

1 A bill to be entitled
 2 An act relating to juvenile sentencing; 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 whether
 7 life imprisonment is an appropriate sentence;
 8 providing for retroactive application in certain
 9 circumstances; providing an effective date.

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

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

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

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

25 (b) A person who is convicted of a capital felony, or an
 26 offense that was reclassified as a capital felony, that was
 27 committed before the person was 18 years of age shall be
 28 punished by life imprisonment and is ineligible for parole if

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29 | the judge at a mandatory sentencing hearing concludes that life
30 | imprisonment is an appropriate sentence. In determining whether
31 | life imprisonment is an appropriate sentence, the judge shall
32 | consider factors relevant to the offense and to the defendant's
33 | age and attendant circumstances, including, but not limited to:

34 | 1. The nature and circumstances of the offense committed
35 | by 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
41 | family, 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 age on the defendant's judgment at the time of
53 | the offense.

54 | 10. The possibility of rehabilitating the defendant.

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56 | If the judge concludes that life imprisonment is not an

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57 appropriate sentence, the defendant shall be punished by
58 imprisonment for a term of not less than 50 years. This
59 paragraph applies retroactively only to the extent necessary to
60 meet constitutional requirements for imposing a life sentence on
61 a defendant who is convicted of committing a murder that was
62 committed before the person was 18 years of age as set forth by
63 the United States Supreme Court in Miller v. Alabama, 132 S. Ct.
64 2455 (2012).

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

67 (a)1. For a life felony committed before ~~prior to~~ October
68 1, 1983, by a term of imprisonment for life or for a term of
69 years not less than 30.

70 2. For a life felony committed on or after October 1,
71 1983, by a term of imprisonment for life or by a term of
72 imprisonment not exceeding 40 years.

73 3. Except as provided in subparagraph 4., for a life
74 felony committed on or after July 1, 1995, by a term of
75 imprisonment for life or by imprisonment for a term of years not
76 exceeding life imprisonment.

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

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

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

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85 b. For a life felony committed on or after July 1, 2008,
86 which is a person's second or subsequent violation of s.
87 800.04(5)(b), by a term of imprisonment for life.

88 5. Notwithstanding subparagraphs 1.-4., a person convicted
89 under s. 782.04 for an offense that was reclassified as a life
90 felony that was committed before the person was 18 years of age
91 is eligible to be punished by a term of imprisonment for life or
92 by a term of years equal to life imprisonment if the judge at a
93 mandatory sentencing hearing considers factors relevant to the
94 offense and to the defendant's age and attendant circumstances,
95 including, but not limited to, the factors listed in paragraph
96 (1)(b) and concludes that imprisonment for life or a term of
97 years equal to life imprisonment is an appropriate sentence.
98 This subparagraph applies retroactively only to the extent
99 necessary to meet constitutional requirements for imposing a
100 life sentence on a defendant who is convicted of committing a
101 murder that was committed before the person was 18 years of age
102 as set forth by the United States Supreme Court in Miller v.
103 Alabama, 132 S. Ct. 2455 (2012).

104 (b)1. For a felony of the first degree, by a term of
105 imprisonment not exceeding 30 years or, when specifically
106 provided by statute, by imprisonment for a term of years not
107 exceeding life imprisonment.

108 2. Notwithstanding subparagraph 1., a person convicted
109 under s. 782.04 of a first-degree felony punishable by a term of
110 years not exceeding life imprisonment, or an offense that was
111 reclassified as a first-degree felony punishable by a term of
112 years not exceeding life, that was committed before the person

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113 was 18 years of age is eligible for a term of years equal to
114 life imprisonment if the judge at a mandatory sentencing hearing
115 considers factors relevant to the offense and to the defendant's
116 age and attendant circumstances, including, but not limited to,
117 the factors listed in paragraph (1) (b) and concludes that a term
118 of years equal to life imprisonment is an appropriate sentence.
119 This subparagraph applies retroactively only to the extent
120 necessary to meet constitutional requirements for imposing a
121 life sentence on a defendant who is convicted of committing a
122 murder that was committed before the person was 18 years of age
123 as set forth by the United States Supreme Court in Miller v.
124 Alabama, 132 S. Ct. 2455 (2012).

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

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

129 (e) Notwithstanding paragraphs (a)-(d), for an offense
130 committed on or after July 1, 2013, a person convicted of a life
131 felony or an offense punishable by a term of years not exceeding
132 life imprisonment, other than an offense listed in s. 782.04, or
133 an offense, other than an offense listed in s. 782.04, that was
134 reclassified as a life felony or an offense punishable by a term
135 of years not exceeding life, that was committed before the
136 person was 18 years of age shall be punished by a term of
137 imprisonment not to exceed 50 years.

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