

SPONSOR: Sen. Townsend & Sen. Henry, & Rep. Walker
Sens. Blevins, Bushweller, Ennis, Hall-Long, Marshall, McBride, McDowell, Peterson, Poore, Sokola & Venables, Reps. Barbieri, Baumbach, Brady, Jaques, J. Johnson, Kowalko, Mitchell, Osienski, Paradee & Ramone

DELAWARE STATE SENATE

147th GENERAL ASSEMBLY

SENATE BILL NO. 9
AS AMENDED BY
SENATE AMENDMENT NO. 2
AND
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO CRIMINAL SENTENCES.

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

Section 1. Amend Section 636(b) of Title 11 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

(b) Murder in the first degree is a class A felony and shall be punished:

(1) as provided in § 4209 of this title for an offense that was committed after the person had reached the person's eighteenth birthday; and

(2) as provided in § 4209A of this title for an offense that was committed before the person had reached the person's eighteenth birthday.

Section 2. Amend the catchline to Section 4209 and amend Section 4209(a) of Title 11 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 4209. Punishment, procedure for determining punishment, review of punishment and method of punishment for first-degree murder committed by adult offenders.

(a) Punishment for first-degree murder. -- Any person who is convicted of first-degree murder for an offense that was committed after the person had reached the person's eighteenth birthday shall be punished by death or by imprisonment for the remainder of the person's natural life without benefit of probation or parole or any other reduction, said penalty to be determined in accordance with this section.

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Section 3. Amend Chapter 42 of Title 11 of the Delaware Code by inserting a new Section 4209A as follows:

§ 4209A. Punishment for first-degree murder committed by juvenile offenders.

Any person who is convicted of first-degree murder for an offense that was committed before the person had reached the person's eighteenth birthday shall be sentenced to term of incarceration not less than 25 years to be served at Level V up to a term of imprisonment for the remainder of the person's natural life to be served at Level V without benefit of probation or parole or any other reduction.

Section 4. Amend Section 4204A of Title 11 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strikethrough as follows:

§ 4204A. Confinement of youth convicted in Superior Court

(d)(1) Notwithstanding any provision of this Title to the contrary, any offender sentenced to an aggregate term of incarceration in excess of 20 years for any offense or offenses other than Murder First Degree that were committed prior to the offender's eighteenth birthday shall be eligible to petition the Superior Court for sentence modification after the offender has served 20 years of the originally imposed Level V sentence.

(2) Notwithstanding any provision of this Title to the contrary, any offender sentenced to a term of incarceration for Murder First Degree when said offense was committed prior to the offender's eighteenth birthday shall be eligible to petition the Superior Court for sentence modification after the offender has served 30 years of the originally imposed Level V sentence.

(3) Notwithstanding any provision of this subsection or Title to the contrary, any offender who has petitioned the Superior Court for sentence modification pursuant to this subsection shall not be eligible to submit a second or subsequent petition until at least 5 years have elapsed since the date on which the Court ruled upon the offender's most recent petition. Further, the Superior Court shall have the discretion at the time of each sentence modification hearing to prohibit a subsequent sentence modification petition for a period of time in excess of five years if the Superior Court finds there to be no reasonable likelihood that the interests of justice will require another hearing within five years.

(4) Notwithstanding the provisions of § 4205 or § 4217 of this Title, any court rule or any other provision of law to the contrary, a Superior Court judge upon consideration of a petition filed pursuant to subsection (d) of this Section, may modify, reduce or suspend such petitioner's sentence, including any minimum or mandatory

sentence, or a portion thereof, in the discretion of the court. Nothing in this Section , however, shall require the court to grant such a petitioner a sentence modification pursuant to this section.

(5) The Superior Court shall have the authority to promulgate appropriate rules to regulate the filing and litigation of sentence modification petitions pursuant to this paragraph.

Section 6. The provision of this Act creating new Section 4209A of Title 11 of the Delaware Code shall be applicable to any sentence for any offense that was committed before the offender had reached the offender's eighteenth birthday whether that sentence was imposed either before or after the enactment of this Act. The Superior Court shall provide procedures to receive petitions for resentencing from those previously sentenced for first degree murder for any offense that was committed before the person had reached his or her eighteenth birthday, such resentencing to proceed under the provisions of new Section 4209A. Nothing in this section, however, shall require the court to grant a reduction in sentence to any such offender.

Section 7. The provision of this Act creating new Section 4204A(d) of Title 11 of Title 11 of the Delaware Code shall be applicable to any term of incarceration of life imprisonment to be served at Level V for any offense that was committed before the offender had reached the offender's eighteenth birthday whether that sentence was imposed either before or after the enactment of this Act.

Section 8. The provisions of this Act shall be applicable to any person serving a sentence at Level V for any offense that was committed prior to the offender's eighteenth birthday, regardless of whether such offense was committed prior to or after enactment of this Act.

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