first release eligibility date for those crimes shall occur after service of thirty (30) calendar years if the release eligibility date for the sentence or sentences imposed is greater than thirty (30) years from the date of sentencing, regardless of whether the sentences were ordered to run consecutively or concurrently.

(B) In determining whether to grant parole to a person under subdivision (v)(1)(A), in addition to general parole factors, the parole board shall consider factors related to youth, including, but not limited to:

(i) The reduced ability of youth to fully understand the risks and consequences of their actions;

(ii) Lowered impulse control during youth;

(iii) The role of peer pressure or adult coercion in the commission of the offense;

(iv) The effects of trauma, adverse childhood experiences, and environmental factors beyond the youth's control; and

(v) The amenability of youthful offenders to rehabilitation as a result of maturity and brain development.

(C) This subdivision (v)(1) does not apply to persons sentenced to life without the possibility of parole.

(2) The sentence or sentences of a person described in subdivision (v)(1) must be reduced by any sentence reduction credits earned and retained and credit for any time served in a county jail or juvenile facility but in no event shall these credits operate to make the person eligible for release prior to service of thirty (30) calendar years.

(3) It is the intent of the general assembly that subdivisions (v)(1) and (2) are to be retroactive and apply to a person described in subdivision (v)(1) whether the crime was committed prior to July 1, 2019, or on or after July 1, 2019.

(w)

(1) Notwithstanding this section, a person who meets the criteria in subsection (v) shall be eligible for a parole grant hearing and parole after service of at least twenty (20) calendar years if the board of parole finds that the individual:

(A) Has obtained a HiSET(R) credential, as defined in § 49-4-902, unless the person has previously obtained a high school diploma or is deemed by a certified educator as being incapable of obtaining a HiSET(R) credential due to a learning disability. If the person is deemed incapable of obtaining a HiSET(R) credential, the person shall show that the person has participated in other available educational or skill building programs;

(B) Has participated in one (1) or more job training programs, if available to the person;

(C) Has demonstrated positive work habits and good behavior;

(D) Has complied with treatment and rehabilitation services recommended by the department of correction; and

(E) Has provided proof of good character, rehabilitation, and maturity.

(2) The board of parole shall promulgate rules pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to establish the application and review process to determine if the criteria for an early parole grant hearing and parole have been met.

SECTION 2. Tennessee Code Annotated, Section 37-1-134(a)(1)(B), is amended by deleting the following language:

The district attorney general shall not seek, nor shall any child transferred under this section receive, a sentence of death for the offense for which the child was transferred;

and substituting instead the following:

The district attorney general shall not seek, nor shall any child transferred under this section receive, a sentence of death or life without possibility of parole for the offense for which the child was transferred;

SECTION 3. Tennessee Code Annotated, Title 40, Chapter 35, Part 1, is amended by adding the following as a new section:

Notwithstanding title 39, chapter 13, part 2 or § 40-35-120 to the contrary, a sentence of imprisonment for life without the possibility of parole must not be imposed or inflicted upon a person convicted of crimes punishable by imprisonment for life without possibility of parole who at the time of the commission of the crimes was less than eighteen (18) years of age. As to such a person, the maximum punishment that may be imposed is imprisonment for life. This section is prospective only and applies to sentences imposed on or after July 1, 2019.

SECTION 4. This act shall take effect July 1, 2019, the public welfare requiring it.