SB156

YL496NN-1

By Senator Barfoot

RFD: Judiciary

First Read: 11-Feb-25

SYNOPSIS:

Under existing law, an individual who has certain prior felony convictions may be given an enhanced sentence based on his or her prior felony convictions pursuant to the habitual felony offender act.

This bill would provide that an individual whose sentence has been enhanced pursuant to the habitual felony offender act may be eligible to be resentenced in certain circumstances.

This bill would provide for the automatic repeal of this act on October 1, 2030.

This bill would also direct the Code Commissioner to perform certain duties with respect to collective references to the Alabama Board of Pardons and Paroles.

A BILL

TO BE ENTITLED

AN ACT

Relating to sentencing; to add Section 13A-5-9.2 to the Code of Alabama 1975, to provide that an individual sentenced

pursuant to the habitual felony offender act may be resentenced in certain circumstances; and to further provide for the duties of the Code Commissioner with respect to collective references to the Alabama Board of Pardons and Paroles.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 13A-5-9.2 is added to the Code of Alabama 1975, to read as follows:

§13A-5-9.2

(a) On or after October 1, 2025, an individual serving a sentence in the custody of the Department of Corrections may file a motion for a reduction in that sentence if the individual satisfies all of the following:

(1) The individual is serving a sentence pursuant to Section 13A-5-9, for any offense other than: (i) homicide, as defined in Article 1 of Chapter 6 of this title; (ii) a sex offense, as defined in Section 15-20A-5; (iii) attempted murder, pursuant to Section 13A-4-2; or (iv) an offense that caused serious physical injury or physical injury to another individual, as those terms are defined in Section 13A-1-2.

(2) The individual is serving a sentence of life without the possibility of parole.

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

(4) The individual has no prior convictions for any offense included in subdivision (1).

(b) The individual shall file any motion for a reduction in sentence in the criminal division of the circuit

court in the county in which the individual was convicted. The motion shall be heard by the original sentencing judge or his or her successor, the presiding judge of the circuit, or a retired judge as assigned by the Chief Justice of the Alabama Supreme Court.

(c)(1) The clerk of the court shall serve a copy of the motion for a reduction in sentence on the district attorney in the county of the conviction.

(2) The district attorney shall have an opportunity to be heard on any motion filed pursuant to this section.

(d) Any victim named in the indictment shall have an opportunity to be heard on any motion filed pursuant to this section. A victim may file a statement with the court in lieu of testifying at a hearing.

(e)(1) The circuit court clerk shall notify the Bureau of Pardons and Paroles when a petition is filed pursuant to this section and again when any hearing has been set. Upon receipt of this notice, the bureau shall exercise due diligence in attempting to locate and notify each victim named in the indictment. The bureau, when practicable, shall provide notifications through the statewide automated victim notification system established pursuant to Section 15-22-36.2. Each notification shall include the pendency of the motion; the location, date, and time of the hearing, if a hearing has been set; information explaining the circumstances in which the defendant may be resentenced; notice that the victim has a right to be heard at the hearing through in-person testimony or through a written victim impact

statement; and contact information for the appropriate district attorney. The court may not grant a motion for resentencing pursuant to this section or hold a hearing on such a motion until 30 days have passed following certification by the bureau that it has completed the victim notification requirements of this subdivision as to the pendency of the motion or the holding of the hearing, as the case may be.

(2) The circuit court clerk shall notify the investigating law enforcement agency at least 30 days prior to any hearing on a motion filed pursuant to this section.

(f) Within 10 days of any court order issued pursuant to this section, the bureau shall exercise due diligence to notify any victim named in the indictment.

(g) A court may impose a reduced sentence pursuant to the laws in effect at the time of the motion or may impose a sentence of time served.

(h) When considering a motion made pursuant to this section, the court shall consider all of the following:

(1) The underlying offense.

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

(3) The age of the individual at the time the motion is filed, including relevant research regarding criminal behavior as it relates to an individual's age.

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

(5) Whether the individual used a firearm in furtherance of the offense.

(6) Any objection or absence of objection by a victim named in the indictment.

(i) A court shall give considerable weight to any objection or absence of objection by a victim named in the indictment or the use of a firearm in furtherance of the offense.

(j) A court may not entertain a motion made pursuant to this section if a previous motion made pursuant to this section was denied.

(k) Nothing in this section may be construed to require a court to reduce any sentence.

(l) If a court determines a hearing is necessary for any motion filed pursuant to this section, the court may not hold a hearing on such a motion until 30 days have passed following certification by the bureau that it has completed the victim notification requirements set forth in subdivision (e)(1).

(m) For the purposes of this section, all references to a sentence, indictment, court, county, district attorney, victim, or investigating law enforcement agency refer to the sentence being served by the defendant that qualifies under subsection (a) and the indictment, court, county, district attorney, victim, and investigating law enforcement agency related to that sentence and the crime that led to the conviction.

(n) This section is repealed on October 1, 2030.

Section 2. (a) The Legislature recognizes that the Alabama Board of Pardons and Paroles is composed of a three-person board, each member of which is appointed by the Governor, serves a six-year term of office, and meets periodically throughout the year; and an executive staff consisting of an executive director and other administrative staff which together perform the day-to-day duties of the agency. The Legislature also recognizes that the Alabama Board of Pardons and Paroles has reorganized itself to distinguish the duties of the three-person board and the executive staff performing the day-to-day duties of the agency.

(b) The Code Commissioner is directed to examine all collective references to the Alabama Board of Pardons and Paroles and, where appropriate, distinguish between the three-member board and the executive staff functions of the agency. References to the duties and functions of the three-member board shall be referred to as the "Alabama Board of Pardons and Paroles" or "board," and references to the executive staff and its duties and functions shall be referred to as the "Bureau of Pardons and Paroles" or "bureau."

Section 3. This act shall become effective on October 1, 2025.