

1 A bill to be entitled

2 An act relating to juvenile sentencing; amending s.
3 775.082, F.S.; providing criminal penalties applicable
4 to a juvenile offender for certain serious felonies;
5 requiring a judge to consider specified factors before
6 determining if life imprisonment is an appropriate
7 sentence for a juvenile offender convicted of certain
8 offenses; providing review of sentences for specified
9 juvenile offenders; creating s. 921.140, F.S.;
10 providing sentencing proceedings for determining if
11 life imprisonment is an appropriate sentence for a
12 juvenile offender convicted of certain offenses;
13 providing certain factors a judge shall consider when
14 determining if life imprisonment is appropriate for a
15 juvenile offender; creating s. 921.1401, F.S.;
16 defining the term "juvenile offender"; providing
17 sentence review proceedings to be conducted after a
18 specified period of time by the original sentencing
19 court for juvenile offenders convicted of certain
20 offenses; providing for subsequent reviews; requiring
21 the Department of Corrections to notify a juvenile
22 offender of his or her eligibility to participate in
23 sentence review hearings; entitling a juvenile
24 offender to be represented by counsel; providing
25 factors that must be considered by the court in the
26 sentence review; requiring the court to modify a

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27 juvenile offender's sentence if certain factors are
28 found; requiring the court to impose a term of
29 probation for any sentence modified; requiring the
30 court to make written findings if the court declines
31 to modify a juvenile offender's sentence; amending ss.
32 316.3026, 373.430, 403.161, and 648.571, F.S.;
33 conforming cross-references; providing an effective
34 date.

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36 Be It Enacted by the Legislature of the State of Florida:

37
38 Section 1. Subsections (1) and (3) of section 775.082,
39 Florida Statutes, are amended to read:

40 775.082 Penalties; applicability of sentencing structures;
41 mandatory minimum sentences for certain reoffenders previously
42 released from prison.—

43 (1) (a) Except as provided in paragraph (b), a person who
44 has been convicted of a capital felony shall be punished by
45 death if the proceeding held to determine sentence according to
46 the procedure set forth in s. 921.141 results in findings by the
47 court that such person shall be punished by death, otherwise
48 such person shall be punished by life imprisonment and shall be
49 ineligible for parole.

50 (b) A person who is convicted under s. 782.04 of a capital
51 felony or an offense that was reclassified as a capital felony,
52 which was committed before the person attained 18 years of age,

53 shall be punished by a term of imprisonment for life if, after a
 54 sentencing hearing conducted by the court in accordance with s.
 55 921.140, the court finds that life imprisonment is an
 56 appropriate sentence. If the court finds that life imprisonment
 57 is not an appropriate sentence, such person shall be punished by
 58 a term of imprisonment of at least 30 years.

59 (3) A person who has been convicted of any other
 60 designated felony may be punished as follows:

61 (a)1. For a life felony committed before ~~prior to~~ October
 62 1, 1983, by a term of imprisonment for life or for a term of at
 63 least ~~years not less than~~ 30 years.

64 2. For a life felony committed on or after October 1,
 65 1983, by a term of imprisonment for life or by a term of
 66 imprisonment not exceeding 40 years.

67 3. Except as provided in subparagraph 4., for a life
 68 felony committed on or after July 1, 1995, by a term of
 69 imprisonment for life or by imprisonment for a term of years not
 70 exceeding life imprisonment.

71 4.a. Except as provided in sub-subparagraph b., for a life
 72 felony committed on or after September 1, 2005, which is a
 73 violation of s. 800.04(5)(b), by:

74 (I) A term of imprisonment for life; or

75 (II) A split sentence that is a term of at least ~~not less~~
 76 ~~than~~ 25 years' imprisonment and not exceeding life imprisonment,
 77 followed by probation or community control for the remainder of
 78 the person's natural life, as provided in s. 948.012(4).

79 b. For a life felony committed on or after July 1, 2008,
80 which is a person's second or subsequent violation of s.
81 800.04(5) (b), by a term of imprisonment for life.

