

1 (c) ~~who~~ Has not previously been classified as a
2 youthful offender under ~~the provisions of this act.;~~ however,
3 ~~no person who has been found guilty of a capital or life~~
4 ~~felony may be sentenced as a youthful offender under this act.~~

5 (2) The court may not sentence as a youthful offender
6 any person who has been found guilty of:

7 (a) A capital or life felony; or

8 (b) A sexual offense proscribed in chapter 794,
9 chapter 800, or chapter 827 and who was 18 years of age or
10 older at the time of that offense.

11 ~~(3)(2)~~ In lieu of other criminal penalties authorized
12 by law and notwithstanding any imposition of consecutive
13 sentences, the court shall dispose of the criminal case as
14 follows:

15 (a) The court may place a youthful offender under
16 supervision on probation or in a community control program,
17 with or without an adjudication of guilt, under such
18 conditions as the court may lawfully impose for a period of
19 not more than 6 years. Such period of supervision ~~may shall~~
20 not exceed the maximum sentence for the offense for which the
21 youthful offender was found guilty.

22 (b) The court may impose a period of incarceration as
23 a condition of probation or community control, which period of
24 incarceration shall be served in ~~either~~ a county facility, a
25 department probation and restitution center, or a community
26 residential facility ~~that which~~ is owned and operated by any
27 public or private entity providing such services. ~~A No~~
28 youthful offender may not be required to serve a period of
29 incarceration in a community correctional center as defined in
30 s. 944.026. Admission to a department facility or center is
31 ~~shall be~~ contingent upon the availability of bed space and the

1 court shall take into account the purpose and function of such
2 facility or center. Placement in such a facility or center
3 ~~may shall~~ not exceed 364 days.

4 (c) The court may impose a split sentence whereby the
5 youthful offender is to be placed on probation or community
6 control upon completion of any specified period of
7 incarceration; however, if the incarceration period is to be
8 served in a department facility other than a probation and
9 restitution center or community residential facility, such
10 period shall be for not less than 1 year or more than 4 years.
11 The period of probation or community control shall commence
12 immediately upon the release of the youthful offender from
13 incarceration. The period of incarceration imposed or served
14 and the period of probation or community control, when added
15 together, ~~may shall~~ not exceed 6 years.

16 (d) The court may commit the youthful offender to the
17 custody of the department for a period of not more than 6
18 years; however, ~~provided that~~ any such commitment ~~may shall~~
19 not exceed the maximum sentence for the offense for which the
20 youthful offender has been convicted. Successful
21 participation in the youthful offender program by an offender
22 who is sentenced as a youthful offender by the court under
23 ~~pursuant to~~ this section, or is classified as such by the
24 department, may result in a recommendation to the court⁷ by
25 the department⁷ for a modification or early termination of
26 probation, community control, or the sentence at any time
27 before ~~prior to~~ the scheduled expiration of such term. When a
28 modification of the sentence results in the reduction of a
29 term of incarceration, the court may impose a term of
30 probation or community control which, when added to the term
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1 of incarceration, ~~may shall~~ not exceed the original sentence
2 imposed.

3 ~~(4)(3)~~ The provisions of This section ~~may shall~~ not be
4 used to impose a greater sentence than the permissible
5 sentence range as established by the Criminal Punishment Code
6 under ~~pursuant to~~ chapter 921 unless reasons are explained in
7 writing by the trial court judge which reasonably justify
8 departure. A sentence imposed outside of the code is subject
9 to appeal under ~~pursuant to~~ s. 924.06 or s. 924.07.

10 ~~(5)(4)~~ Due to severe prison overcrowding, the
11 Legislature declares the construction of a basic training
12 program facility is necessary to aid in alleviating an
13 emergency situation.

14 ~~(6)(5)~~ The department shall provide a special training
15 program for staff selected for the basic training program.

