

DRAFT 1

SENATE BILL NO.

/HOUSE BILL NO.

September 1, 2021, Proposed by the Legislative Committee of  
The Adolescent Redemption Project, Incorporated,  
and supported by the National Lifers of America,  
Incorporated, and referred to certain members of the  
Michigan Senate and House of Representatives.

BILL TEXT

1

2

National Lifers of America, Inc.

A bill to amend 1927 PA 175, entitled "The Code of Criminal  
Procedure" (MCL 760.1 to 777.69) by adding Section 27a to Chapter  
IX.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 27a. (1) This Act provides incarcerated individuals

3 serving long sentences an opportunity to petition their  
sentencing

4

judge for a reduction of their sentence after they have served at

5

least fifteen (15) years or twenty-five (25) years in custody.

6

(2) [SHORT TITLE.] This Act may be cited as the "Second

7 Look Sentencing Act."

1

(3) [SECOND LOOK.]

Notwithstanding any other provision

2

of law, including any applicable mandatory minimum sentence,

3

an incarcerated individual who was sentenced before their

4

25th birthday to a long-indeterminate number of years or to life

5

with the possibility of parole and who has served fifteen (15)

6

years of their sentence may petition their sentencing judge for  
a

7

reduction of their sentence, except for those convicted and

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

sentenced to life without the possibility of parole under MCL

750.316, who shall serve twenty-five (25) years of their

sentence before petitioning to their sentencing  
judge.

(4) Where a petition for a reduction in sentence under this

Act that has been denied, the incarcerated individual may not file

a successive petition until at least three (3) years have  
elapsed

after the date the petition was denied; the court may require

a

longer waiting period, but no more than five (5) years after the date the petition was denied.

(5) Where a petition for a reduction in sentence under this act has been granted, the incarcerated individual may not file a petition for a second sentencing reduction until at least five (5) years have elapsed after the date the petition WAS granted.

(6) Notwithstanding this subsection, an otherwise ineligible incarcerated individual shall be deemed eligible to petition for a reduction in sentence upon consent of the prosecuting attorney.

(7) [PROCEDURE.] No more than thirty (30) days after the date on which the fifteenth year of imprisonment begins for an incarcerated individual sentenced to more than twenty (20) years

2

3

4

5

or to life with the possibility of parole or on which the twenty-fifth year of imprisonment begins for an incarcerated individual sentenced to life without the possibility of parole for an offense, the Michigan Department of Corrections shall

provide written notice of this section to (a) the incarcerated  
6 individual; and (b) the sentencing court, the prosecuting  
7 attorney, and the sentencing county's public defender office for

8 the judicial circuit in which the sentence described in this

9

10

11

paragraph was imposed.

12

(8) A petition for a sentence reduction under this section  
may be filed six (6) months after the date on which the fifteenth  
13 year of imprisonment begins for an incarcerated individual

14

sentenced to more than twenty (20) years or to life with the

15

16

17

18

possibility of parole or on which the twenty-fifth year of

19

imprisonment begins for an incarcerated individual sentenced to

life without the possibility of parole for an offense.

(9) The petition must be filed in writing in the judicial  
circuit in which the sentence was imposed and may include

19 affidavits, declarations, letters, prison records, or other

20

21

22

23

24

-25-

26

written and electronic material.

(10) Upon the court's receipt of a petition under this section, the court shall promptly notify the appropriate prosecuting attorney and provide such prosecuting attorney with a copy of the application, including any attached written or electronic material.

(11) A petition under this subsection shall be referred for

3

1

2

3

4

5

determination to the judge who imposed the original sentence upon the defendant. If, at the time of the application, the original sentencing judge is not longer available, then the petition shall be assigned to a successor judge.

(12) After the filing of a petition for a sentencing

6 reduction under this section, the court may direct the parties to

7 expand the record by submitting additional materials relating to

8

9

10

11

the motion. A petition filed under this section may be amended  
with leave of court, which the court should grant when justice so  
requires.

(13) No waiver of the right to make an application for a  
12 resentencing under this Act shall be permitted or honored by the

13

14

15

16

17

18

19

20

21

22

23

-24

sentencing court.

(14) (HEARING.] The court shall, upon request of the

National Lifers of America, Inc.

petitioner or the state, conduct a hearing on the motion, at which

the petitioner and counsel for the petitioner shall be given  
the

opportunity to be heard. Such hearing shall be  
recorded or

transcribed.

(15) In a hearing under this section, the court may, but is  
not required to, allow parties to present any evidence that the  
court deems relevant to the issue of the propriety of a reduction  
in sentencing. Such evidence may include documents, live  
testimony, tangible objects, or any other class of evidence or  
information pertinent to sentencing. The court has exclusive

25 discretion to determine the relevance of any proposed evidence not

26

expressly stated in Section 18. At such hearing, the defendant

5

6

7

8

1

2

3

National Lifers of America, Inc.



