

By the Committee on Criminal Justice; and Senator Bradley

591-03860-13

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1 A bill to be entitled

2 An act relating to criminal penalties; amending s.
3 775.082, F.S.; providing criminal sentences applicable
4 to a person who was under the age of 18 years at the
5 time the offense was committed; requiring that a judge
6 consider certain factors before determining if life
7 imprisonment is an appropriate sentence; providing an
8 effective date.

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

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

14 775.082 Penalties; applicability of sentencing structures;
15 mandatory minimum sentences for certain reoffenders previously
16 released from prison.—

17 (1) (a) Except as provided in paragraph (b), a person who
18 has been convicted of a capital felony shall be punished by
19 death if the proceeding held to determine sentence according to
20 the procedure set forth in s. 921.141 results in findings by the
21 court that such person shall be punished by death, otherwise
22 such person shall be punished by life imprisonment and shall be
23 ineligible for parole.

24 (b) A person who is convicted of a capital felony, or an
25 offense that was reclassified as a capital felony, that was
26 committed before the person was 18 years of age shall be
27 punished by life imprisonment and is ineligible for parole if
28 the judge at a mandatory sentencing hearing concludes that life
29 imprisonment is an appropriate sentence. In determining whether

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30 life imprisonment is an appropriate sentence, the judge shall
31 consider factors relevant to the offense and to the defendant's
32 youth and attendant circumstances, including, but not limited
33 to:

34 1. The nature and circumstances of the offense committed by
35 the defendant.

36 2. The effect of the crime on the victim's family and on
37 the community.

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

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

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

45 6. The extent of the defendant's participation in the
46 offense.

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

49 8. The nature and extent of the defendant's prior criminal
50 history.

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

53 10. The possibility of rehabilitating the defendant.

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

58 (3) A person who has been convicted of any other designated

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59 felony may be punished as follows:

60 (a)1. For a life felony committed before ~~prior to~~ October
61 1, 1983, by a term of imprisonment for life or for a term of
62 years not less than 30.

63 2. For a life felony committed on or after October 1, 1983,
64 by a term of imprisonment for life or by a term of imprisonment
65 not exceeding 40 years.

66 3. Except as provided in subparagraph 4., for a life felony
67 committed on or after July 1, 1995, by a term of imprisonment
68 for life or by imprisonment for a term of years not exceeding
69 life imprisonment.

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

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

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

78 b. For a life felony committed on or after July 1, 2008,
79 which is a person's second or subsequent violation of s.
80 800.04(5)(b), by a term of imprisonment for life.

81 5. Notwithstanding subparagraphs 1.-4., a person convicted
82 under s. 782.04 for an offense that was reclassified as a life
83 felony that was committed before the person was 18 years of age
84 is eligible to be punished by a term of imprisonment for life or
85 by a term of years equal to life imprisonment if the judge at a
86 mandatory sentencing hearing considers factors relevant to the
87 offense and to the defendant's youth and attendant

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88 circumstances, including, but not limited to, the factors listed
89 in paragraph (1)(b) and concludes that imprisonment for life or
90 a term of years equal to life imprisonment is an appropriate
91 sentence.

92 6. For offenses committed on or after July 1, 2013, a
93 person convicted of a life felony or of an offense that was
94 reclassified as a life felony, other than an offense listed in
95 s. 782.04, that was committed before the person was 18 years of
96 age shall be punished by a term of imprisonment not to exceed 50
97 years.

98 (b) Except as provided in subparagraphs 1. and 2., for a
99 felony of the first degree, by a term of imprisonment not
100 exceeding 30 years or, when specifically provided by statute, by
101 imprisonment for a term of years not exceeding life
102 imprisonment.

103 1. A person convicted under s. 782.04 of a first-degree
104 felony punishable by a term of years not exceeding life
105 imprisonment, or an offense that was reclassified as a first-
106 degree felony punishable by a term of years not exceeding life
107 imprisonment, that was committed before the person was 18 years
108 of age is eligible for a term of years equal to life
109 imprisonment if the judge at a mandatory sentencing hearing
110 considers factors relevant to the offense and to the defendant's
111 youth and attendant circumstances, including, but not limited
112 to, the factors listed in paragraph (1)(b) and concludes that a
113 term of years equal to life imprisonment is an appropriate
114 sentence.

115 2. For offenses committed on or after July 1, 2013, a
116 person convicted for a first-degree felony punishable by a term

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117 of years not exceeding life imprisonment or of an offense that
118 was reclassified as a first-degree felony punishable by a term
119 of years not exceeding life imprisonment, other than an offense
120 listed in s. 782.04, that was committed before the person was
121 18 years of age shall be punished by a term of imprisonment not
122 to exceed 50 years.

123 (c) For a felony of the second degree, by a term of
124 imprisonment not exceeding 15 years.

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

127 Section 2. This act shall take effect July 1, 2013.