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LEGISLATIVE ACTION

Senate	.	House
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Senator Bradley moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (1) and (3) of section 775.082,
Florida Statutes, are amended to read:

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

(1) (a) Except as provided in paragraph (b), a person who
has been convicted of a capital felony shall be punished by
death if the proceeding held to determine sentence according to
the procedure set forth in s. 921.141 results in findings by the



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14 court that such person shall be punished by death, otherwise
15 such person shall be punished by life imprisonment and shall be
16 ineligible for parole.

17 (b) A person who is convicted of a capital felony, or an
18 offense that was reclassified as a capital felony, that was
19 committed before the person was 18 years of age shall be
20 punished by life imprisonment and is ineligible for parole if
21 the judge at a mandatory sentencing hearing concludes that life
22 imprisonment is an appropriate sentence. In determining whether
23 life imprisonment is an appropriate sentence, the judge shall
24 consider factors relevant to the offense and to the defendant's
25 youth and attendant circumstances, including, but not limited
26 to:

27 1. The nature and circumstances of the offense committed by
28 the defendant.

29 2. The effect of the crime on the victim's family and on
30 the community.

31 3. The defendant's age, maturity, intellectual capacity,
32 and mental and emotional health at the time of the offense.

33 4. The defendant's background, including his or her family,
34 home, and community environment.

35 5. The effect, if any, of immaturity, impetuosity, or
36 failure to appreciate risks and consequences on the defendant's
37 participation in the offense.

38 6. The extent of the defendant's participation in the
39 offense.

40 7. The effect, if any, of familial pressure or peer
41 pressure on the defendant's actions.

42 8. The nature and extent of the defendant's prior criminal



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43 history.

44 9. The effect, if any, of characteristics attributable to
45 the defendant's youth on the defendant's judgment.

46 10. The possibility of rehabilitating the defendant.

47

48 If the judge concludes that life imprisonment is not an
49 appropriate sentence, the defendant shall be punished by
50 imprisonment for a term of not less than 35 years.

51 (3) A person who has been convicted of any other designated
52 felony may be punished as follows:

53 (a)1. For a life felony committed before ~~prior to~~ October
54 1, 1983, by a term of imprisonment for life or for a term of
55 years not less than 30.

56 2. For a life felony committed on or after October 1, 1983,
57 by a term of imprisonment for life or by a term of imprisonment
58 not exceeding 40 years.

59 3. Except as provided in subparagraph 4., for a life felony
60 committed on or after July 1, 1995, by a term of imprisonment
61 for life or by imprisonment for a term of years not exceeding
62 life imprisonment.

63 4.a. Except as provided in sub-subparagraph b., for a life
64 felony committed on or after September 1, 2005, which is a
65 violation of s. 800.04(5)(b), by:

66 (I) A term of imprisonment for life; or

67 (II) A split sentence that is a term of not less than 25
68 years' imprisonment and not exceeding life imprisonment,
69 followed by probation or community control for the remainder of
70 the person's natural life, as provided in s. 948.012(4).

71 b. For a life felony committed on or after July 1, 2008,



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72 which is a person's second or subsequent violation of s.
73 800.04(5) (b), by a term of imprisonment for life.

74 5. Notwithstanding subparagraphs 1.-4., a person convicted
75 under s. 782.04 for an offense that was reclassified as a life
76 felony that was committed before the person was 18 years of age
77 is eligible to be punished by a term of imprisonment for life or
78 by a term of years equal to life imprisonment if the judge at a
79 mandatory sentencing hearing considers factors relevant to the
80 offense and to the defendant's youth and attendant
81 circumstances, including, but not limited to, the factors listed
82 in paragraph (1) (b) and concludes that imprisonment for life or
83 a term of years equal to life imprisonment is an appropriate
84 sentence.

