

By Senator Geller

29-61A-02

1 A bill to be entitled
2 An act relating to youthful offenders; creating
3 s. 958.041, F.S.; authorizing the court to
4 sentence offenders of a specified age or
5 younger to a youthful offender facility of the
6 Department of Corrections if the offender is
7 found guilty of, or pleads nolo contendere or
8 guilty to, a first-degree felony, a life
9 felony, or a capital felony; providing certain
10 additional requirements and limitations with
11 respect to sentencing such an offender;
12 requiring that the offender be incarcerated in
13 the department facility until the offender
14 attains a specified age or serves a specified
15 sentence; requiring that the sentencing court
16 hold a hearing to determine whether the
17 offender is rehabilitated to an extent
18 sufficient to be released to a specified term
19 of intense community supervision; providing
20 factors for the court to consider in making
21 such determination; requiring that the
22 department supervise an offender released on
23 community supervision under the act; providing
24 for revocation of community supervision;
25 providing for the offender to be discharged
26 from the control and supervision of the
27 department following successful completion of
28 the term of intense community supervision;
29 amending s. 958.04, F.S.; conforming provisions
30 to changes made by the act; providing an
31 effective date.

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

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3 Section 1. Section 958.041, Florida Statutes, is
4 created to read:

5 958.041 Judicial disposition of youthful offenders 15
6 years of age or younger who have committed certain serious
7 offenses.--

8 (1) Notwithstanding any other law, the court may
9 sentence a youthful offender under this section if:

10 (a) The offender is 15 years of age or younger at the
11 time of the offense;

12 (b) The offender is found guilty of, or has tendered
13 and the court has accepted a plea of nolo contendere or guilty
14 to, a felony of the first degree, a life felony, or a capital
15 felony;

16 (c) The sentence that is recommended under the
17 Criminal Punishment Code for the offense committed exceeds 10
18 years;

19 (d) The offender has no prior adjudication for a
20 violation of:

21 1. Any offense specified in s. 775.084(1)(b)1.;

22 2. Section 784.03, relating to battery;

23 3. Section 827.03, relating to child abuse; or

24 4. Section 828.12, relating to cruelty to animals; and

25 (e) The crime was not:

26 1. Heinous, atrocious, or cruel, as evidenced by the
27 suffering of the victim; or

28 2. Premeditated, as evidenced by deliberate planning
29 or preparation.

30 (2) Any youthful offender sentenced under this section
31 shall be incarcerated in a department facility for youthful

1 offenders until the offender is 24 years of age or has served
2 10 years of incarceration, whichever period is longer. The
3 department shall provide the offender with enhanced vocational
4 and educational training, counseling, and substance-abuse
5 treatment designed to rehabilitate the offender so that he or
6 she may successfully reenter society and will abide by the
7 laws of this state. The department shall maintain a detailed
8 record of the offender's progress and attitude in all areas
9 relevant to his or her rehabilitation.

10 (3)(a) Upon reaching 24 years of age or serving 10
11 years of incarceration, whichever period is longer, the
12 offender shall be returned to the sentencing court for a
13 hearing to determine whether the offender has been
14 sufficiently rehabilitated to the extent that he or she can be
15 released on community supervision. If the court finds that the
16 offender has been sufficiently rehabilitated, the offender
17 shall be released on a 10-year term of intense community
18 supervision. If the court finds that the offender has failed
19 to achieve sufficient rehabilitation, the offender shall be
20 sentenced to any legal sentence that could have been imposed
21 at the time of the original disposition of the case, with
22 credit for time served. Factors to be considered by the court
23 include, but are not limited to, the offender's conduct and
24 behavior while incarcerated, the offender's attainment of
25 educational and vocational achievement goals, the
26 circumstances of the offense committed, the considerations of
27 the victim, the plan for the offender to work and reside in
28 the community, and the opinion of any expert the court
29 appoints to evaluate the offender's ability or potential to
30 succeed in the community.

1 (b) The department shall provide each offender
2 released on community supervision under this section with the
3 opportunity to prove that he or she can abide by the laws of
4 this state and be a productive member of society. If the
5 offender violates the terms or conditions of community
6 supervision, the court may revoke the offender's supervision,
7 modify the terms or conditions of supervision, or sentence the
8 offender to any legal sentence that could have been imposed at
9 the time of the original disposition of the case, with credit
10 for time served. Upon successful completion of the 10-year
11 term of intense community supervision, the rehabilitated
12 offender shall be discharged from the control and supervision
13 of the department.