82 5. Notwithstanding subparagraphs 1.-4., a person who is
83 convicted under s. 782.04 of an offense that was reclassified as
84 a life felony, which was committed before the person attained 18
85 years of age, may be punished by a term of imprisonment for life
86 or by a term of years equal to life imprisonment if the judge
87 conducts a sentencing hearing in accordance with s. 921.140 and
88 finds that life imprisonment or a term of years equal to life
89 imprisonment is an appropriate sentence. A person sentenced to a
90 term of imprisonment for life or by a term of years equal to
91 life imprisonment is entitled to a review of his or her sentence
92 in accordance with s. 921.1401.

93 (b)1. For a felony of the first degree, by a term of
94 imprisonment not exceeding 30 years or, when specifically
95 provided by statute, by imprisonment for a term of years not
96 exceeding life imprisonment.

97 2. Notwithstanding subparagraph 1., a person convicted
98 under s. 782.04 of a first degree felony punishable by a term of
99 years not exceeding life imprisonment or an offense that was
100 reclassified as a first degree felony punishable by a term of
101 years not exceeding life, which was committed before the person
102 attained 18 years of age, may be punished by a term of years
103 equal to life imprisonment if the judge conducts a sentencing
104 hearing in accordance with s. 921.140 and finds that a term of

105 years equal to life imprisonment is an appropriate sentence. A
106 person sentenced to a term of years equal to life imprisonment
107 is entitled to a review of his or her sentence in accordance
108 with s. 921.1401.

109 (c) Notwithstanding paragraphs (a) and (b), a person
110 convicted of an offense that is not included in s. 782.04, but
111 an offense that is a life felony or is punishable by term of
112 imprisonment for life or by a term of years not exceeding life
113 imprisonment, or an offense that was reclassified as a life
114 felony or an offense punishable by a term of imprisonment for
115 life or by a term of years not exceeding life imprisonment,
116 which was committed before the person attained 18 years of age,
117 may be punished by a term of imprisonment for life or a term of
118 years equal to life imprisonment if the judge conducts a
119 sentencing hearing in accordance with s. 921.140 and finds that
120 life imprisonment or a term of years equal to life imprisonment
121 is an appropriate sentence. A person sentenced to a term of
122 imprisonment for life, a term of years equal to life
123 imprisonment, or a term of more than 25 years is entitled to a
124 review of his or her sentence in accordance with s. 921.1401.

125 (d)~~(e)~~ For a felony of the second degree, by a term of
126 imprisonment not exceeding 15 years.

127 (e)~~(d)~~ For a felony of the third degree, by a term of
128 imprisonment not exceeding 5 years.

129 Section 2. Section 921.140, Florida Statutes, is created
130 to read:

131 921.140 Sentence of life imprisonment for persons who are
132 under the age of 18 years at the time of the offense; sentencing
133 proceedings.-

134 (1) Upon conviction or adjudication of guilt of an offense
135 described in ss. 775.082(1)(b), (3)(a)5., (3)(b)2., or (3)(c)
136 which was committed on or after July 1, 2014, the court may
137 conduct a separate sentencing hearing to determine if a term of
138 imprisonment for life or a term of years equal to life
139 imprisonment is an appropriate sentence.

140 (2) In determining whether life imprisonment or a term of
141 years equal to life imprisonment is an appropriate sentence, the
142 court shall consider factors relevant to the offense and the
143 defendant's youth and attendant circumstances, including, but
144 not limited to:

145 (a) The nature and circumstances of the offense committed
146 by the defendant.

147 (b) The effect of the crime on the victim's family and on
148 the community.

149 (c) The defendant's age, maturity, intellectual capacity,
150 and mental and emotional health at the time of the offense.

151 (d) The defendant's background, including his or her
152 family, home, and community environment.

153 (e) The effect, if any, of immaturity, impetuosity, or
154 failure to appreciate risks and consequences on the defendant's
155 participation in the offense.

156 (f) The extent of the defendant's participation in the

157 offense.

158 (g) The effect, if any, of familial pressure or peer
159 pressure on the defendant's actions.

160 (h) The nature and extent of the defendant's prior
161 criminal history.

162 (i) The effect, if any, of characteristics attributable to
163 the defendant's youth on the defendant's judgment.

