

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 3024

By: Virgin

COMMITTEE SUBSTITUTE

An Act relating to juvenile offenders; prohibiting sentences of life imprisonment without parole for juveniles; directing court to consider mitigating circumstances; establishing parole eligibility for certain juvenile offenders; making parole eligibility requirements apply retroactively; directing Governor and Pardon and Parole Board to consider certain factors during parole hearings; authorizing attorney representation during parole eligibility hearings; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

A. A person shall not be sentenced to death or life imprisonment without the possibility of parole for an offense if the person was less than eighteen (18) years of age at the time the offense was committed.

1 B. In addition to other factors required by law to be
2 considered prior to imposition of a sentence, when determining the
3 appropriate sentence for a person who has been certified as an adult
4 pursuant to certification procedures authorized in the Oklahoma
5 Juvenile Code and who has been subsequently tried and convicted of a
6 felony offense as an adult, the court shall consider the following
7 mitigating circumstances:

8 1. Age at the time of the offense;

9 2. Immaturity, impetuosity and the ability to appreciate the
10 risks and consequences of the conduct;

11 3. Family and community environment;

12 4. Intellectual capacity;

13 5. The outcomes of a comprehensive mental health evaluation
14 conducted by a mental health professional licensed to treat
15 adolescents in the State of Oklahoma; provided, the provisions of
16 this paragraph shall not be construed to require a comprehensive
17 mental health evaluation be conducted on the person;

18 6. Peer or familial pressure;

19 7. Level of participation in the offense;

20 8. Ability to participate meaningfully in his or her defense;

21 9. Capacity for rehabilitation;

22 10. School records and special education evaluations;

23 11. Trauma history;

24 12. Faith and community involvement;

1 13. Involvement in the child welfare system; and

2 14. Any other mitigating factors or circumstances.

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 332.7b of Title 57, unless there
5 is created a duplication in numbering, reads as follows:

6 A. Notwithstanding any other provision of law to the contrary,
7 a person who was convicted and sentenced for an offense that was
8 committed before, on or after the effective date of this act and
9 before he or she was eighteen (18) years of age is eligible for
10 release on parole as follows:

11 1. A person who was convicted and sentenced for any offense
12 committed before he or she was eighteen (18) years of age and in
13 which the death of another person did not occur, and that was
14 committed before, on or after the effective date of this act, is
15 eligible for release on parole no later than after serving twenty
16 (20) years of incarceration, unless by law the person is eligible
17 for earlier parole eligibility; or

18 2. A person who was convicted and sentenced for any offense
19 committed before he or she was eighteen (18) years of age, in which
20 the death of another person occurred, and that was committed before,
21 on or after the effective date of this act, is eligible for release
22 on parole no later than after twenty-five (25) years of
23 incarceration, unless by law the person is eligible for earlier
24 parole eligibility.

1 The provisions of this section apply to any person whose crimes
2 were committed before he or she was eighteen (18) years of age,
3 regardless of the original sentence or combination of sentences that
4 were imposed or the sentences the person is currently serving,
5 including life imprisonment or life imprisonment without the
6 possibility of parole. The provisions of this section also apply
7 regardless of any mandatory minimums, sentencing enhancements or
8 multiple sentences ordered to be served consecutively or
9 concurrently.

10 B. This section shall apply retroactively to any person whose
11 crimes were committed before he or she was eighteen (18) years of
12 age, regardless of the original sentence or combination of sentences
13 that were imposed.

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

20 D. During a parole hearing involving a person under the
21 provisions of this section, the Board shall take into consideration
22 in addition to other factors required by law to be considered by the
23 Board, the following:
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1 1. The diminished culpability of children as compared to that
2 of adults;

3 2. The hallmark features of youth;

4 3. Subsequent growth and increased maturity of the person
5 during incarceration;

6 4. Age of the person at the time of the offense;

7 5. Immaturity of the person at the time of the offense;

8 6. The family of the person and community circumstances at the
9 time of the offense, including any history of abuse, trauma and
10 involvement in the child welfare system;

11 7. The participation of the person in available rehabilitative
12 and educational programs while in prison, if those programs have
13 been made available, or use of self-study for self-improvement; and

14 8. Other factors the Board deems relevant.

15 E. 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 3. This act shall become effective November 1, 2018.

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20 56-2-10080 GRS 03/01/18

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