

HB29 INTRODUCED



1 HB29
2 6BKU1Z1-1
3 By Representative England
4 RFD: Judiciary
5 First Read: 06-Feb-24
6 PFD: 01-Dec-23



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SYNOPSIS:

Under existing law, a person who has certain prior felony convictions may be given an enhanced sentence based on his or her prior felony convictions pursuant to the habitual felony offender act.

This bill would provide that an individual whose sentence has been enhanced pursuant to the habitual felony offender act may be eligible to be resentenced in certain circumstances.

This bill would also provide for the automatic repeal of this act on a October 1, 2029.

A BILL
TO BE ENTITLED
AN ACT

Relating to sentencing; to add Section 13A-5-14 to the Code of Alabama 1975, to provide that an individual sentenced pursuant to the habitual felony offender law may be resentenced in certain circumstances; and to provide for the repeal of this section in five years.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 13A-5-14 is added to the Code of Alabama 1975, to read as follows:



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29 §13A-5-14

30 (a) On or after October 1, 2024, an individual serving
31 a sentence in the Department of Corrections may file a motion
32 for a reduction in sentence if he or she satisfies all of the
33 following:

34 (1) The individual was sentenced pursuant to Section
35 13A-5-9, for any offense other than: (i) homicide, as defined
36 in Article 1 of Chapter 6 of Title 13A; (ii) a sex offense, as
37 defined in Section 15-20A-5; or (iii) an offense that caused
38 serious physical injury to another person, as defined in
39 Section 13A-1-2.

40 (2) The individual was sentenced to life without the
41 possibility of parole.

42 (3) The individual received a final sentence at the
43 trial court prior to May 26, 2000.

44 (b) The venue for a motion for a reduction in sentence
45 shall be the criminal division of the circuit court in the
46 county in which the individual was convicted. The motion shall
47 be heard by the original sentencing judge or his or her
48 successor, the presiding judge of the circuit, or a retired
49 judge as assigned by the Chief Justice of the Alabama Supreme
50 Court.

51 (c) (1) The motion for a reduction in sentence shall be
52 served upon the district attorney in the county of conviction.
53 The district attorney shall have a right to be heard on any
54 motion filed pursuant to this section.

55 (2)a. The victim shall have a right to be heard on any
56 motion filed pursuant to this section.



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57 b. The victim named in the indictment shall be notified
58 at least 30 days prior to a hearing pursuant to this section.
59 Notification shall be provided by the district attorney in the
60 county of conviction. The district attorney shall exercise due
61 diligence in locating and notifying the victim. The notice
62 shall include location, date, and time of the hearing;
63 information explaining the circumstances in which the
64 defendant may be resentenced; notice that the victim has a
65 right to be heard on the motion; and contact information for
66 the district attorney. The victim may file a statement with
67 the court, or may testify at the hearing, if the court
68 determines a hearing is necessary. The judge shall give
69 considerable weight to any objection made by the victim.

70 c. Within 10 days following an order by the court, the
71 district attorney shall notify the victim of the court's
72 decision.

73 (3) The clerk of the court shall notify the law
74 enforcement agency that investigated the crime for which he or
75 she was convicted.

76 (d) The court may impose a reduced sentence pursuant to
77 the laws in effect at the time of the motion or a sentence of
78 time served. When considering a motion made pursuant to this
79 section, the court shall consider all of the following:

80 (1) The underlying offense.

81 (2) The individual's conduct while in the custody of
82 the Department of Corrections.

83 (3) The age of the individual at the time the motion is
84 filed, including relevant research regarding the decline in



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85 criminal behavior as individuals grow older.

86 (4) The individual's likelihood of success after
87 release based on the availability of a structured, supportive
88 re-entry program.

89 (5) Whether the individual used a firearm in
90 furtherance of the offense. If so, the judge shall give
91 considerable weight to this fact.

92 (e) A court may not entertain a motion made pursuant to
93 this section if a previous motion for a reduction of sentence
94 under this section was denied.

95 (f) Nothing in this section shall be construed to
96 require a court to reduce any sentence pursuant to this
97 section.

98 (g) Any motion for a reduction in sentence filed shall
99 be granted a hearing within 90 days of the court receiving the
100 motion.

101 (h) This section shall be repealed on October 1, 2029.

102 Section 2. This act shall become effective on October
103 1, 2024.