

1 A bill to be entitled

2 An act relating to reductions of criminal sentences;
3 amending s. 893.13, F.S.; limiting the maximum term of
4 imprisonment for controlled substance offenses
5 involving certain amounts of specified controlled
6 substances; amending s. 893.135, F.S.; providing an
7 exception to a minimum mandatory sentence for certain
8 controlled substances offenses if certain conditions
9 are met; amending s. 893.03, F.S.; revising a cross-
10 reference; creating s. 921.1403, F.S.; providing that
11 certain offenders are eligible to apply for a
12 reduction in sentence after completing a specified
13 period of incarceration; providing exceptions;
14 providing procedures for sentencing reviews;
15 specifying factors to be considered; providing for
16 offenders sentenced to mandatory minimums; requiring
17 that a minimum percentage of a revised sentence be
18 served before an offender may be released from
19 custody; providing an effective date.

20
21 Be It Enacted by the Legislature of the State of Florida:

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23 Section 1. Subsection (10) of section 893.13, Florida
24 Statutes, is renumbered as subsection (11), and a new subsection
25 (10) is added to that section, to read:

26 893.13 Prohibited acts; penalties.—

27 (10) Notwithstanding chapter 921, any provision of this
 28 section, or any other law relating to the punishment for
 29 possessing, purchasing, or possessing with the intent to
 30 purchase a controlled substance, a person who possesses,
 31 purchases, or possesses with the intent to purchase any of the
 32 following substances may not be imprisoned for a term longer
 33 than 12 months:

34 (a) One gram or less of a mixture or substance containing
 35 a detectable amount of heroin;

36 (b) One gram or less of a mixture or substance containing
 37 a detectable amount of:

38 1. Coca leaves, except coca leaves and extracts of coca
 39 leaves from which cocaine, ecgonine, and derivations of ecgonine
 40 or their salts have been removed;

41 2. Cocaine, its salts, optical and geometric isomers, and
 42 salts of its isomers;

43 3. Ecgonine, its derivatives, their salts, isomers, and
 44 salts of their isomers; or

45 4. Any compound, mixture, or preparation of any of the
 46 substances described in subparagraph 1., subparagraph 2., or
 47 subparagraph 3.

48 (c) One-tenth gram or less of a mixture or substance
 49 containing a detectable amount of phencyclidine (PCP);

50 (d) Five-hundred micrograms or less of a mixture or

51 substance containing a detectable amount of lysergic acid
52 diethylamide (LSD); or

53 (e) One gram or less of methamphetamine, its salts,
54 isomers, and salts of its isomers, or one gram of a mixture or
55 substance containing a detectable amount of methamphetamine, its
56 salts, isomers, or salts of its isomers.

57 Section 2. Subsections (6) and (7) of section 893.135,
58 Florida Statutes, are renumbered as subsections (7) and (8),
59 respectively, and a new subsection (6) is added to that section,
60 to read:

61 893.135 Trafficking; mandatory sentences; suspension or
62 reduction of sentences; conspiracy to engage in trafficking.—

63 (6) Notwithstanding any provision of this section, a court
64 may impose a sentence for a violation of this section other than
65 the mandatory minimum term of imprisonment and mandatory fine
66 if, after the state has been afforded an opportunity on the
67 record to make a recommendation, the court finds on the record
68 that all of the following circumstances exist:

69 (a) The defendant has no prior conviction for a forcible
70 felony as defined in s. 776.08, has no prior conviction for
71 trafficking in a controlled substance, and has a total prior
72 record score of less than 4 points on his or her sentencing
73 scoresheet.

74 (b) The defendant did not use violence or credible threats
75 of violence, possess a firearm or other dangerous weapon, or

76 induce another participant to use violence or credible threats
 77 of violence, in connection with the offense.

78 (c) The offense did not result in the death of or serious
 79 bodily injury to any person.