85 (b) For a felony of the first degree, by a term of
86 imprisonment not exceeding 30 years or, when specifically
87 provided by statute, by imprisonment for a term of years not
88 exceeding life imprisonment. However, a person convicted under
89 s. 782.04 of a first-degree felony punishable by a term of years
90 not exceeding life imprisonment, or an offense that was
91 reclassified as a first-degree felony punishable by a term of
92 years not exceeding life imprisonment, that was committed before
93 the person was 18 years of age is eligible for a term of years
94 equal to life imprisonment only if the judge at a mandatory
95 sentencing hearing considers factors relevant to the offense and
96 to the defendant's youth and attendant circumstances, including,
97 but not limited to, the factors listed in paragraph (1) (b) and
98 concludes that a term of years equal to life imprisonment is an
99 appropriate sentence.

100 (c) For a felony of the second degree, by a term of



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101 imprisonment not exceeding 15 years.

102 (d) For a felony of the third degree, by a term of
103 imprisonment not exceeding 5 years.

104 Section 2. A person who is sentenced to life imprisonment,
105 imprisonment for life, or imprisonment for a term of more than
106 25 years for any offense that is not included in section 782.04
107 is entitled to a review of his or her sentence after 25 years if
108 the offense was committed when he or she was under the age of
109 18. The sentencing court shall retain original jurisdiction for
110 the duration of the sentence for this purpose. The Department of
111 Corrections shall notify juvenile offenders who are committed to
112 the department of their eligibility to participate in a
113 resentencing hearing 18 months prior to the beginning of their
114 25th year of incarceration. The juvenile offender may apply to
115 the court of original jurisdiction requesting that a
116 resentencing hearing be held.

117 (a) An offender is entitled to be represented by counsel,
118 and the court shall appoint a public defender to represent the
119 offender if the offender cannot afford an attorney.

120 (b) The court shall hold a resentencing hearing to
121 determine whether the offender's sentence should be modified.
122 The resentencing court shall consider all of the following:

123 1. Whether the offender demonstrates maturity and
124 rehabilitation.

125 2. Whether the offender remains at the same level of risk
126 to society as he or she did at the time of the initial
127 sentencing.

128 3. The opinion of the victim or the victim's next of kin.
129 The absence of the victim or the victim's next of kin from the



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130 resentencing hearing may not be a factor in the court's
131 determination under this section. If the victim or the victim's
132 next of kin chooses not to participate in the hearing, the court
133 may consider previous statements made by the victim or the
134 victim's next of kin during the trial or initial sentencing
135 phase.

136 4. Whether the offender was a relatively minor participant
137 in the criminal offense or acted under extreme duress or the
138 domination of another person.

139 5. Whether the offender has shown sincere and sustained
140 remorse for the criminal offense.

141 6. Whether the offender's age, maturity, and psychological
142 development at the time of the offense affected his or her
143 behavior.

144 7. Whether the offender has successfully obtained a general
145 educational development certificate or completed another
146 educational, technical, work, vocational, or self-rehabilitation
147 program, if such a program is available.

148 8. Whether the offender was a victim of sexual, physical,
149 or emotional abuse before he or she committed the offense.

150 9. The results of any mental health assessment, risk
151 assessment, or evaluation of the offender as to rehabilitation.

152 (c) If the court determines at the resentencing hearing
153 that the offender has been rehabilitated and is reasonably
154 believed to be fit to reenter society based on these factors, a
155 term of probation of at least 5 years shall be imposed. If the
156 court determines that the offender has not demonstrated
157 rehabilitation and is not fit to reenter society based on these
158 factors, the court shall issue an order in writing stating the



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159 reasons the sentence is not being modified.

160 Section 3. This act shall take effect July 1, 2013.

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162 ===== T I T L E A M E N D M E N T =====

163 And the title is amended as follows:

164 Delete everything before the enacting clause

165 and insert:

166 A bill to be entitled

167 An act relating to criminal penalties; amending s.

168 775.082, F.S.; providing criminal sentences applicable

169 to a person who was under the age of 18 years at the

170 time the offense was committed; requiring that a judge

171 consider certain factors before determining if life

172 imprisonment is an appropriate sentence for a homicide

173 defendant; providing for review of sentences of

174 certain offenders who were under the age of 18 at the

175 time of the offense; providing requirements and

176 procedures for such reviews; providing an effective

177 date.