164 (j) The possibility of rehabilitating the defendant.

165 Section 3. Section 921.1401, Florida Statutes, is created
166 to read:

167 921.1401 Review of sentences for persons convicted of
168 specified offenses committed while under the age of 18 years.-

169 (1) For purposes of this section, the term "juvenile
170 offender" means a person sentenced to imprisonment in the
171 custody of the Department of Corrections for an offense
172 committed on or after July 1, 2014, and committed before he or
173 she attained 18 years of age.

174 (2) (a) A juvenile offender sentenced to a term of
175 imprisonment for life or a term of years equal to life
176 imprisonment under s. 775.082(3) (a)5. or 775.082(3) (b)2. is
177 entitled to a review of his or her sentence after 25 years. The
178 juvenile offender must submit an application to the court of
179 original jurisdiction requesting that a sentence review hearing
180 be held. The sentencing court shall retain original jurisdiction
181 for the duration of the sentence for this purpose.

182 (b) A juvenile offender who is not resentenced under

183 paragraph (a) is eligible for additional sentence reviews every
184 10 years. The juvenile offender must submit a new application to
185 the court of original jurisdiction to request subsequent
186 sentence review hearings.

187 (3) (a) A juvenile offender sentenced to a term of
188 imprisonment for life, a term of years equal to life
189 imprisonment, or a term of more than 25 years under s.
190 775.082 (3) (c) is entitled to a review of his or her sentence
191 after 20 years. The juvenile offender must submit an application
192 to the court of original jurisdiction requesting that a sentence
193 review hearing be held. The sentencing court shall retain
194 original jurisdiction for the duration of the sentence for this
195 purpose.

196 (b) A juvenile offender who is not resentenced under
197 paragraph (a) is eligible for additional sentence reviews every
198 5 years. The juvenile offender must submit a new application to
199 the court of original jurisdiction to request subsequent
200 sentence review hearings.

201 (4) The Department of Corrections shall notify a juvenile
202 offender of his or her eligibility to request a sentence review
203 hearing 18 months before the juvenile offender is entitled to a
204 sentence review hearing under this section.

205 (5) A juvenile offender who is eligible for a sentence
206 review hearing under this section is entitled to be represented
207 by counsel and the court shall appoint a public defender to
208 represent the juvenile offender if the juvenile offender cannot

209 afford an attorney.

210 (6) Upon receiving an application from an eligible
211 juvenile offender, the court of original sentencing jurisdiction
212 shall hold a sentence review hearing to determine whether the
213 juvenile offender's sentence should be modified. When
214 determining if it is appropriate to resentence the juvenile
215 offender, the court shall consider any factor it deems
216 appropriate, including all of the following:

217 (a) Whether the juvenile offender demonstrates maturity
218 and rehabilitation.

219 (b) Whether the juvenile offender remains at the same
220 level of risk to society as he or she did at the time of the
221 initial sentencing.

222 (c) The opinion of the victim or the victim's next of kin.
223 The absence of the victim or the victim's next of kin from the
224 sentence review hearing may not be a factor in the determination
225 of the court under this section. The court shall permit the
226 victim or victim's next of kin to be heard, in person, in
227 writing, or by electronic means. If the victim or the victim's
228 next of kin chooses not to participate in the hearing, the court
229 may consider previous statements made by the victim or the
230 victim's next of kin during the trial, initial sentencing phase,
231 or subsequent sentencing review hearings.

232 (d) Whether the juvenile offender was a relatively minor
233 participant in the criminal offense or acted under extreme
234 duress or the domination of another person.

235 (e) Whether the juvenile offender has shown sincere and
236 sustained remorse for the criminal offense.

237 (f) Whether the juvenile offender's age, maturity, and
238 psychological development at the time of the offense affected
239 his or her behavior.

240 (g) Whether the juvenile offender has successfully
241 obtained a general educational development certificate or
242 completed another educational, technical, work, vocational, or
243 self-rehabilitation program, if such a program is available.

244 (h) Whether the juvenile offender was a victim of sexual,
245 physical, or emotional abuse before he or she committed the
246 offense.