16 Section 2. For the purpose of incorporating the
17 amendments made by this act to section 958.04, Florida
18 Statutes, in a reference thereto, subsection (5) of section
19 958.03, Florida Statutes, is reenacted to read:

20 958.03 Definitions.--As used in this act:

21 (5) "Youthful offender" means any person who is
22 sentenced as such by the court or is classified as such by the
23 department pursuant to s. 958.04.

24 Section 3. For the purpose of incorporating the
25 amendments made by this act to section 958.04, Florida
26 Statutes, in a reference thereto, paragraph (a) of subsection
27 (8) of section 958.045, Florida Statutes, is reenacted to
28 read:

29 958.045 Youthful offender basic training program.--

30 (8)(a) The Assistant Secretary for Youthful Offenders
31 shall continuously screen all institutions, facilities, and

1 | programs for any inmate who meets the eligibility requirements
2 | for youthful offender designation specified in s. 958.04,
3 | whose age does not exceed 24 years. The department may
4 | classify and assign as a youthful offender any inmate who
5 | meets the criteria of s. 958.04.

6 | Section 4. For the purpose of incorporating the
7 | amendments made by this act to section 958.04, Florida
8 | Statutes, in a reference thereto, subsection (4) of section
9 | 958.11, Florida Statutes, is reenacted to read:

10 | 958.11 Designation of institutions and programs for
11 | youthful offenders; assignment from youthful offender
12 | institutions and programs.--

13 | (4) The Office of the Assistant Secretary for Youthful
14 | Offenders shall continuously screen all institutions,
15 | facilities, and programs for any inmate who meets the
16 | eligibility requirements for youthful offender designation
17 | specified in s. 958.04(1)(a) and (c) whose age does not exceed
18 | 24 years and whose total length of sentence does not exceed 10
19 | years, and the department may classify and assign as a
20 | youthful offender any inmate who meets the criteria of this
21 | subsection.

22 | Section 5. For the purpose of incorporating the
23 | amendments made by this act to section 958.04, Florida
24 | Statutes, in a reference thereto, paragraph (c) of subsection
25 | (4) of section 985.233, Florida Statutes, is reenacted to
26 | read:

27 | 985.233 Sentencing powers; procedures; alternatives
28 | for juveniles prosecuted as adults.--

29 | (4) SENTENCING ALTERNATIVES.--

30 | (c) Imposition of adult sanctions upon failure of
31 | juvenile sanctions.--If a child proves not to be suitable to a

1 | commitment program, in a juvenile probation program, or
2 | treatment program under the provisions of paragraph (b), the
3 | department shall provide the sentencing court with a written
4 | report outlining the basis for its objections to the juvenile
5 | sanction and shall simultaneously provide a copy of the report
6 | to the state attorney and the defense counsel. The department
7 | shall schedule a hearing within 30 days. Upon hearing, the
8 | court may revoke the previous adjudication, impose an
9 | adjudication of guilt, and impose any sentence which it may
10 | lawfully impose, giving credit for all time spent by the child
11 | in the department. The court may also classify the child as a
12 | youthful offender pursuant to s. 958.04, if appropriate. For
13 | purposes of this paragraph, a child may be found not suitable
14 | to a commitment program, community control program, or
15 | treatment program under the provisions of paragraph (b) if the
16 | child commits a new violation of law while under juvenile
17 | sanctions, if the child commits any other violation of the
18 | conditions of juvenile sanctions, or if the child's actions
19 | are otherwise determined by the court to demonstrate a failure
20 | of juvenile sanctions.

21 |
22 | It is the intent of the Legislature that the criteria and
23 | guidelines in this subsection are mandatory and that a
24 | determination of disposition under this subsection is subject
25 | to the right of the child to appellate review under s.
26 | 985.234.

27 | Section 6. This act shall take effect July 1, 2005.

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SENATE SUMMARY

Prohibits sentencing a person found guilty of a sexual offense who is 18 years of age or older at the time of the offense as a youthful offender.