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1 A bill to be entitled

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

26  
27 Be It Enacted by the Legislature of the State of Florida:

28  
29 Section 1. Section 958.041, Florida Statutes, is created  
30 to read:



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31 958.041 Judicial disposition of youthful offenders 15  
32 years of age or younger who have committed certain serious  
33 offenses.--

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

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

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

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

43 (d) The offender has no prior adjudication for a violation  
44 of:

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

46 2. Section 784.03, relating to battery;

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

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

49 (e) The crime was not:

50 1. Heinous, atrocious, or cruel, as evidenced by the  
51 suffering of the victim; or

52 2. Premeditated, as evidenced by deliberate planning or  
53 preparation.

54 (2) Any youthful offender sentenced under this section  
55 shall be incarcerated in a department facility for youthful  
56 offenders until the offender is 24 years of age or has served 10  
57 years of incarceration, whichever period is longer. The  
58 department shall provide the offender with enhanced vocational  
59 and educational training, counseling, and substance-abuse  
60 treatment designed to rehabilitate the offender so that he or



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61 she may successfully reenter society and will abide by the laws  
62 of this state. The department shall maintain a detailed record  
63 of the offender's progress and attitude in all areas relevant to  
64 his or her rehabilitation.

65 (3)(a) Upon reaching 24 years of age or serving 10 years  
66 of incarceration, whichever period is longer, the offender shall  
67 be returned to the sentencing court for a hearing to determine  
68 whether the offender has been sufficiently rehabilitated to the  
69 extent that he or she can be released on community supervision.  
70 If the court finds that the offender has been sufficiently  
71 rehabilitated, the offender shall be released on a 10-year term  
72 of intense community supervision. If the court finds that the  
73 offender has failed to achieve sufficient rehabilitation, the  
74 offender shall be sentenced to any legal sentence that could  
75 have been imposed at the time of the original disposition of the  
76 case, with credit for time served. Factors to be considered by  
77 the court include, but are not limited to, the offender's  
78 conduct and behavior while incarcerated, the offender's  
79 attainment of educational and vocational achievement goals, the  
80 circumstances of the offense committed, the considerations of  
81 the victim, the plan for the offender to work and reside in the  
82 community, and the opinion of any expert the court appoints to  
83 evaluate the offender's ability or potential to succeed in the  
84 community.

85 (b) The department shall provide each offender released on  
86 community supervision under this section with the opportunity to  
87 prove that he or she can abide by the laws of this state and be  
88 a productive member of society. If the offender violates the  
89 terms or conditions of community supervision, the court may  
90 revoke the offender's supervision, modify the terms or



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91 conditions of supervision, or sentence the offender to any legal  
92 sentence that could have been imposed at the time of the  
93 original disposition of the case, with credit for time served.  
94 Upon successful completion of the 10-year term of intense  
95 community supervision, the rehabilitated offender shall be  
96 discharged from the control and supervision of the department.

97 Section 2. Section 958.04, Florida Statutes, is amended to  
98 read:

99 958.04 Judicial disposition of youthful offenders 18 years  
100 of age or older.--

101 (1) The court may sentence as a youthful offender any  
102 person:

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

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

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

115 (2) In lieu of other criminal penalties authorized by law  
116 and notwithstanding any imposition of consecutive sentences, the  
117 court shall dispose of the criminal case as follows:

118 (a) The court may place a youthful offender under  
119 supervision on probation or in a community control program, with  
120 or without an adjudication of guilt, under such conditions as



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121 the court may lawfully impose for a period of not more than 6  
122 years. Such period of supervision shall not exceed the maximum  
123 sentence for the offense for which the youthful offender was  
124 found guilty.

125 (b) The court may impose a period of incarceration as a  
126 condition of probation or community control, which period of  
127 incarceration shall be served in either a county facility, a  
128 department probation and restitution center, or a community  
129 residential facility which is owned and operated by any public  
130 or private entity providing such services. No youthful offender  
131 may be required to serve a period of incarceration in a  
132 community correctional center as defined in s. 944.026.  
133 Admission to a department facility or center shall be contingent  
134 upon the availability of bed space and shall take into account  
135 the purpose and function of such facility or center. Placement  
136 in such a facility or center shall not exceed 364 days.

137 (c) The court may impose a split sentence whereby the  
138 youthful offender is to be placed on probation or community  
139 control upon completion of any specified period of  
140 incarceration; however, if the incarceration period is to be  
141 served in a department facility other than a probation and  
142 restitution center or community residential facility, such  
143 period shall be for not less than 1 year or more than 4 years.  
144 The period of probation or community control shall commence  
145 immediately upon the release of the youthful offender from  
146 incarceration. The period of incarceration imposed or served  
147 and the period of probation or community control, when added  
148 together, shall not exceed 6 years.

149 (d) The court may commit the youthful offender to the  
150 custody of the department for a period of not more than 6 years,



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151 provided that any such commitment shall not exceed the maximum  
 152 sentence for the offense for which the youthful offender has  
 153 been convicted. Successful participation in the youthful  
 154 offender program by an offender who is sentenced as a youthful  
 155 offender by the court pursuant to this section, or is classified  
 156 as such by the department, may result in a recommendation to the  
 157 court, by the department, for a modification or early  
 158 termination of probation, community control, or the sentence at  
 159 any time prior to the scheduled expiration of such term. When a  
 160 modification of the sentence results in the reduction of a term  
 161 of incarceration, the court may impose a term of probation or  
 162 community control which, when added to the term of  
 163 incarceration, shall not exceed the original sentence imposed.

164 (3) The provisions of this section shall not be used to  
 165 impose a greater sentence than the permissible sentence range as  
 166 established by the Criminal Punishment Code pursuant to chapter  
 167 921 unless reasons are explained in writing by the trial court  
 168 judge which reasonably justify departure. A sentence imposed  
 169 outside of the code is subject to appeal pursuant to s. 924.06  
 170 or s. 924.07.

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

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

176 Section 3. This act shall take effect October 1, 2003.