247 (i) The results of any mental health assessment, risk
248 assessment, or evaluation of the juvenile offender as to
249 rehabilitation.

250 (7) If the court determines at a sentence review hearing
251 that the juvenile offender has been rehabilitated and is
252 reasonably believed to be fit to reenter society, the court
253 shall modify the sentence and impose a term of probation of at
254 least 5 years. If the court determines that the juvenile
255 offender has not demonstrated rehabilitation or is not fit to
256 reenter society, the court shall issue a written order stating
257 the reasons why the sentence is not being modified.

258 Section 4. Subsection (2) of section 316.3026, Florida
259 Statutes, is amended to read:

260 316.3026 Unlawful operation of motor carriers.—

261 (2) Any motor carrier enjoined or prohibited from
 262 operating by an out-of-service order by this state, any other
 263 state, or the Federal Motor Carrier Safety Administration may
 264 not operate on the roadways of this state until the motor
 265 carrier has been authorized to resume operations by the
 266 originating enforcement jurisdiction. Commercial motor vehicles
 267 owned or operated by any motor carrier prohibited from operation
 268 found on the roadways of this state shall be placed out of
 269 service by law enforcement officers of the Department of Highway
 270 Safety and Motor Vehicles, and the motor carrier assessed a
 271 \$10,000 civil penalty pursuant to 49 C.F.R. s. 383.53, in
 272 addition to any other penalties imposed on the driver or other
 273 responsible person. Any person who knowingly drives, operates,
 274 or causes to be operated any commercial motor vehicle in
 275 violation of an out-of-service order issued by the department in
 276 accordance with this section commits a felony of the third
 277 degree, punishable as provided in s. 775.082(3)(e)
 278 ~~775.082(3)(d)~~. Any costs associated with the impoundment or
 279 storage of such vehicles are the responsibility of the motor
 280 carrier. Vehicle out-of-service orders may be rescinded when the
 281 department receives proof of authorization for the motor carrier
 282 to resume operation.

283 Section 5. Subsection (3) of section 373.430, Florida
 284 Statutes, is amended to read:

285 373.430 Prohibitions, violation, penalty, intent.—

286 (3) Any person who willfully commits a violation specified

287 in paragraph (1)(a) is guilty of a felony of the third degree,
288 punishable as provided in ss. 775.082(3)(e) ~~775.082(3)(d)~~ and
289 775.083(1)(g), by a fine of not more than \$50,000 or by
290 imprisonment for 5 years, or by both, for each offense. Each day
291 during any portion of which such violation occurs constitutes a
292 separate offense.

293 Section 6. Subsection (3) of section 403.161, Florida
294 Statutes, is amended to read:

295 403.161 Prohibitions, violation, penalty, intent.—

296 (3) Any person who willfully commits a violation specified
297 in paragraph (1)(a) is guilty of a felony of the third degree
298 punishable as provided in ss. 775.082(3)(e) ~~775.082(3)(d)~~ and
299 775.083(1)(g) by a fine of not more than \$50,000 or by
300 imprisonment for 5 years, or by both, for each offense. Each day
301 during any portion of which such violation occurs constitutes a
302 separate offense.

303 Section 7. Paragraph (c) of subsection (3) of section
304 648.571, Florida Statutes, is amended to read:

305 648.571 Failure to return collateral; penalty.—

306 (3)

307 (c) Allowable expenses incurred in apprehending a
308 defendant because of a bond forfeiture or judgment under s.
309 903.29 may be deducted if such expenses are accounted for. The
310 failure to return collateral under these terms is punishable as
311 follows:

312 1. If the collateral is of a value less than \$100, as

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313 provided in s. 775.082(4)(a).

314 2. If the collateral is of a value of \$100 or more, as
 315 provided in s. 775.082(3)(e) ~~775.082(3)(d)~~.

316 3. If the collateral is of a value of \$1,500 or more, as
 317 provided in s. 775.082(3)(d) ~~775.082(3)(e)~~.

318 4. If the collateral is of a value of \$10,000 or more, as
 319 provided in s. 775.082(3)(b).

320 Section 8. This act shall take effect July 1, 2014.