

115TH CONGRESS
2D SESSION

H. R. 6011

To amend title 18, United States Code, to authorize a court to reduce the term of imprisonment imposed on certain defendants convicted as an adult for an offense committed and completed before the defendant attained 18 years of age, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 2018

Mr. WESTERMAN (for himself, Ms. BASS, Mr. CÁRDENAS, and Ms. JENKINS of Kansas) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to authorize a court to reduce the term of imprisonment imposed on certain defendants convicted as an adult for an offense committed and completed before the defendant attained 18 years of age, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PAROLE FOR JUVENILES.**

4 (a) IN GENERAL.—Chapter 403 of title 18, United
5 States Code, is amended by inserting after section 5032
6 the following:

1 **“§ 5032A. Modification of an imposed term of impris-**
2 **onment for violations of law committed**
3 **prior to age 18**

4 “(a) IN GENERAL.—Notwithstanding any other pro-
5 vision of law, a court may reduce a term of imprisonment
6 imposed upon a defendant convicted as an adult for an
7 offense committed and completed before the defendant at-
8 tained 18 years of age if—

9 “(1) the defendant has served not less than 20
10 years in custody for the offense; and

11 “(2) the court finds, after considering the fac-
12 tors set forth in subsection (c), that the defendant
13 is not a danger to the safety of any person or the
14 community and that the interests of justice warrant
15 a sentence modification.

16 “(b) SUPERVISED RELEASE.—Any defendant whose
17 sentence is reduced pursuant to subsection (a) shall be or-
18 dered to serve a period of supervised release of not less
19 than 5 years following release from imprisonment. The
20 conditions of supervised release and any modification or
21 revocation of the term of supervise release shall be in ac-
22 cordance with section 3583.

23 “(c) FACTORS AND INFORMATION TO BE CONSID-
24 ERED IN DETERMINING WHETHER TO MODIFY A TERM
25 OF IMPRISONMENT.—The court, in determining whether

1 to reduce a term of imprisonment pursuant to subsection
2 (a), shall consider—

3 “(1) the factors described in section 3553(a),
4 including the nature of the offense and the history
5 and characteristics of the defendant;

6 “(2) the age of the defendant at the time of the
7 offense;

8 “(3) a report and recommendation of the Bu-
9 reau of Prisons, including information on whether
10 the defendant has substantially complied with the
11 rules of each institution in which the defendant has
12 been confined and whether the defendant has com-
13 pleted any educational, vocational, or other prison
14 program, where available;

15 “(4) a report and recommendation of the
16 United States attorney for any district in which an
17 offense for which the defendant is imprisoned was
18 prosecuted;

19 “(5) whether the defendant has demonstrated
20 maturity, rehabilitation, and a fitness to reenter so-
21 ciety sufficient to justify a sentence reduction;

22 “(6) any statement, which may be presented
23 orally or otherwise, by any victim of an offense for
24 which the defendant is imprisoned or by a family
25 member of the victim if the victim is deceased;

1 “(7) any report from a physical, mental, or psy-
2 chiatric examination of the defendant conducted by
3 a licensed health care professional;

4 “(8) the family and community circumstances
5 of the defendant at the time of the offense, including
6 any history of abuse, trauma, or involvement in the
7 child welfare system;

8 “(9) the extent of the role of the defendant in
9 the offense and whether, and to what extent, an
10 adult was involved in the offense;

11 “(10) the diminished culpability of juveniles as
12 compared to that of adults, and the hallmark fea-
13 tures of youth, including immaturity, impetuosity,
14 and failure to appreciate risks and consequences,
15 which counsel against sentencing juveniles to the
16 otherwise applicable term of imprisonment; and

17 “(11) any other information the court deter-
18 mines relevant to the decision of the court.

19 “(d) LIMITATION ON APPLICATIONS PURSUANT TO
20 THIS SECTION.—

21 “(1) SECOND APPLICATION.—Not earlier than
22 5 years after the date on which an order entered by
23 a court on an initial application under this section
24 becomes final, a court shall entertain a second appli-
25 cation by the same defendant under this section.

