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— SHELBY COUNTY —
JUSTICE REVIEW UNIT

JUSTICE REVIEW UNIT **DRUG-FREE SCHOOL ZONE SENTENCE PROTOCOL**

I. OVERVIEW

The purpose of the Drug-Free School Zone Sentence Review is to investigate sentences under prior Tenn. Code Ann. §39-14-432 that required enhanced punishment in cases where the indictment alleged particular drug related activity in community areas referred to as “Drug-Free School Zones.” That statute has been amended to allow persons sentenced to the enhancements to seek a reduction of the sentence through a resentencing process. The Justice Review Unit (JRUI) will conduct Sentence Review only in convictions occurring prior to September 1, 2020, under Tenn. Code Ann. §39-14-432(b)(1)(B). Such convictions hereinafter will be referred to simply as Convictions and the persons convicted under the statute will be referred to as Convicted Person(s).

II. INITIAL REVIEW

Convicted Person(s) *possibly* eligible for resentencing under §39-17-432(h), as amended in 2020, will be identified by the JRUI’s review of the internal data of the Office of the District Attorney General, Steve Mulroy (Office). It is not necessary that the convicted person request Sentence Review from the JRUI, however, they may do so. While the JRUI offers this service to Convicted Person(s) it identifies within the Office’s database, Convicted Person(s) not identified or those determined ineligible for assistance by the JRUI are ultimately responsible for seeking resentencing under subsection (h) of amended Tenn. Code Ann. §39-14-432. **Undertaking this review does not create an attorney-client relationship between the Convicted Person and the JRUI.**

III. ELIGIBILITY REVIEW

The JRUI will determine which cases are actionable by determining eligibility under the following requirements:

- the Convicted Person was convicted prior to September 1, 2020, and
- the Convicted Person was convicted in Shelby County, Tennessee, pursuant to Tenn. Code Ann. §39-14-432(b)(1)(B), and
- the Convicted Person received the enhanced punishment described in subsection (b)(1) of Tenn. Code Ann. §39-14-432, and/or

- the Convicted Person received the enhanced punishment described in subsections (b)(2)(a-e) of Tenn. Code Ann. §39-14-432, and
- the Convicted Person must be incarcerated and currently serving the sentence received prior to September 1, 2020, under §39-14-432(b)(1)(B).

Upon determination that the case is actionable, the Convicted Person and counsel at the time of the Conviction will be notified by letter of the JRU's determination. Counsel will be asked to verify whether or not representation will continue through the resentencing process of §39-17-432(h). If counsel is not continuing representation, the JRU will continue with the Sentence Review. If representation is continuing, counsel will be asked to advise the JRU whether they prefer to proceed with the case alone or with the JRU's involvement.

IV. PRIORITY OF CASES

Upon identifying a case as actionable, priority will be given to:

- Those serving a sentence only under Tenn. Code Ann. §39-17-432(b)(1);
- Those whose incarceration records indicate that the Convicted Person is no longer a danger to the community due to adherence to rules while incarcerated;
- Those whose incarceration records show the Convicted Person to be amenable to rehabilitation as determined by attendance in classes offered at the facility, holding a job at the facility, etc.;
- Those having letters of recommendation from staff members of TDOC;
- Those having letters of recommendation from citizens of Shelby County.

Aside from the criteria of serving a sentence only under §39-17-432, which will be given the greatest consideration, the remaining criteria will be assessed on the totality of circumstances. The decisions as to whether the Convicted Person's case is eligible and the prioritization of cases are solely at the discretion of District Attorney General Steve Mulroy.

V. PROCEEDING UNDER SUBSECTION (h)

An actionable prioritized case will be prepared for a motion for resentencing under §39-17-432(h). If the Convicted Person is no longer represented by counsel the JRU will prepare a motion for resentencing as set forth in §39-17-432(h). The JRU will provide a copy to the Convicted Person and advise when the motion will be filed and a report date requested from the Court. Thereafter, the JRU will have no further contact with the unrepresented Convicted Person.

If the Convicted Person is represented by counsel, the JRU will engage in discussions with counsel to determine whether a new sentence can be agreed upon. If there is an agreed sentence, JRU will prepare a joint motion and proposed order. Thereafter, the JRU and counsel will address the Court on the matter and proceed in accordance with §39-17-432(h). It is up to the original sentencing Court to determine the sentence.

If there is no agreement between the JRU and counsel for the Convicted Person, it will be the responsibility of counsel for the Convicted Person to initiate proceedings outlined in §39-17-432(h). No further action to move the case forward will be undertaken by the JRU.