

HOUSE BILL 1363

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AN ACT to amend Tennessee Code Annotated, Title 39
and Title 40, relative to criminal law.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 40, Chapter 35, is amended by adding the following as a new part:

40-35-601.

(a) Notwithstanding another law to the contrary, any person serving a sentence of incarceration of eight (8) years or more for an offense committed prior to January 1, 2026, and who is a victim of domestic abuse subjected to substantial physical, sexual, or psychological abuse inflicted by a member of the same family or household as the person may, on or after January 1, 2026, submit to the sentencing court, a request to apply for resentencing in accordance with this part. The person must include in the request documentation proving that the person is serving a sentence of incarceration of eight (8) years or more for an offense committed prior to January 1, 2026, and that the person is serving such sentence for any offense eligible for an alternative sentence pursuant to this part.

(b) If the court finds that the person has met the requirements to apply for resentencing in subsection (a), the court shall notify such person that the person may submit an application for resentencing. Upon such notification, the person may request that the court appoint an attorney for the preparation of and proceedings on the application for resentencing pursuant to this part.

(c) If the court finds that the person has not met the requirements to apply for resentencing in subsection (a), then the court shall notify such person and dismiss the request without prejudice.

(d) As used in this part, "domestic abuse" means the same as defined in § 36-3-601.

40-35-602.

(a) Upon the court's receipt of an application for resentencing, the court shall promptly notify the district attorney general for the judicial district in which the offense occurred and provide such district attorney general with a copy of the application.

(b) An application for resentencing pursuant to this part must include at least two (2) pieces of evidence corroborating the applicant's claim that, at the time of the offense, the applicant was a victim of domestic abuse subjected to substantial physical, sexual, or psychological abuse inflicted by a member of the same family or household as the applicant. At least one (1) piece of evidence must be either a court record, presentence report, social services record, hospital record, sworn statement from a witness to the domestic violence, law enforcement record, domestic incident report, or order of protection. Other evidence may include, but is not limited to, department of corrections records, jail records, a showing based in part on documentation prepared at or near the time of the commission of the offense or the prosecution of the offense tending to support the person's claim, or verification of consultation with a licensed healthcare provider or mental healthcare provider, employee of a court acting within the scope of his or her employment, member of the clergy, attorney, social worker, rape crisis counselor, or other advocate acting on behalf of an agency that assists victims of domestic violence for the purpose of assisting such person with domestic violence victim counseling or support.

(c) If the court finds that the applicant has not submitted corroborating evidence as required by subsection (b), then the court shall dismiss the application without prejudice.

(d) If the court finds that the applicant has complied with subsection (b), then the court shall conduct a hearing to determine whether the applicant should be resentenced in accordance with this part. At such hearing the court shall determine any controverted issue of fact relevant to the issue of sentencing. Reliable hearsay is admissible at such hearings.

(e) The court may consider any fact or circumstances relevant to the imposition of a new sentence which are submitted by the applicant or the district attorney general and may, in addition, consider the institutional record of confinement of the applicant, but shall not order a new presentence report or entertain any matter challenging the underlying basis of the subject conviction. The court's consideration of the institutional record of confinement of such applicant must include, but not be limited to, such applicant's participation in or willingness to participate in programming such as domestic violence, parenting, and substance abuse treatment while incarcerated and such applicant's disciplinary history. The fact that the applicant was unable to participate in treatment or other programming while incarcerated despite the applicant's willingness to do so shall not be considered a negative factor in determining an application pursuant to this section.

(f) If the court determines that the applicant should not be resentenced in accordance with this part, the court shall inform the applicant of its decision and enter an order to that effect. Any order issued pursuant to this section must include written findings of fact and the reasons for the order.

(g) If the court determines that the applicant should be resentenced in accordance with this part, the court shall notify the applicant that, unless the applicant withdraws the application, the court will enter an order vacating the sentence originally imposed and impose a new sentence. An order issued pursuant to this part must include written findings of fact and the reasons for the order.

40-35-603.

(a) An appeal of a determination under § 40-35-602 may be taken as of right:

(1) From an order denying resentencing; or

(2) From a new sentence imposed under this part, based on the grounds

that:

(A) The term of the new sentence is harsh or excessive; or

(B) The term of the new sentence is unauthorized as a matter of

law.

(b) Upon remand to the sentencing court following an appeal, the applicant shall be given an opportunity to withdraw an application for resentencing before any sentence is imposed.

(c) The applicant may request that the court appoint the applicant an attorney for the preparation of and proceedings on any appeals regarding the application for resentencing pursuant to this part.

40-35-604.

In calculating the new term to be served by an applicant pursuant to § 40-35-602(g), the applicant must be credited for any jail time or period of incarceration credited toward the sentence originally imposed.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.