

SENATE BILL 905

By Akbari

AN ACT to amend Tennessee Code Annotated, Title 37;
Title 39 and Title 40, relative to juveniles.

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

SECTION 1. Tennessee Code Annotated, Section 37-1-134(a)(1)(B), is amended by deleting the subdivision and substituting instead the following:

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

SECTION 2. Tennessee Code Annotated, Section 39-13-202(c), is amended by deleting the subsection and substituting instead the following:

(c)

(1) If a person convicted of first degree murder under subdivisions (a)(1)-(3) was an adult at the time of the commission of the offense, then the person shall be punished by:

- (A) Death;
- (B) Imprisonment for life without possibility of parole; or
- (C) Imprisonment for life.

(2) If a person convicted of first degree murder under subdivisions (a)(4) and (5) was an adult at the time of commission of the offense, then the person shall be punished by:

- (A) Death; or
- (B) Imprisonment for life without possibility of parole.

(3) Notwithstanding any law to the contrary, if a person convicted of first degree murder was a minor under eighteen (18) years of age at the time of commission of the offense, then the person shall be punished by imprisonment for life or such other sentence as the sentencing judge determines to be in the interests of justice.

SECTION 3. Tennessee Code Annotated, Section 39-13-202(d), is amended by deleting the language "a person convicted of attempted first degree murder" and substituting instead the language "a person convicted of attempted first degree murder who was an adult at the time of commission of the offense".

SECTION 4. Tennessee Code Annotated, Section 39-13-207(a), is amended by adding the following as a new subdivision:

(3) Notwithstanding § 39-13-204, in any first degree murder case as described in § 39-13-202(c)(3), in which the defendant was a minor at the time of commission of the offense, if the jury finds the defendant guilty of first degree murder, then a sentencing hearing shall be conducted pursuant to § 40-35-209 and:

- (A) The judge shall sentence the defendant to imprisonment for life; or
- (B) The judge shall impose such other sentence as the judge determines to be in the interests of justice.

SECTION 5. Tennessee Code Annotated, Title 40, Chapter 35, Part 1, is amended by adding the following as a new section:

Notwithstanding this chapter or a law to the contrary, when sentencing a minor who has been convicted of a criminal offense, the judge may impose a sentence less than the minimum term required under law if the judge determines that a lesser sentence serves the interests of justice.

SECTION 6. Tennessee Code Annotated, Title 40, Chapter 35, Part 2, is amended by adding the following as a new section:

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

- (1) Was convicted as an adult for an offense committed when the individual was a minor;
- (2) Was sentenced for the offense before July 1, 2023; and
- (3) Has been imprisoned for at least twenty (20) years for the offense.

(b) An individual described in subsection (a) may file a motion with the sentencing court to reduce the duration of the sentence.

(c) If an individual files a motion to reduce the duration of the sentence under subsection (b), the court shall conduct a hearing on the motion at which:

(1) The individual who filed the motion shall be present, unless the individual waives the right to be present. The requirement that the individual be present at the hearing is satisfied if the hearing is conducted by video conference;

(2) The individual may introduce evidence in support of the motion; and

(3) The state may introduce evidence in support of or in opposition to the motion.

(d) Notice of a hearing under this section must be provided to the victim of the criminal offense for which the individual seeks a reduction in the duration of the sentence pursuant to § 40-38-110.

(e) Notwithstanding this chapter or a law to the contrary, following a hearing under subsection (c), the court may reduce the duration of a 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.

(f) 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 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; and

(11) Any other factor the court deems relevant.

(g) The court shall issue its decision to grant or deny a motion to reduce the duration of a sentence in writing. The decision must address the factors listed in subsection (f).

(h)

(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 three (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 three (3) years.

(3) A court shall not hold a hearing on, or grant, a fourth or subsequent motion to reduce the duration of a sentence that an individual files concerning the same sentence.

SECTION 7. Tennessee Code Annotated, Section 40-38-110(a), is amended by adding the following as a new subdivision:

() A hearing on a motion for reduction of the duration of a sentence under Section 6 of this act.

SECTION 8. This act takes effect July 1, 2023, the public welfare requiring it, and applies to offenses committed prior to, on, or after that date.