

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

4 A. When determining whether to impose a sentence of life
5 imprisonment without the possibility of parole on a person convicted
6 of first-degree murder who was less than eighteen (18) years of age
7 at the time of the commission of the crime, the court shall consider
8 the following mitigating circumstances:

- 9 1. Age at the time of the offense;
- 10 2. Immaturity, impetuosity and the ability to appreciate the
11 risks and consequences of the conduct;
- 12 3. Family and community environment;
- 13 4. Intellectual capacity;
- 14 5. Peer or familial pressure;
- 15 6. Level of participation in the offense;
- 16 7. Ability to participate meaningfully in his or her defense;
- 17 8. Capacity for rehabilitation;
- 18 9. School records and special education evaluations;
- 19 10. Trauma history;
- 20 11. Faith and community involvement;
- 21 12. Involvement in the child welfare system; and
- 22 13. Any other factors or circumstances the court deems
23 relevant.

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1 B. Only after examining the factors outlined in subsection A of
2 this section, and finding beyond a reasonable doubt that the
3 defendant is a permanently incorrigible juvenile who is beyond
4 rehabilitation, may the court impose a sentence of life without
5 parole.

6 C. If the defendant invokes his or her right to jury
7 sentencing, the finding by the jury under subsection B of this
8 section must be unanimous.

9 D. A person who was under eighteen (18) years of age at the
10 time of the offense and sentenced to life without parole for first-
11 degree murder pursuant to the provisions of this section shall have
12 the right to judicial review of his or her sentence as provided in
13 Section 2 of this act after serving thirty (30) calendar years of
14 imprisonment.

15 SECTION 2. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 70 of Title 21, unless there is
17 created a duplication in numbering, reads as follows:

18 A. Notwithstanding any other provision of law to the contrary,
19 a court may reduce a sentence of life without parole imposed on a
20 defendant who was convicted of first-degree murder and who committed
21 the offense before the person was eighteen (18) years of age, if:

22 1. The defendant has served at least thirty (30) calendar years
23 of imprisonment;

24 2. The defendant filed a motion for reduction in sentence; and

1 3. The court finds, after considering the factors set forth in
2 subsection C of this section, that the defendant is not a danger to
3 the safety of any person or to the community and that the interests
4 of justice warrant a sentence modification.

5 B. A defendant whose sentence is reduced under the provisions
6 of this section must be ordered to serve a period of supervised
7 release of at least five (5) years upon release from imprisonment.

8 C. When determining whether to reduce a term of imprisonment
9 under this section, the court shall consider:

10 1. The nature of the offense committed by the defendant;

11 2. The age of the defendant at the time of the offense;

12 3. A report and recommendation from the Department of
13 Corrections including information relating to the ability of the
14 defendant to comply with the rules of the institution and whether
15 the defendant completed any available educational, vocational or
16 other prison programming;

17 4. A report and recommendation from the district attorney for
18 the county in which the defendant was prosecuted;

19 5. Whether the defendant has demonstrated maturity,
20 rehabilitation and a fitness to reenter society sufficient to
21 justify a sentence reduction;

22 6. A statement by a victim or a family member of a victim who
23 was impacted by the actions of the defendant;

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1 7. The family of the defendant and community circumstances at
2 the time of the offense including any history of abuse, trauma or
3 involvement in the child welfare system;

4 8. The diminished culpability of juveniles compared to adults,
5 the hallmark features of youth including immaturity, impetuosity and
6 failure to appreciate risks and consequences which counsel against
7 sentencing juveniles to life without parole; and

8 9. Any additional information the court determines relevant.

9 D. A defendant may make a second motion for a reduction in
10 sentence under this section no earlier than five (5) years after the
11 initial motion for reduction.

12 E. A defendant may make a third and final motion for a
13 reduction in sentence no earlier than five (5) years after the order
14 for a second motion was filed. If the motion is denied, no further
15 motions shall be entertained by the court.