14 Section 2. Section 958.04, Florida Statutes, is
15 amended to read:

16 958.04 Judicial disposition of youthful offenders 18
17 years of age or older.--

18 (1) The court may sentence as a youthful offender any
19 person:

20 (a) Who is at least 18 years of age or who has been
21 transferred for prosecution to the criminal division of the
22 circuit court pursuant to chapter 985;

23 (b) Who is found guilty of or who has tendered, and
24 the court has accepted, a plea of nolo contendere or guilty to
25 a crime which is, under the laws of this state, a felony if
26 such crime was committed before the defendant's 21st birthday;
27 and

28 (c) Who has not previously been classified as a
29 youthful offender under the provisions of this act; however,
30 except as otherwise provided in s. 958.041, a ~~no~~ person who
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1 has been found guilty of a capital or life felony may not be
2 sentenced as a youthful offender under this act.

3 (2) In lieu of other criminal penalties authorized by
4 law and notwithstanding any imposition of consecutive
5 sentences, the court shall dispose of the criminal case as
6 follows:

7 (a) The court may place a youthful offender under
8 supervision on probation or in a community control program,
9 with or without an adjudication of guilt, under such
10 conditions as the court may lawfully impose for a period of
11 not more than 6 years. Such period of supervision shall not
12 exceed the maximum sentence for the offense for which the
13 youthful offender was found guilty.

14 (b) The court may impose a period of incarceration as
15 a condition of probation or community control, which period of
16 incarceration shall be served in either a county facility, a
17 department probation and restitution center, or a community
18 residential facility which is owned and operated by any public
19 or private entity providing such services. No youthful
20 offender may be required to serve a period of incarceration in
21 a community correctional center as defined in s. 944.026.
22 Admission to a department facility or center shall be
23 contingent upon the availability of bed space and shall take
24 into account the purpose and function of such facility or
25 center. Placement in such a facility or center shall not
26 exceed 364 days.

27 (c) The court may impose a split sentence whereby the
28 youthful offender is to be placed on probation or community
29 control upon completion of any specified period of
30 incarceration; however, if the incarceration period is to be
31 served in a department facility other than a probation and

1 restitution center or community residential facility, such
2 period shall be for not less than 1 year or more than 4 years.
3 The period of probation or community control shall commence
4 immediately upon the release of the youthful offender from
5 incarceration. The period of incarceration imposed or served
6 and the period of probation or community control, when added
7 together, shall not exceed 6 years.

8 (d) The court may commit the youthful offender to the
9 custody of the department for a period of not more than 6
10 years, provided that any such commitment shall not exceed the
11 maximum sentence for the offense for which the youthful
12 offender has been convicted. Successful participation in the
13 youthful offender program by an offender who is sentenced as a
14 youthful offender by the court pursuant to this section, or is
15 classified as such by the department, may result in a
16 recommendation to the court, by the department, for a
17 modification or early termination of probation, community
18 control, or the sentence at any time prior to the scheduled
19 expiration of such term. When a modification of the sentence
20 results in the reduction of a term of incarceration, the court
21 may impose a term of probation or community control which,
22 when added to the term of incarceration, shall not exceed the
23 original sentence imposed.

24 (3) The provisions of this section shall not be used
25 to impose a greater sentence than the permissible sentence
26 range as established by the Criminal Punishment Code pursuant
27 to chapter 921 unless reasons are explained in writing by the
28 trial court judge which reasonably justify departure. A
29 sentence imposed outside of the code is subject to appeal
30 pursuant to s. 924.06 or s. 924.07.

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1 (4) Due to severe prison overcrowding, the Legislature
2 declares the construction of a basic training program facility
3 is necessary to aid in alleviating an emergency situation.

4 (5) The department shall provide a special training
5 program for staff selected for the basic training program.

6 Section 3. This act shall take effect October 1, 2002.

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9 SENATE SUMMARY

10 Authorizes the court to sentence an offender to a
11 youthful-offender facility of the Department of
12 Corrections until the offender is 24 years of age or
13 serves a 10-year sentence if the offender is 15 years of
14 age or younger at the time of the offense and is found
15 guilty of, or pleads nolo contendere or guilty to, a
16 first-degree felony, a life felony, or a capital felony.
17 Prohibits the court from imposing such sentence if the
18 offender has committed certain prior violent offenses or
19 if the offense was atrocious, cruel, or premeditated.
20 Provides for the sentencing court to release the offender
21 to a 10-year term of intense community supervision if the
22 court finds that the offender is rehabilitated upon
23 reaching 24 years of age or after serving a 10-year
24 sentence, whichever period is longer. Provides for the
25 offender to be discharged from the control and
26 supervision of the Department of Corrections following
27 successful completion of the 10-year term of community
28 supervision.
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