

By Senator Brandes

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1                   A bill to be entitled  
2       An act relating to criminal justice; providing a short  
3       title; amending s. 775.082, F.S.; authorizing the  
4       resentencing and release of certain persons who are  
5       eligible for sentence review under specified  
6       provisions; reenacting and amending s. 921.1402, F.S.;  
7       revising the circumstances under which a juvenile  
8       offender is not entitled to a review of his or her  
9       sentence after a specified timeframe; creating s.  
10      921.14021, F.S.; providing for retroactive application  
11      of a specified provision relating to review of  
12      sentence for juvenile offenders convicted of murder;  
13      providing for immediate review of certain sentences;  
14      creating s. 921.1403, F.S.; defining the term "young  
15      adult offender"; precluding eligibility for a sentence  
16      review for young adult offenders who previously  
17      committed, or conspired to commit, specified offenses;  
18      providing timeframes within which young adult  
19      offenders who commit specified crimes are entitled to  
20      a review of their sentences; providing applicability;  
21      requiring the Department of Corrections to notify  
22      young adult offenders in writing of their eligibility  
23      for sentence review within certain timeframes;  
24      requiring a young adult offender seeking a sentence  
25      review or a subsequent sentence review to submit an  
26      application to the original sentencing court and  
27      request a hearing; providing for legal representation  
28      of eligible young adult offenders; providing for one  
29      subsequent review hearing for the young adult offender

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30 after a certain timeframe if he or she is not  
31 resentenced at the initial sentence review hearing;  
32 requiring the original sentencing court to hold a  
33 sentence review hearing upon receiving an application  
34 from an eligible young adult offender; requiring the  
35 court to consider certain factors in determining  
36 whether to modify the young adult offender's sentence;  
37 authorizing a court to modify the sentence of certain  
38 young adult offenders if the court makes certain  
39 determinations; requiring the court to issue a written  
40 order stating certain information in specified  
41 circumstances; providing for retroactive application;  
42 amending s. 944.705, F.S.; requiring the department to  
43 provide inmates with certain information upon their  
44 release; creating s. 951.30, F.S.; requiring that  
45 administrators of county detention facilities provide  
46 inmates with certain information upon their release;  
47 amending s. 1009.21, F.S.; providing that a specified  
48 period of time spent in a county detention facility or  
49 state correctional facility counts toward the 12-month  
50 residency requirement for tuition purposes; requiring  
51 the Office of Program Policy and Governmental  
52 Accountability (OPPAGA) to conduct a study to evaluate  
53 the various opportunities available to persons  
54 returning to the community from imprisonment;  
55 providing study requirements; requiring OPPAGA to  
56 submit a report to the Governor and the Legislature by  
57 a specified date; providing an effective date.

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

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61 Section 1. This act may be cited as "The Second Look Act."

62 Section 2. Paragraph (b) of subsection (9) of section  
63 775.082, Florida Statutes, is amended to read:

64 775.082 Penalties; applicability of sentencing structures;  
65 mandatory minimum sentences for certain reoffenders previously  
66 released from prison.—

67 (9)

68 (b) 1. Except as provided in subparagraph 2., a person  
69 sentenced under paragraph (a) shall be released only by  
70 expiration of sentence and shall not be eligible for parole,  
71 control release, or any form of early release. Any person  
72 sentenced under paragraph (a) must serve 100 percent of the  
73 court-imposed sentence.

74 2. A juvenile or young adult offender who is eligible for  
75 review of his or her sentence under s. 921.1401 or s. 921.1402  
76 may be resentenced and released from imprisonment if a court  
77 deems the resentencing appropriate in accordance with the review  
78 requirements under such sections.

79 Section 3. Paragraph (a) of subsection (2) of section  
80 921.1402, Florida Statutes, is amended, and subsection (4) of  
81 that section is reenacted, to read:

82 921.1402 Review of sentences for persons convicted of  
83 specified offenses committed while under the age of 18 years.—

84 (2) (a) A juvenile offender sentenced under s.  
85 775.082 (1) (b) 1. is entitled to a review of his or her sentence  
86 after 25 years. However, a juvenile offender is not entitled to  
87 review if he or she has previously been convicted of committing

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88 ~~one of the following offenses, or of~~ conspiracy to commit ~~one of~~  
 89 ~~the following offenses, murder and~~ if the murder offense for  
 90 which the person was previously convicted was part of a separate  
 91 criminal transaction or episode ~~than~~ that ~~which~~ resulted in the  
 92 sentence under s. 775.082(1)(b)1.÷

