

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2910

**FISCAL
NOTE**

By Delegates Young, Pushkin, and Lewis

[Introduced February 24, 2025; referred to the

Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new section,
2 designated §62-11A-1b, relating to establishing the Second Look Sentencing Act;
3 providing a procedure for modification of a prison sentence when a person has served at
4 least 10 years of a sentence.

Be it enacted by the Legislature of West Virginia:

ARTICLE 11A. RELEASE FOR WORK AND OTHER PURPOSES.

§62-11A-1b. Second Look Sentencing Act - Modification of sentencing alternatives.

1 Notwithstanding any other provision of this code to the contrary:

2 (a) *Modification.* — Judges may consider and modify a prison sentence that is more than

3 10 years if: A person has served at least 10 years of their sentence; and the court finds that: (1)

4 The defendant is not a danger to any person or community; or (2) The defendant presents no

5 credible risk of criminal conduct; or (3) The defendant demonstrates a readiness for reentry; and

6 (4) The interests of justice warrant a sentence modification. Individuals granted a sentence

7 modification shall remain under supervised release for no more than five years following their

8 release from prison. The court shall state on the record the reasons for granting or denying a

9 sentence modification. There is a presumption of release for a defendant who is 50 years or older

10 on the date of application for resentencing.

11 (b) *Reapplication.* — Any person who is denied a sentence modification may reapply after

12 the following period: (1) A second application may be made five years after an order was entered

13 by the court for the first application. If a defendant appeals the decision of the first application, they

14 may not file a second petition. (2) A third application may be made two years after an order was

15 entered by the court for the second application. (3) A final application may be made when the

16 defendant is 50 years or older and has exhausted the sentencing modification process.

17 (c) *Factors Considered.* — When determining to modify a sentence, the court may

18 consider the factors in subsection (a) Of this section, including the nature of the offense, the

19 history and characteristics of the defendant. The court shall consider: (1) The age of the defendant

20 at the time of the offense; (2) The age of the defendant at the time of the petition, and relevant data
21 on age and declining criminality; (3) A report and recommendation of the Commissioner of
22 Corrections, including information on compliance, and completion of any educational, vocational,
23 or other programs; (4) A report and recommendation of the prosecuting attorney of the county in
24 which the defendant was convicted; (5) Whether the defendant has demonstrated maturity,
25 rehabilitation, and fitness to reenter society sufficient to justify a sentence modification; (6) A
26 statement from the victim or a family member of the victim, if the victim is deceased; (7) A report on
27 the physical, mental, or psychiatric examination of the defendant; (8) The family and community
28 circumstances of the defendant at the time of the offense, including history of abuse or
29 involvement in child welfare system, and the potential benefits to children and family members of
30 reunification with the defendant; (9) The extent of the role of the defendant in the offense and
31 whether and to what extent an adult was involved (if the defendant was a juvenile at the time of the
32 offense); (10) The diminished culpability of juveniles compared to adults; if the defendant was a
33 juvenile at the time of the offense; and (11) Any other information the court finds relevant.

34 (d) Appeal. — The state or the defendant may file an appeal for a review of a final order of
35 either the initial application for a sentence modification or the final application when the defendant
36 is over 50 years old.

NOTE: The purpose of this bill is to provide a procedure for modification of a prison sentence when a person has served at least 10 years of a sentence.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.