4

shall have the right to testify or to remain silent at the  
defendant's sole discretion.

(16) At a hearing under this section, the defendant shall be  
present unless the defendant waives the right to be present. The  
requirement under this clause may be satisfied by the  
defendant  
appearing by video teleconference.

9

(17) The court shall set forth, either in open court or in  
writing the reasons for granting or denying a petition under this  
section.

10

Notwithstanding the aforementioned, the court shall  
provide a written order with their reasons for granting or denying  
a petition under this section to the defendant or defendant's  
attorney.

11

12

13

14

discretion under this subsection, the sentencing court must

15

circumstances:  
consider the following factors in the totality of the

16

17

18

19

20

21

22

23

24

25

26

(a) The age of the petitioner at the time of the offense and relevant research regarding development of the youth brain and traumatic experiences as a youth.

(b) The age of the petitioner at the time of the sentence modification petition and relevant research regarding the decline of criminal behavior as individuals grow older.

(c) The nature of the offense, including changing societal attitudes regarding the propriety of criminalizing the offense and the appropriate sentence for the offense.

(d) The history and characteristics of the petitioner at the

National Lifers<sup>5</sup> of America, Inc.

1

2

3

4

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19

time of the petition for a reduction in sentence,  
including rehabilitation demonstrated by the petitioner,  
the petitioner's disciplinary record while incarcerated,  
and the petitioner's efforts to participate  
in  
educational, therapeutic, and vocational opportunities  
while imprisoned.

- (e) The circumstances of the offense, including the  
petitioner's role in its commission, whether the  
petitioner was under the influence of another, or whether  
the petitioner was the victim of domestic or sexual abuse.  
at the time of the offense and whether such abuse was

20  
21  
22  
23  
24  
25  
26

related to the petitioner's commission of the offense.

- (f) Any report from a physical, mental, or psychiatric examination of the defendant conducted by a licensed care professional.
- (g) Any statement pursuant to Section 25 by any victim of an offense for which the defendant is imprisoned or by a family member of the victim if the victim is deceased.
- (h) Any evidence concerning whether the petitioner's sentence was enhanced because the petitioner exercised their constitutional right to a trial.
- (i) Any evidence that the petitioner was denied ineffective assistance of counsel at any stage in the case leading to the original sentence, including ineffective assistance of counsel at the plea-bargaining stage.
- (j) Any evidence that the petitioner is innocent of the

1  
2  
3

4

offense.

(k) Any other information the court determines relevant to

the decision of the court.

(19) In the case of a defendant who is 50 years of age or

5

older on the date on which the petitioner files an application for

6

7

8

9

10

11

12

13

14

15

16

17

18

19

National Lifers of America, Inc.

20

21

22

23

24

25

26

a sentence reduction, there shall be a rebuttal presumption that the petitioner shall be released.

(20) In calculating the new term to be served by the petitioner, such petitioner shall be credited for any jail time credited towards the subject conviction as well as any period of incarceration credited toward the sentence originally imposed.

(21) [RIGHT TO COUNSEL.] A defendant who is unable to afford counsel is entitled to have counsel appointed, at no cost to the defendant, to represent the defendant for the application and proceedings under this section, including any appeal, unless the defendant expressly waives the right to counsel after being fully advised of this right by the court.

(22) A defendant who files a pro se petition and subsequently retains or is appointed counsel shall be entitled to amend such petition at least once as of right with the assistance of counsel.

Subsequent amendments may be permitted by leave of court, as

authorized by Section 12.

(23) [VICTIM'S RIGHTS.] Upon receipt of an application for resentencing, a prosecuting attorney shall provide any notification to the victim otherwise required by statute

(24) The prosecuting attorney shall, if practicable, advise

7

1 the victim's, or victim's family, in a homicide case prior to

2 making any filing in relations to an application under this

3 section.

(25) The victim shall not be excluded from a hearing granted

5 under this section and may be allowed to provide a statement, oral

6 or written, regarding the impact of the offense conduct on the

7 victim.

8

9

10

11

12

13

(26) The court shall not, in modifying a sentence, disturb

any restitution awarded in at the original sentencing.

(27) [RIGHT TO APPEAL.] An appeal from a resentencing  
proceeding under this Act may be taken by the defendant or the

prosecuting authority on the grounds that the resentence is

unlawful, was imposed in an unlawful manner, or is too lenient,

14

or is otherwise inappropriate in light of the

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

purposes of sentencing an enunciated in the state's statutes.

(28) The right to appeal from a sentence modification under this provision shall be as of right on the same terms as a first appeal from an initial sentence at the time of conviction.

(29) [REINVESTMENT:] Twenty-five percent (25%) of the savings realized as a result of this Act shall be designated to fund prison-based and community-based programs designed to counter recidivism through education, therapeutic intervention, maintenance of familial and social networks, restorative justice and successful post-custodial re-entry to society.