80 (d) The defendant was not an organizer, leader, manager,
 81 or supervisor of others in the offense and was not engaged in a
 82 continuing criminal enterprise under s. 893.20.

83 (e) At the time of the sentencing hearing or earlier, the
 84 defendant has truthfully provided to the state all information
 85 and evidence that he or she possesses concerning the offense or
 86 offenses that were part of the same course of conduct or of a
 87 common scheme or plan.

88 (f) The defendant has not previously benefited from the
 89 application of this subsection.

90
 91 A court may not apply this subsection to an offense under this
 92 section that carries a mandatory minimum term of imprisonment of
 93 7 years or more.

94 Section 3. Paragraph (c) of subsection (3) of section
 95 893.03, Florida Statutes, is amended to read:

96 893.03 Standards and schedules.—The substances enumerated
 97 in this section are controlled by this chapter. The controlled
 98 substances listed or to be listed in Schedules I, II, III, IV,
 99 and V are included by whatever official, common, usual,
 100 chemical, trade name, or class designated. The provisions of

101 | this section shall not be construed to include within any of the
102 | schedules contained in this section any excluded drugs listed
103 | within the purview of 21 C.F.R. s. 1308.22, styled "Excluded
104 | Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical
105 | Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted
106 | Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt
107 | Anabolic Steroid Products."

108 | (3) SCHEDULE III.—A substance in Schedule III has a
109 | potential for abuse less than the substances contained in
110 | Schedules I and II and has a currently accepted medical use in
111 | treatment in the United States, and abuse of the substance may
112 | lead to moderate or low physical dependence or high
113 | psychological dependence or, in the case of anabolic steroids,
114 | may lead to physical damage. The following substances are
115 | controlled in Schedule III:

116 | (c) Unless specifically excepted or unless listed in
117 | another schedule, any material, compound, mixture, or
118 | preparation containing limited quantities of any of the
119 | following controlled substances or any salts thereof:

120 | 1. Not more than 1.8 grams of codeine per 100 milliliters
121 | or not more than 90 milligrams per dosage unit, with an equal or
122 | greater quantity of an isoquinoline alkaloid of opium.

123 | 2. Not more than 1.8 grams of codeine per 100 milliliters
124 | or not more than 90 milligrams per dosage unit, with recognized
125 | therapeutic amounts of one or more active ingredients which are

126 | not controlled substances.

127 | 3. Not more than 300 milligrams of hydrocodone per 100
128 | milliliters or not more than 15 milligrams per dosage unit, with
129 | a fourfold or greater quantity of an isoquinoline alkaloid of
130 | opium.

131 | 4. Not more than 300 milligrams of hydrocodone per 100
132 | milliliters or not more than 15 milligrams per dosage unit, with
133 | recognized therapeutic amounts of one or more active ingredients
134 | that are not controlled substances.

135 | 5. Not more than 1.8 grams of dihydrocodeine per 100
136 | milliliters or not more than 90 milligrams per dosage unit, with
137 | recognized therapeutic amounts of one or more active ingredients
138 | which are not controlled substances.

139 | 6. Not more than 300 milligrams of ethylmorphine per 100
140 | milliliters or not more than 15 milligrams per dosage unit, with
141 | one or more active, nonnarcotic ingredients in recognized
142 | therapeutic amounts.

143 | 7. Not more than 50 milligrams of morphine per 100
144 | milliliters or per 100 grams, with recognized therapeutic
145 | amounts of one or more active ingredients which are not
146 | controlled substances.

147 |

148 | For purposes of charging a person with a violation of s. 893.135
149 | involving any controlled substance described in subparagraph 3.
150 | or subparagraph 4., the controlled substance is a Schedule III

151 controlled substance pursuant to this paragraph but the weight
 152 of the controlled substance per milliliters or per dosage unit
 153 is not relevant to the charging of a violation of s. 893.135.
 154 The weight of the controlled substance shall be determined
 155 pursuant to s. 893.135(7) ~~893.135(6)~~.

