

LC002375

IN GENERAL ASSEMBLY

RELATED TO CRIMINAL PROCEDURE -- SENTENCING RECONSIDERATION ACT

Referred To: Senate Judiciary

1 SECTION 1. Title 12 of the General Laws entitled "CRIMINAL PROCEDURE" is hereby
2 amended by adding thereto the following chapter:

SENTENCING RECONSIDERATION ACT

This chapter shall be known and may be cited as “The Sentencing Reconsideration Act.”

This chapter aims to create a fair and just process for sentence reconsideration based

9 on demonstrated rehabilitation, changes in law, and other compelling factors. It allows eligible
10 individuals to request sentence reductions and provides guidance to the judiciary for evaluating
11 sentencing reconsideration motions. This chapter acknowledges that people change over time and
12 provides a mechanism for sentences to be revisited in cases where original sentencing goals are
13 satisfied or where new circumstances justify a reevaluation.

15 (a) With regard to eligibility criteria, a defendant shall have served at least ten (10)
16 years of their sentence of incarceration to apply for a sentencing reconsideration.

(b) With regard to exclusions, relief under this chapter shall not apply to:

(1) Sentences of life without parole; or

(2) Mandatory sentences of incarceration.

1 **12-19.4.4. Grounds for reconsideration.**

2 The court may consider the following factors when evaluating a motion for
3 reconsideration:

4 (1) Rehabilitative efforts:

5 (i) Documented evidence of rehabilitation, including educational achievements, vocational
6 training, participation in treatment programs, and positive contributions to the facility or
7 community;

8 (ii) Testimonials from prison staff, community members, or professionals detailing the
9 individual's progress and personal growth;

10 (iii) Efforts to address underlying causes of criminal behavior including, but not limited to,
11 substance use, mental health, and childhood trauma.

12 (2) Changes in law: Any amendments to federal or state laws that would have affected the
13 individual's sentence if applied retroactively. In such cases, judicial discretion shall be used to
14 evaluate whether legislative intent suggests a reduction in penalties or reconsideration.

15 (3) Sentencing disparities: Consideration of whether sentencing disparities among co-
16 defendants or other cases might justify a reduction.

17 (4) Compassionate considerations: Age at the time of the offense, age at the time of the
18 motion for sentence reconsideration, mental and physical health conditions, and any other factor
19 consistent with the purpose and intent of this chapter that the court determines to be appropriate.

20 **12-19.4.5. Process and procedure.**

21 (a) The defendant or their legal representative may file a motion for sentence
22 reconsideration, along with supporting documentation. The motion should include a statement
23 detailing rehabilitative efforts, certificates, evidence of changes in law, and any additional factors
24 for consideration.

25 (b) The court shall hold a meaningful hearing to evaluate the motion. During this hearing,
26 the individual, their legal counsel, the prosecution, and any relevant witnesses may present
27 evidence, testimony, and/or arguments. An applicant who is indigent shall be entitled to be
28 represented by court appointed counsel. Such indigent applicant is entitled, to the extent deemed
29 appropriate by the court, to be provided with stenographic, printing, and other costs necessary to
30 proceed under this chapter.

31 (c) In evaluating the motion, the court shall assess the following pursuant to this chapter:

32 (1) Whether the defendant is eligible for consideration;

33 (2) Whether the grounds for reconsideration outlined in this section, along with other
34 factors establish significant evidence in support of a reduced sentence;

- 1 (3) The impact statement, if any, of any victim(s);
2 (4) The nature and circumstances of the underlying offense;
3 (5) Any potential risk to public safety if the defendant's sentence were to be reduced.

4 (d) After hearing thereon, notwithstanding any other provision of law to the contrary, the
5 court may reduce the defendant's sentence if it finds, by clear and convincing evidence, that
6 grounds exist to warrant a sentence modification. The court may impose a revised term of probation
7 or suspended sentence, with or without conditions. The revised sentence shall not exceed the
8 unserved portion of the original term of imprisonment. The court shall set forth its findings in
9 support of the decision. A judgment reflecting the revised sentence and/or conditions of release
10 shall enter.

11 (e) Should the defendant's motion be denied, in whole or in part, the defendant may not
12 file a successive motion for reconsideration until at least five (5) years have elapsed after the date
13 the motion was denied in the superior court.

14 (f) An aggrieved party seeking review of a final judgment entered in a proceeding brought
15 under this chapter shall do so by filing a petition for writ of certiorari in accordance with the
16 supreme court rules of appellate procedure within sixty (60) days of the entry of the final judgment.

17 **12-19.4-6. Victim's rights.**

18 Consistent with Article 1, Section 23 of the Constitution of Rhode Island and chapter 28
19 of title 12, the rights of the victim of the defendant's crime shall include the following:

20 (1) To be given notice to address the court at the hearing regarding the impact of the crime
21 upon them;

22 (2) To be afforded the opportunity to make a statement at the hearing either in person or in
23 writing regarding the impact of the defendant's criminal conduct; and

24 (3) To be notified by the department of attorney general of any such disposition of the
25 motion.

26 **12-19.4-7. Severability.**

27 If any section or provision of this chapter is found to be invalid or unconstitutional, the
28 remaining sections or provisions shall continue in full force and effect.

29 SECTION 2. Section 8-2-17 of the General Laws in Chapter 8-2 entitled "Superior Court"
30 is hereby amended to read as follows:

31 **8-2-17. Jurisdiction of appeals, statutory proceedings, and probate matters.**

32 The superior court shall have jurisdiction of such appeals and statutory proceedings as may
33 be provided by law, and may exercise general probate jurisdiction in all cases brought before it on
34 appeal from probate courts, or when such jurisdiction is properly involved in suits in equity as well

1 [as jurisdiction regarding motions brought pursuant to chapter 19.4 of title 12.](#)

2 SECTION 3. This act shall take effect upon passage and shall have both retroactive and
3 prospective application. Any applicable sentences imposed before or after its effective date shall
4 be eligible for consideration by the court.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATED TO CRIMINAL PROCEDURE -- SENTENCING RECONSIDERATION ACT

1 This act would allow eligible individuals serving lengthy sentences of imprisonment to
2 seek a sentence reduction from the superior court, no sooner than ten (10) years from the date of
3 imprisonment, based on several factors to include, but not be limited to, rehabilitation and changes
4 in the law. Those individuals serving life without parole or minimum mandatory sentences pursuant
5 to law, shall not be eligible for such relief.

6 This act would take effect upon passage and would have both retroactive and prospective
7 application. Any applicable sentences imposed before or after its effective date would be eligible
8 for consideration by the court.

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