

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 offenses; requiring
5 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 that must be considered by a
14 judge when determining if life imprisonment is
15 appropriate for a juvenile offender; creating s.
16 921.1401, F.S.; defining "juvenile offender;"
17 providing sentence review proceedings to be conducted
18 after a specified period of time by the original
19 sentencing court for juvenile offenders convicted of
20 certain offenses; providing for subsequent reviews;
21 requiring the Department of Corrections to notify a
22 juvenile offender of his or her eligibility to
23 participate in sentence review hearings; entitling a
24 juvenile offender to be represented by counsel;
25 providing factors that must be considered by the court
26 in the sentence review hearing; requiring the court to

27 modify a juvenile offender's sentence if certain
 28 findings are met; requiring the court to impose a term
 29 of 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.

35
 36 Be It Enacted by the Legislature of the State of Florida:

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 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
 51 capital felony or an offense that was reclassified as a capital
 52 felony, which was committed before the person attained 18 years

53 of age, shall be punished by a term of imprisonment for life if,
 54 after a sentencing hearing conducted by the court in accordance
 55 with s. 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 not less than 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
 63 years not less than 30.

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 not less than 25
 76 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 (a)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
 90 a 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 (b)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 was 18 years of age, may be punished by a term years equal to
 103 life imprisonment if the judge conducts a sentencing hearing in
 104 accordance with s. 921.140 and finds that a term of years equal

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

109 (c) Notwithstanding paragraphs (3)(a) and (b), a person
 110 convicted of an offense not under s. 782.04, but which is a life
 111 felony or an offense punishable by term of imprisonment for life
 112 or by a term of years not exceeding life imprisonment, or an
 113 offense that was reclassified as a life felony or an offense
 114 punishable by a term of imprisonment for life or by a term of
 115 years not exceeding life imprisonment, which was committed
 116 before the person attained 18 years of age, may be punished by a
 117 term of imprisonment for life or a term of years equal to life
 118 imprisonment if the judge conducts a sentencing hearing in
 119 accordance with s. 921.140 and finds that life imprisonment or a
 120 term of years equal to life imprisonment is an appropriate
 121 sentence. A person sentenced to a term of imprisonment for
 122 life, a term of years equal to life imprisonment, or a term of
 123 more than 25 years is entitled to a review of his or her
 124 sentence in accordance with s. 921.1401.

125 (d) 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 that 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 was 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 becomes entitled
 204 to a 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 court's
 225 determination under this section. If the victim or victim's next
 226 of kin desire to be heard, they may appear 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 an order in writing
 257 stating 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

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.