(30) Ten percent (10%) of the savings realized as a result of this act shall be designated to fund dedicated personnel in the



1

2

3

4

offices of prosecutors and public defenders to represent,  
respectively, the State and the incarcerated individual in all  
proceedings under this Chapter.

(31) [CONSTRUCTION WITH HABEAS AND OTHER POST-CONVICTION

5

REMEDIES.] This Act shall not be constructed to abridge or modify

6

any existing remedy an incarcerated individual may have under

7

8

9

10

habeas corpus, statutory or judicial post-conviction relief, or  
and other legal framework.

(32) A petition under this Act shall not impact in any way or

be impacted in any way by any pending habeas or other

postconviction proceeding, nor shall the denial of a petition

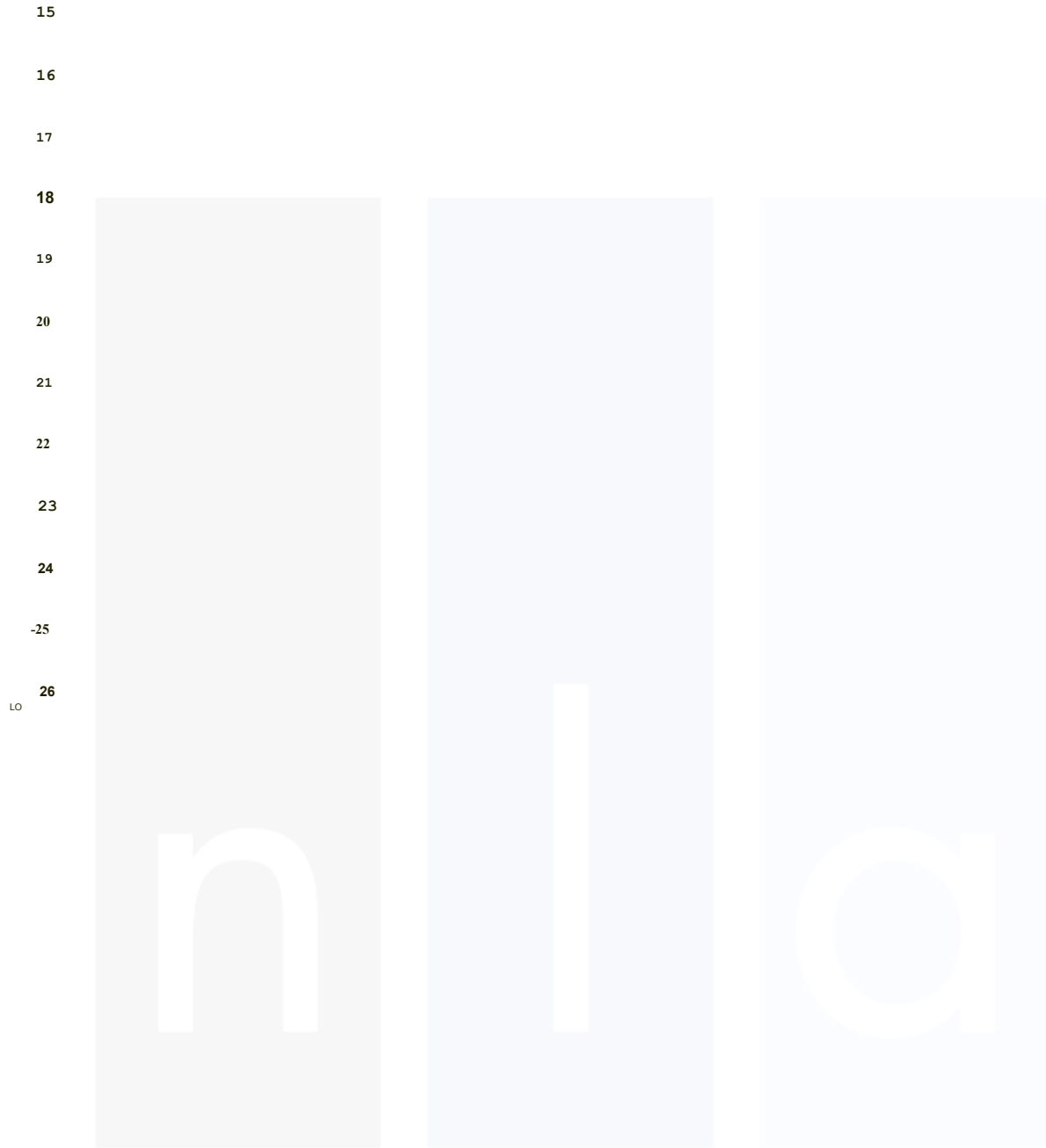
under this Act preclude such remedies from being granted.

11

12

13

14



National Lifers of America, Inc.