16 F. The Department of Corrections shall provide written notice
17 of this section and its procedures to:

18 1. Any defendant who was sentenced to life without parole for
19 first-degree murder who was less than eighteen (18) years of age at
20 the time of the offense and has served twenty-nine (29) years in
21 prison; and

22 2. The district attorney in the county where the defendant was
23 prosecuted and sentenced.

1 G. An application for a sentence reduction under this section
2 shall be filed as a motion to reduce the sentence of the defendant
3 and may include affidavits or other written material. The motion
4 shall be filed with the sentencing court and a copy shall be served
5 on the district attorney for the county in which the sentence was
6 imposed.

7 H. The court shall conduct a hearing on the motion at which
8 time the defendant and counsel for the defendant shall be given the
9 opportunity to be heard. In a hearing under this section, the court
10 may allow for parties to present evidence. The court shall state in
11 open court and file in writing the reasons for granting or denying a
12 motion under this section.

13 I. Notwithstanding any provision of law to the contrary, if the
14 court grants a motion under this section, the court may reduce the
15 sentence of life without parole to life with the possibility of
16 parole.

17 J. The hearing under this section shall assess whether the
18 defendant has shown signs of rehabilitation, such that life without
19 parole is no longer a permissible sentence under the Constitution of
20 the United States.

21 SECTION 3. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 332.7b of Title 57, unless there
23 is created a duplication in numbering, reads as follows:

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1 A. 1. Notwithstanding any other provision of law to the
2 contrary, the following persons are eligible for release on parole:

3 a. a person who was convicted and sentenced for any
4 offenses in which the death of another person did not
5 occur, and the offenses were committed before, on or
6 after November 1, 2019, but before the person was
7 eighteen (18) years of age, shall be retroactively
8 eligible for release on parole after the person has
9 served twenty (20) years of incarceration, unless by
10 law the person is eligible for earlier parole
11 eligibility, or

12 b. a person who was convicted and sentenced for any
13 offenses in which the death of another person
14 occurred, and the offenses were committed before, on
15 or after November 1, 2019, but before the person was
16 eighteen (18) years of age, is eligible for release on
17 parole after the person has served twenty-five (25)
18 years of incarceration, unless by law the person is
19 eligible for earlier parole eligibility.

20 2. The provisions of subparagraph b of paragraph 1 of this
21 subsection shall apply prospectively only to defendants sentenced on
22 or after November 1, 2019; provided, however, the parole eligibility
23 provisions of this section shall not apply to any person sentenced
24 to life without the possibility of parole, unless a judge later

1 modifies his or her sentence under the provisions of Section 2 of
2 this act to life with the possibility of parole.

3 B. Notwithstanding any other provision of law to the contrary,
4 including paragraph 2 of subsection A of this section, a person who
5 was sentenced to life without the possibility of parole before
6 November 1, 2019, for first-degree murder that was committed before
7 the person was eighteen (18) years of age, shall be retroactively
8 eligible for release on parole after the person has served thirty-
9 five (35) years of incarceration.

10 C. The provisions of this section apply regardless of any
11 mandatory minimums, sentencing enhancements or sentences ordered to
12 be served consecutively or concurrently.

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

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

23 1. The diminished culpability of children as compared to that
24 of adults;

- 1 2. The hallmark features of youth;
- 2 3. Subsequent growth and increased maturity of the person
- 3 during incarceration;
- 4 4. Age of the person at the time of the offense;
- 5 5. Immaturity of the person at the time of the offense;
- 6 6. The family of the person and community circumstances at the
- 7 time of the offense, including any history of abuse, trauma and
- 8 involvement in the child welfare system;
- 9 7. The participation of the person in available rehabilitative
- 10 and educational programs while in prison, if those programs have
- 11 been made available, or use of self-study for self-improvement;
- 12 8. Any statement made by a victim or family member of a victim;
- 13 and
- 14 9. Other factors the Board deems relevant.

15 F. A person eligible for parole under this section may have an

16 attorney present to represent him or her at the parole eligibility

17 hearing.

18 SECTION 4. This act shall become effective November 1, 2019.

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20 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/26/2019 - DO

21 PASS, As Coauthored.

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