1 “(2) FINAL APPLICATION.—Not earlier than 5
2 years after the date on which an order entered by
3 a court on a second application under paragraph (1)
4 becomes final, a court shall entertain a final applica-
5 tion by the same defendant under this section.

6 “(3) PROHIBITION.—A court may not entertain
7 an application filed after an application filed under
8 paragraph (2) by the same defendant.

9 “(e) PROCEDURES.—

10 “(1) NOTICE.—The Bureau of Prisons shall
11 provide written notice of this section to—

12 “(A) any defendant who has served not
13 less than 19 years in prison for an offense com-
14 mitted and completed before the defendant at-
15 tained 18 years of age for which the defendant
16 was convicted as an adult; and

17 “(B) the sentencing court, the United
18 States attorney, and the Federal Public De-
19 fender or Executive Director of the Community
20 Defender Organization for the judicial district
21 in which the sentence described in subpara-
22 graph (A) was imposed.

23 “(2) CRIME VICTIMS RIGHTS.—Upon receiving
24 notice under paragraph (1), the United States attor-

1 ney shall provide any notifications required under
2 section 3771.

3 “(3) APPLICATION.—

4 “(A) IN GENERAL.—An application for a
5 sentence reduction under this section shall be
6 filed as a motion to reduce the sentence of the
7 defendant and may include affidavits or other
8 written material.

9 “(B) REQUIREMENT.—A motion to reduce
10 a sentence under this section shall be filed with
11 the sentencing court and a copy shall be served
12 on the United States attorney for the judicial
13 district in which the sentence was imposed.

14 “(4) EXPANDING THE RECORD; HEARING.—

15 “(A) EXPANDING THE RECORD.—After the
16 filing of a motion to reduce a sentence under
17 this section, the court may direct the parties to
18 expand the record by submitting additional
19 written materials relating to the motion.

20 “(B) HEARING.—

21 “(i) IN GENERAL.—The court shall
22 conduct a hearing on the motion, at which
23 the defendant and counsel for the defend-
24 ant shall be given the opportunity to be
25 heard.

1 “(ii) EVIDENCE.—In a hearing under
2 this section, the court may allow parties to
3 present evidence.

4 “(iii) DEFENDANT’S PRESENCE.—At
5 a hearing under this section, the defendant
6 shall be present unless the defendant
7 waives the right to be present. The re-
8 quirement under this clause may be satis-
9 fied by the defendant appearing by video
10 teleconference.

11 “(iv) COUNSEL.—A defendant who is
12 unable to obtain counsel is entitled to have
13 counsel appointed to represent the defend-
14 ant for proceedings under this section, in-
15 cluding any appeal, unless the defendant
16 waives the right to counsel.

17 “(v) FINDINGS.—The court shall state
18 in open court, and file in writing, the rea-
19 sons for granting or denying a motion
20 under this section.

21 “(C) APPEAL.—The Government or the
22 defendant may file a notice of appeal in the dis-
23 trict court for review of a final order under this
24 section. The time limit for filing such appeal

1 shall be governed by rule 4(a) of the Federal
2 Rules of Appellate Procedure.

3 “(f) EDUCATIONAL AND REHABILITATIVE PRO-
4 GRAMS.—A defendant who is convicted and sentenced as
5 an adult for an offense committed and completed before
6 the defendant attained 18 years of age may not be de-
7 prived of any educational, training, or rehabilitative pro-
8 gram that is otherwise available to the general prison pop-
9 ulation.”.

10 (b) TABLE OF SECTIONS.—The table of sections for
11 chapter 403 of title 18, United States Code, is amended
12 by inserting after the item relating to section 5032 the
13 following:

“5032A. Modification of an imposed term of imprisonment for violations of law
committed prior to age 18.”.

14 (c) APPLICABILITY.—The amendments made by this
15 section shall apply to any conviction entered before, on,
16 or after the date of enactment of this Act.

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