156 Section 4. Section 921.1403, Florida Statutes, is created
 157 to read:

158 921.1403 Review and modification of sentences.-

159 (1) As used in this section, "eligible offender" means a
 160 person who:

161 (a) Has been sentenced to a term of imprisonment of 15
 162 years or more in the custody of the Department of Corrections.

163 (b) Has served at least half of his or her sentence, or,
 164 in the case of a life sentence, at least 20 years.

165 (c) Is not a juvenile offender as defined in s.
 166 921.1402(1).

167 (d) Has not been resentenced under this section
 168 previously.

169 (e) Has never been adjudicated guilty of any of the
 170 following offenses, or conspiracy to commit any of the following
 171 offenses:

172 1. Murder.

173 2. Sexual battery.

174 3. Arson.

175 4. Home-invasion robbery.

176 5. Human trafficking for commercial sexual activity with a
 177 child under 18 years of age.

178 6. Kidnapping under s. 787.01.

179 7. False imprisonment under s. 787.02(3)(a).

180 8. Aggravated child abuse.

181 9. Aggravated abuse of an elderly person or a disabled
 182 adult.

183 10. Unlawful throwing, placing, or discharging of a
 184 destructive device or bomb.

185 11. Assault or battery upon a law enforcement officer, a
 186 firefighter, an emergency medical care provider, a railroad
 187 special officer, or a traffic accident investigation officer.

188 12. Aircraft piracy.

189 13. Terrorism under s. 775.30.

190 14. Any offense subjecting the offender to registration
 191 under s. 775.21.

192 (2) Upon a motion to the court of original sentencing
 193 jurisdiction by the state attorney, a court shall review and may
 194 modify the sentence of an eligible offender. The sentencing
 195 court shall retain original jurisdiction for the duration of the
 196 sentence for this purpose. The finality of a conviction shall
 197 not bar a motion filed under this section.

198 (3) When determining if it is appropriate to modify the
 199 sentence of an eligible offender, the court shall consider any
 200 factor it deems appropriate, including all of the following:

- 201 (a) The state attorney's recommendation.
- 202 (b) The eligible offender's criminal history, including
- 203 arrest history.
- 204 (c) Whether the eligible offender has gang affiliations.
- 205 (d) The opinion of a victim or a victim's next of kin. The
- 206 court shall permit a victim or a victim's next of kin to be
- 207 heard, in person, in writing, or by electronic means. If a
- 208 victim or a victim's next of kin chooses not to participate in
- 209 the hearing, the court may consider previous statements made by
- 210 a victim or a victim's next of kin during the trial, initial
- 211 sentencing phase, or subsequent review hearings.
- 212 (e) The nature of the offense.
- 213 (f) The eligible offender's disciplinary record while
- 214 incarcerated.
- 215 (g) The eligible offender's record of rehabilitation while
- 216 incarcerated.
- 217 (h) The eligible offender's risk of future criminal
- 218 activity.
- 219 (i) Whether the eligible offender's continued
- 220 incarceration is necessary to protect public safety.
- 221 (j) Whether the eligible offender's continued
- 222 incarceration serves the interests of justice.
- 223 (k) The average sentence for the offense for which the
- 224 eligible offender was convicted in the judicial circuit in which
- 225 the eligible offender was convicted.

226 (1) Whether the eligible offender would have received a
227 different sentence if convicted of the same offense at the time
228 of the sentence review.

229 (4) An eligible offender serving a mandatory minimum term
230 of imprisonment may be resentenced under this section to a term
231 of imprisonment less than the mandatory minimum. Credit shall be
232 given for time served.

233 (5) A person whose sentence is modified under this section
234 may not be released from the custody of the Department of
235 Corrections before serving 85 percent of the modified sentence.

236 Section 5. This act shall take effect July 1, 2021.