HB229 ENGROSSED



- 1 HGKS86-2
- 2 By Representative England
- 3 RFD: Judiciary
- 4 First Read: 04-Apr-23
- 5 2023 Regular Session



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6	A BILL
7	TO BE ENTITLED
8	AN ACT
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10	Relating to sentencing; to add Section 13A-5-14 to the
11	Code of Alabama 1975, to provide that an individual sentenced
12	pursuant to the habitual felony offender law may be
13	resentenced in certain circumstances; and to provide for the
14	repeal of this section in five years.
15	BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:
16	Section 1. Section 13A-5-9, Code of Alabama 1975, is
17	amended to read as follows:
18	" §13A-5-9
19	(a) In Except as provided in subsection (f), in all
20	cases when it is shown that a criminal defendant has been
21	previously convicted of a Class A, Class B, or Class C felony
22	and after the conviction has committed another Class A, Class
23	B, or Class C felony, he or she must shall be punished as
24	follows:
25	(1) On conviction of a Class C felony, he or she must
26	shall be punished for a Class B felony.
27	(2) On conviction of a Class B felony, he or she must
28	shall be punished for a Class A felony.



	(c) on conviction of a crass in retent, in or one mass
30	shall be punished by imprisonment for life or for any term of
31	not more than 99 years but not less than 15 years.
32	(b) In Except as provided in subsection (f), in all
33	cases when it is shown that a criminal defendant has been
3 4	previously convicted of any two felonies that are Class A,
35	Class B, or Class C felonies and after such the convictions
36	has committed another Class A, Class B, or Class C felony, he
37	or she must shall be punished as follows:
38	(1) On conviction of a Class C felony, he or she must
3 9	shall be punished for a Class A felony.
10	(2) On conviction of a Class B felony, he or she must
11	shall be punished by imprisonment for life or for any term of
12	not more than 99 years but not less than 15 years.
13	(3) On conviction of a Class A felony, he or she must
14	shall be punished by imprisonment for life or for any term of
15	not less than 99 years.
16	(c) In Except as provided in subsection (f), in all
17	cases when it is shown that a criminal defendant has been
18	previously convicted of any three felonies that are Class A,
19	Class B, or Class C felonies and after such the convictions
50	has committed another Class A, Class B, or Class C felony, he
51	or she must shall be punished as follows:
52	(1) On conviction of a Class C felony, he or she must
53	shall be punished by imprisonment for life or for any term of
54	not more than 99 years but not less than 15 years.
55	(2) On conviction of a Class B felony, he or she must
56	shall be punished by imprisonment for life or any term of not



57	less than 20 years.
58	(3) On conviction of a Class A felony, where the
59	defendant has no prior convictions for any Class A felony, he
60	or she must shall be punished by imprisonment for life or life
61	without the possibility of parole, in the discretion of the
62	trial court.
63	(4) On conviction of a Class A felony, where the
64	defendant has one or more prior convictions for any Class A
65	felony, he or she must shall be punished by imprisonment for
66	life without the possibility of parole.
67	(d) In all cases when it is shown that a criminal
68	defendant has been previously convicted of any two or more
69	felonies that are Class A or Class B felonies and after such
70	the convictions has committed a Class D felony, upon
71	conviction, he or she must shall be punished for a Class C
72	felony.
73	(e) In all cases when it is shown that a criminal
74	defendant has been previously convicted of any three or more
75	felonies and after such the convictions has committed a Class

77 for a Class C felony.

78 (f) A conviction for a nonviolent offense, as defined

79 in Section 12-25-32, may not be used to enhance a sentence

80 pursuant to subsection (a), (b), or (c)."

D felony, upon conviction, he or she must shall be punished

Section 1. Section 13A-5-14 is added to the Code of Alabama 1975, to read as follows:

83 \$13A-5-14

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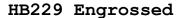
(a) On or after the effective date of this act, an



- 85 individual serving a sentence in the Department of Corrections
- 86 may file a motion for a reduction in sentence if he or she
- 87 satisfies all of the following:
- 88 (1) The individual was sentenced pursuant to Section
- 89 13A-5-9, for any offense other than: (i) homicide, as defined
- 90 in Article 1 of Chapter 13A; (ii) a sex offense, as defined in
- 91 Section 15-20A-5; or (iii) an offense that caused serious
- 92 physical injury to another person, as defined in Section
- 93 13A-1-2.
- 94 (2) The individual was sentenced to life without the
- 95 possibility of parole.
- 96 (3) The individual received a final sentence at the
- 97 trial court prior to May 26, 2000.
- 98 (b) The venue for a motion for a reduction in sentence
- 99 shall be the criminal division of the circuit court in the
- 100 county in which the individual was convicted. The motion shall
- 101 be heard by the original sentencing judge or his or her
- 102 successor, the presiding judge of the circuit, or a retired
- judge as assigned by the Chief Justice of the Alabama Supreme
- 104 Court.
- 105 (c)(1) The motion for a reduction in sentence shall be
- 106 served upon the district attorney in the county of conviction.
- 107 The district attorney shall have a right to be heard on any
- 108 motion filed pursuant to this section.
- 109 (2) The victim shall have a right to be heard on any
- 110 motion filed pursuant to this section. The victim may file a
- 111 statement with the court, or may testify at the hearing, if
- the court determines a hearing is necessary. The judge shall

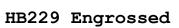


- give considerable weight to any objection made by the victim.
- 114 (3) The clerk of the court shall notify the law
- enforcement agency that investigated the crime for which he or
- 116 she was convicted.
- 117 (d) The court may impose a reduced sentence pursuant to
- 118 the laws in effect at the time of the motion or a sentence of
- time served. When considering a motion made pursuant to this
- 120 section, the court shall consider all of the following:
- 121 (1) The underlying offense.
- 122 (2) The individual's conduct while in the custody of
- 123 the Department of Corrections.
- 124 (3) The age of the individual at the time the motion is
- 125 filed, including relevant research regarding the decline in
- 126 criminal behavior as individuals grow older.
- 127 (4) The individual's likelihood of success after
- 128 release based on the availability of a structured, supportive
- 129 re-entry program.
- 130 (5) Whether the individual used a firearm in
- 131 furtherance of the offense. If so, the judge shall give
- 132 considerable weight to this fact.
- (e) A court may not entertain a motion made pursuant to
- 134 this section if a previous motion for a reduction of sentence
- 135 under this section was denied.
- 136 (f) Nothing in this section shall be construed to
- 137 require a court to reduce any sentence pursuant to this
- 138 section.
- 139 (g) Any motion for a reduction in sentence filed shall
- 140 be granted a hearing within 90 days of the court receiving the





- 142 (h) This section shall be repealed five years after the 143 effective date of the act adding this section.
- Section 2. This act shall become effective on the first
- day of the third month following its passage and approval by
- 146 the Governor, or its otherwise becoming law.





147 148 149	House of Representatives
150 151 152 153	Read for the first time and referred04-Apr-23 to the House of Representatives committee on Judiciary
154 155 156 157	Read for the second time and placed11-May-23 on the calendar: 1 amendment
158 159 160 161 162 163 164	Read for the third time and passed
165 166 167	John Treadwell Clerk