93 ~~1. Murder;~~

94 ~~2. Manslaughter;~~

95 ~~3. Sexual battery;~~

96 ~~4. Armed burglary;~~

97 ~~5. Armed robbery;~~

98 ~~6. Armed carjacking;~~

99 ~~7. Home invasion robbery;~~

100 ~~8. Human trafficking for commercial sexual activity with a~~  
 101 ~~child under 18 years of age;~~

102 ~~9. False imprisonment under s. 787.02(3)(a); or~~

103 ~~10. Kidnapping.~~

104 (4) A juvenile offender seeking sentence review pursuant to  
 105 subsection (2) must submit an application to the court of  
 106 original jurisdiction requesting that a sentence review hearing  
 107 be held. The juvenile offender must submit a new application to  
 108 the court of original jurisdiction to request subsequent  
 109 sentence review hearings pursuant to paragraph (2)(d). The  
 110 sentencing court shall retain original jurisdiction for the  
 111 duration of the sentence for this purpose.

112 Section 4. Section 921.14021, Florida Statutes, is created  
 113 to read:

114 921.14021 Retroactive application relating to s. 921.1402;  
 115 review of sentence.—A juvenile offender, as defined in s.  
 116 921.1402, who was convicted and sentenced under s.

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117 921.1402(2)(a), excluding s. 921.1402(2)(a)1., as it existed on  
118 or before June 30, 2020, is entitled to a review of his or her  
119 sentence after 25 years or, if on July 1, 2020, 25 years have  
120 already passed since the sentencing, immediately.

121 Section 5. Section 921.1403, Florida Statutes, is created  
122 to read:

123 921.1403 Review of sentences for persons convicted of  
124 specified offenses committed while under 25 years of age.-

125 (1) As used in this section, the term "young adult  
126 offender" means a person who committed an offense before he or  
127 she reached 25 years of age and for which he or she is sentenced  
128 to a term of years in the custody of the Department of  
129 Corrections, regardless of the date of sentencing.

130 (2) A young adult offender is not entitled to a sentence  
131 review under this section if he or she has previously been  
132 convicted of committing, or of conspiring to commit, any of the  
133 following offenses and if the offense was part of a separate  
134 criminal transaction or episode that resulted in the sentence  
135 under s. 775.082(3)(a)1., 2., 3., 4., or 6., or (b)1.:

136 (a) Section 782.04(1)(a)1.;  
137 (b) Section 782.04(1)(a)3.; or  
138 (c) Section 782.04(2).

139 (3)(a)1. A young adult offender who is convicted of an  
140 offense that is a life felony, that is punishable by a term of  
141 years not exceeding life imprisonment, or that was reclassified  
142 as a life felony, which was committed after the person attained  
143 18 years of age and who is sentenced to a term of more than 20  
144 years under s. 775.082(3)(a)1., 2., 3., 4., or 6., is entitled  
145 to a review of his or her sentence after 20 years.

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146 2. This paragraph does not apply to a person who is  
147 eligible for sentencing under s. 775.082(3)(a)5.

148 (b) A young adult offender who is convicted of an offense  
149 that is a felony of the first degree or that was reclassified as  
150 a felony of the first degree and who is sentenced to a term of  
151 more than 15 years under s. 775.082(3)(b)1. is entitled to a  
152 review of his or her sentence after 15 years.

153 (4) The Department of Corrections must notify a young adult  
154 offender in writing of his or her eligibility to request a  
155 sentence review hearing 18 months before the young adult  
156 offender is entitled to a sentence review hearing or notify him  
157 or her immediately in writing if the offender is eligible as of  
158 July 1, 2020.

159 (5) A young adult offender seeking a sentence review under  
160 this section must submit an application to the original  
161 sentencing court requesting that the court hold a sentence  
162 review hearing. The young adult offender seeking a subsequent  
163 sentence review hearing must submit a new application to the  
164 original sentencing court to request a subsequent sentence  
165 review hearing pursuant to subsection (7). The original  
166 sentencing court retains jurisdiction for the duration of the  
167 sentence for this purpose.

168 (6) A young adult offender who is eligible for a sentence  
169 review hearing under this section is entitled to be represented  
170 by an attorney, and the court must appoint a public defender to  
171 represent the young adult offender if he or she cannot afford an  
172 attorney.

173 (7) (a) If the young adult offender seeking sentence review  
174 under paragraph (3)(a) is not resentenced at the initial

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175 sentence review hearing, he or she is eligible for one  
176 subsequent review hearing 5 years after the initial review  
177 hearing.

