

HB229 ENGROSSED



1 HGKS86-2
2 By Representative England
3 RFD: Judiciary
4 First Read: 04-Apr-23
5 2023 Regular Session



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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-5-9, Code of Alabama 1975, is amended to read as follows:~~

~~"§13A-5-9~~

~~(a) In Except as provided in subsection (f), in all cases when it is shown that a criminal defendant has been previously convicted of a Class A, Class B, or Class C felony and after the conviction has committed another Class A, Class B, or Class C felony, he or she ~~must~~ shall be punished as follows:~~

~~(1) On conviction of a Class C felony, he or she ~~must~~ shall be punished for a Class B felony.~~

~~(2) On conviction of a Class B felony, he or she ~~must~~ shall be punished for a Class A felony.~~



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29 ~~(3) On conviction of a Class A felony, he or she **must**~~
30 ~~shall be punished by imprisonment for life or for any term of~~
31 ~~not more than 99 years but not less than 15 years.~~

32 ~~(b) **In** Except as provided in subsection (f), in all~~
33 ~~cases when it is shown that a criminal defendant has been~~
34 ~~previously convicted of any two felonies that are Class A,~~
35 ~~Class B, or Class C felonies and after **such** the convictions~~
36 ~~has committed another Class A, Class B, or Class C felony, he~~
37 ~~or she **must** shall be punished as follows:~~

38 ~~(1) On conviction of a Class C felony, he or she **must**~~
39 ~~shall be punished for a Class A felony.~~

40 ~~(2) On conviction of a Class B felony, he or she **must**~~
41 ~~shall be punished by imprisonment for life or for any term of~~
42 ~~not more than 99 years but not less than 15 years.~~

43 ~~(3) On conviction of a Class A felony, he or she **must**~~
44 ~~shall be punished by imprisonment for life or for any term of~~
45 ~~not less than 99 years.~~

46 ~~(c) **In** Except as provided in subsection (f), in all~~
47 ~~cases when it is shown that a criminal defendant has been~~
48 ~~previously convicted of any three felonies that are Class A,~~
49 ~~Class B, or Class C felonies and after **such** the convictions~~
50 ~~has committed another Class A, Class B, or Class C felony, he~~
51 ~~or she **must** shall be punished as follows:~~

52 ~~(1) On conviction of a Class C felony, he or she **must**~~
53 ~~shall be punished by imprisonment for life or for any term of~~
54 ~~not more than 99 years but not less than 15 years.~~

55 ~~(2) On conviction of a Class B felony, he or she **must**~~
56 ~~shall be punished by imprisonment for life or any term of not~~



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57 ~~less than 20 years.~~

58 ~~(3) On conviction of a Class A felony, where the~~
59 ~~defendant has no prior convictions for any Class A felony, he~~
60 ~~or she ~~must~~ shall be punished by imprisonment for life or life~~
61 ~~without the possibility of parole, in the discretion of the~~
62 ~~trial court.~~

63 ~~(4) On conviction of a Class A felony, where the~~
64 ~~defendant has one or more prior convictions for any Class A~~
65 ~~felony, he or she ~~must~~ shall be punished by imprisonment for~~
66 ~~life without the possibility of parole.~~

67 ~~(d) In all cases when it is shown that a criminal~~
68 ~~defendant has been previously convicted of any two or more~~
69 ~~felonies that are Class A or Class B felonies and after ~~such~~~~
70 ~~the convictions has committed a Class D felony, upon~~
71 ~~conviction, he or she ~~must~~ shall be punished for a Class C~~
72 ~~felony.~~

73 ~~(e) In all cases when it is shown that a criminal~~
74 ~~defendant has been previously convicted of any three or more~~
75 ~~felonies and after ~~such~~ the convictions has committed a Class~~
76 ~~D felony, upon conviction, he or she ~~must~~ shall be punished~~
77 ~~for a Class C felony.~~

78 ~~(f) A conviction for a nonviolent offense, as defined~~
79 ~~in Section 12-25-32, may not be used to enhance a sentence~~
80 ~~pursuant to subsection (a), (b), or (c)."~~

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

83 §13A-5-14

84 (a) On or after the effective date of this act, an



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85 individual serving a sentence in the Department of Corrections
86 may file a motion for a reduction in sentence if he or she
87 satisfies all of the following:

88 (1) The individual was sentenced pursuant to Section
89 13A-5-9, for any offense other than: (i) homicide, as defined
90 in Article 1 of Chapter 13A; (ii) a sex offense, as defined in
91 Section 15-20A-5; or (iii) an offense that caused serious
92 physical injury to another person, as defined in Section
93 13A-1-2.

94 (2) The individual was sentenced to life without the
95 possibility of parole.

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

98 (b) The venue for a motion for a reduction in sentence
99 shall be the criminal division of the circuit court in the
100 county in which the individual was convicted. The motion shall
101 be heard by the original sentencing judge or his or her
102 successor, the presiding judge of the circuit, or a retired
103 judge as assigned by the Chief Justice of the Alabama Supreme
104 Court.

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

109 (2) The victim shall have a right to be heard on any
110 motion filed pursuant to this section. The victim may file a
111 statement with the court, or may testify at the hearing, if
112 the court determines a hearing is necessary. The judge shall



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113 give considerable weight to any objection made by the victim.

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

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

121 (1) The underlying offense.

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

124 (3) The age of the individual at the time the motion is
125 filed, including relevant research regarding the decline in
126 criminal behavior as individuals grow older.

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

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

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

136 (f) Nothing in this section shall be construed to
137 require a court to reduce any sentence pursuant to this
138 section.

139 (g) Any motion for a reduction in sentence filed shall
140 be granted a hearing within 90 days of the court receiving the

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141 motion.

142 (h) This section shall be repealed five years after the
143 effective date of the act adding this section.

144 Section 2. This act shall become effective on the first
145 day of the third month following its passage and approval by
146 the Governor, or its otherwise becoming law.



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House of Representatives

150 Read for the first time and referred04-Apr-23
151 to the House of Representatives
152 committee on Judiciary
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154 Read for the second time and placed11-May-23
155 on the calendar:
156 1 amendment
157
158 Read for the third time and passed16-May-23
159 as amended
160 Yeas 64
161 Nays 37
162 Abstains 0
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John Treadwell
Clerk