178 (b) If the young adult offender seeking sentence review  
179 under paragraph (3) (b) is not resentenced at the initial  
180 sentence review hearing, he or she is eligible for one  
181 subsequent review hearing 5 years after the initial review  
182 hearing.

183 (8) Upon receiving an application from an eligible young  
184 adult offender, the original sentencing court must hold a  
185 sentence review hearing to determine whether to modify the young  
186 adult offender's sentence. When determining if it is appropriate  
187 to modify the young adult offender's sentence, the court must  
188 consider any factor it deems appropriate, including, but not  
189 limited to, any of the following:

190 (a) Whether the young adult offender demonstrates maturity  
191 and rehabilitation.

192 (b) Whether the young adult offender remains at the same  
193 level of risk to society as he or she did at the time of the  
194 initial sentencing.

195 (c) The opinion of the victim or the victim's next of kin.  
196 The absence of the victim or the victim's next of kin from the  
197 sentence review hearing may not be a factor in the determination  
198 of the court under this section. The court must allow the victim  
199 or victim's next of kin to be heard in person, in writing, or by  
200 electronic means. If the victim or the victim's next of kin  
201 chooses not to participate in the hearing, the court may  
202 consider previous statements made by the victim or the victim's  
203 next of kin during the trial, initial sentencing phase, or

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204 previous sentencing review hearings.

205 (d) Whether the young adult offender was a relatively minor  
206 participant in the criminal offense or whether he or she acted  
207 under extreme duress or under the domination of another person.

208 (e) Whether the young adult offender has shown sincere and  
209 sustained remorse for the criminal offense.

210 (f) Whether the young adult offender's age, maturity, or  
211 psychological development at the time of the offense affected  
212 his or her behavior.

213 (g) Whether the young adult offender has successfully  
214 obtained a high school equivalency diploma or completed another  
215 educational, technical, work, vocational, or self-rehabilitation  
216 program, if such a program is available.

217 (h) Whether the young adult offender was a victim of  
218 sexual, physical, or emotional abuse before he or she committed  
219 the offense.

220 (i) The results of any mental health assessment, risk  
221 assessment, or evaluation of the young adult offender as to  
222 rehabilitation.

223 (9) (a) If the court determines at a sentence review hearing  
224 that the young adult offender who is seeking sentence review  
225 under paragraph (3) (a) has been rehabilitated and is reasonably  
226 believed to be fit to reenter society, the court may modify the  
227 sentence and impose a term of probation of at least 5 years.

228 (b) If the court determines at a sentence review hearing  
229 that the young adult offender who is seeking sentence review  
230 under paragraph (3) (b) has been rehabilitated and is reasonably  
231 believed to be fit to reenter society, the court may modify the  
232 sentence and impose a term of probation of at least 3 years.



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233       (c) If the court determines that the young adult offender  
234 seeking sentence review under paragraph (3)(a) or (3)(b) has not  
235 demonstrated rehabilitation or is not fit to reenter society,  
236 the court must issue a written order stating the reasons why the  
237 sentence is not being modified.

238       (10) This section applies retroactively to a young adult  
239 offender eligible under this section.

240       Section 6. Paragraph (a) of subsection (7) of section  
241 944.705, Florida Statutes, is amended to read:

242       944.705 Release orientation program.—

243       (7) (a) The department shall notify every inmate in the  
244 inmate's release documents:

245       1. Of all outstanding terms of the inmate's sentence at the  
246 time of release to assist the inmate in determining his or her  
247 status with regard to the completion of all terms of sentence,  
248 as that term is defined in s. 98.0751. This subparagraph does  
249 not apply to inmates who are being released from the custody of  
250 the department to any type of supervision monitored by the  
251 department;

252       2. Of the dates of admission to and release from the  
253 custody of the department, including the total length of the  
254 term of imprisonment for which he or she is being released; and

255       ~~3.2.~~ In not less than 18-point type, that the inmate may be  
256 sentenced pursuant to s. 775.082(9) if the inmate commits any  
257 felony offense described in s. 775.082(9) within 3 years after  
258 the inmate's release. This notice must be prefaced by the word  
259 "WARNING" in boldfaced type.

260       Section 7. Section 951.30, Florida Statutes, is created to  
261 read:

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262       951.30 Release documents requirements.—The administrator of  
263 a county detention facility must provide to each inmate upon  
264 release from the custody of the facility the dates of his or her  
265 admission to and release from the custody of the facility,  
266 including the total length of the term of imprisonment from  
267 which he or she is being released.

268       Section 8. Paragraph (a) of subsection (2) and paragraphs  
269 (b) and (c) of subsection (3) of section 1009.21, Florida  
270 Statutes, are amended to read:

271       1009.21 Determination of resident status for tuition  
272 purposes.—Students shall be classified as residents or  
273 nonresidents for the purpose of assessing tuition in  
274 postsecondary educational programs offered by charter technical  
275 career centers or career centers operated by school districts,  
276 in Florida College System institutions, and in state  
277 universities.

278       (2) (a) To qualify as a resident for tuition purposes:

279       1. A person or, if that person is a dependent child, his or  
280 her parent or parents must have established legal residence in  
281 this state and must have maintained legal residence in this  
282 state for at least 12 consecutive months immediately before  
283 ~~prior to~~ his or her initial enrollment in an institution of  
284 higher education. The 12 consecutive months immediately before  
285 enrollment may include time spent incarcerated in a county  
286 detention facility or state correctional facility.

287       2. Every applicant for admission to an institution of  
288 higher education shall be required to make a statement as to his  
289 or her length of residence in the state and, further, shall  
290 establish that his or her presence or, if the applicant is a

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291 dependent child, the presence of his or her parent or parents in  
292 the state currently is, and during the requisite 12-month  
293 qualifying period was, for the purpose of maintaining a bona  
294 fide domicile, rather than for the purpose of maintaining a mere  
295 temporary residence or abode incident to enrollment in an  
296 institution of higher education.

297 (3)

298 (b) Except as otherwise provided in this section, evidence  
299 of legal residence and its duration shall include clear and  
300 convincing documentation that residency in this state was for a  
301 minimum of 12 consecutive months prior to a student's initial  
302 enrollment in an institution of higher education. Time spent  
303 incarcerated in a county detention facility or state  
304 correctional facility must be credited toward the residency  
305 requirement, with any combination of documented time living in  
306 Florida before and after incarceration.

307 (c) Each institution of higher education shall  
308 affirmatively determine that an applicant who has been granted  
309 admission to that institution as a Florida resident meets the  
310 residency requirements of this section at the time of initial  
311 enrollment. The residency determination must be documented by  
312 the submission of written or electronic verification that  
313 includes two or more of the documents identified in this  
314 paragraph. No single piece of evidence shall be conclusive.

315 1. The documents must include at least one of the  
316 following:

- 317 a. A Florida voter's registration card.  
318 b. A Florida driver license.  
319 c. A State of Florida identification card.

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- 320 d. A Florida vehicle registration.
- 321 e. Proof of a permanent home in Florida which is occupied  
322 as a primary residence by the individual or by the individual's  
323 parent if the individual is a dependent child.
- 324 f. Proof of a homestead exemption in Florida.
- 325 g. Transcripts from a Florida high school for multiple  
326 years if the Florida high school diploma or high school  
327 equivalency diploma was earned within the last 12 months.
- 328 h. Proof of permanent full-time employment in Florida for  
329 at least 30 hours per week for a 12-month period.
- 330 2. The documents may include one or more of the following:
- 331 a. A declaration of domicile in Florida.
- 332 b. A Florida professional or occupational license.
- 333 c. Florida incorporation.
- 334 d. A document evidencing family ties in Florida.
- 335 e. Proof of membership in a Florida-based charitable or  
336 professional organization.
- 337 f. Any other documentation that supports the student's  
338 request for resident status, including, but not limited to,  
339 utility bills and proof of 12 consecutive months of payments; a  
340 lease agreement and proof of 12 consecutive months of payments;  
341 or an official local, state, federal, or court document  
342 evidencing legal ties to Florida.

343 Section 9. The Office of Program Policy and Governmental  
344 Accountability (OPPAGA) must conduct a study to evaluate the  
345 various opportunities available to persons returning to the  
346 community from imprisonment. The study's scope must include, but  
347 need not be limited to, any barriers to such opportunities; the  
348 collateral consequences that are present, if applicable, for

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349 persons who are released from incarceration into the community;  
350 and methods for reducing the collateral consequences identified.  
351 OPPAGA must submit a report to the Governor, the President of  
352 the Senate, the Minority Leader of the Senate, the Speaker of  
353 the House of Representatives, and the Minority Leader of the  
354 House of Representatives by November 1, 2020.

355 Section 10. This act shall take effect July 1, 2020.