

By Senator Bradley

7-00151B-14

2014384\_\_

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 a judge to  
6           consider certain factors before determining if life  
7           imprisonment is an appropriate sentence for a homicide  
8           defendant; providing for review of sentences of  
9           certain offenders who were under the age of 18 at the  
10          time of the offense; providing requirements and  
11          procedures for such reviews; amending ss. 316.3026,  
12          373.430, 403.161, and 648.571, F.S.; conforming cross-  
13          references; providing an effective date.

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

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

19           775.082 Penalties; applicability of sentencing structures;  
20 mandatory minimum sentences for certain reoffenders previously  
21 released from prison.—

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

29           (b) For offenses committed before the offender attained 18

7-00151B-14

2014384\_\_

30 years of age, a person who is convicted of a capital felony or  
31 an offense that was reclassified as a capital felony shall be  
32 punished by life imprisonment and is ineligible for parole if  
33 the judge at a mandatory sentencing hearing concludes that life  
34 imprisonment is an appropriate sentence. In determining whether  
35 life imprisonment is an appropriate sentence, the judge shall  
36 consider factors relevant to the offense and to the defendant's  
37 youth and attendant circumstances, including, but not limited  
38 to:

39 1. The nature and circumstances of the offense committed by  
40 the defendant.

41 2. The effect of the crime on the victim's family and on  
42 the community.

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

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

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

50 6. The extent of the defendant's participation in the  
51 offense.

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

54 8. The nature and extent of the defendant's prior criminal  
55 history.

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

58 10. The possibility of rehabilitating the defendant.

7-00151B-14

2014384\_\_

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

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

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

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

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

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

(I) A term of imprisonment for life; or

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

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

(b) Notwithstanding paragraph (a), for offenses committed before the offender attained 18 years of age, a person convicted

7-00151B-14

2014384\_\_

88 under s. 782.04 of an offense that was reclassified as a life  
89 felony is eligible to be punished by life imprisonment or by  
90 imprisonment for a term of years equal to life imprisonment if  
91 the judge at a mandatory sentencing hearing considers factors  
92 relevant to the offense and to the defendant's youth and  
93 attendant circumstances, including, but not limited to, the  
94 factors listed in paragraph (1)(b), and concludes that  
95 imprisonment for life or a term of years equal to life  
96 imprisonment is an appropriate sentence.

97 (c)-(b) For a felony of the first degree, by a term of  
98 imprisonment not exceeding 30 years or, when specifically  
99 provided by statute, by imprisonment for a term of years not  
100 exceeding life imprisonment. However, for offenses committed  
101 before the offender attained 18 years of age, a person convicted  
102 under s. 782.04 of a first-degree felony punishable by a term of  
103 years not exceeding life imprisonment or an offense that was  
104 reclassified as a first-degree felony punishable by a term of  
105 years not exceeding life imprisonment is eligible for a term of  
106 years equal to life imprisonment only if the judge at a  
107 mandatory sentencing hearing considers factors relevant to the  
108 offense and to the defendant's youth and attendant  
109 circumstances, including, but not limited to, the factors  
110 specified in paragraph (1)(b), and concludes that a term of  
111 years equal to life imprisonment is an appropriate sentence.

112 (d)-(e) For a felony of the second degree, by a term of  
113 imprisonment not exceeding 15 years.

114 (e)-(d) For a felony of the third degree, by a term of  
115 imprisonment not exceeding 5 years.

116 Section 2. (1) For offenses committed before the offender

7-00151B-14

2014384\_\_

117 attained 18 years of age, a person who is sentenced to life  
118 imprisonment, imprisonment for life, or imprisonment for a term  
119 of more than 25 years for any offense that is not included in s.  
120 782.04, Florida Statutes, is entitled to a review of his or her  
121 sentence after 25 years. The sentencing court shall retain  
122 original jurisdiction for the duration of the sentence for this  
123 purpose.

124 (2) The Department of Corrections shall notify a juvenile  
125 offender who is committed to the department of his or her  
126 eligibility to participate in a resentencing hearing 18 months  
127 before the beginning of his or her 25th year of incarceration.  
128 The juvenile offender may apply to the court of original  
129 jurisdiction requesting that a resentencing hearing be held.

130 (3) An offender is entitled to be represented by counsel,  
131 and the court shall appoint a public defender to represent the  
132 offender if the offender cannot afford an attorney.

133 (4) The court shall hold a resentencing hearing to  
134 determine whether the offender's sentence should be modified.  
135 The resentencing court shall consider all of the following:

136 (a) Whether the offender demonstrates maturity and  
137 rehabilitation.

138 (b) Whether the offender remains at the same level of risk  
139 to society as he or she did at the time of the initial  
140 sentencing.

141 (c) The opinion of the victim or the victim's next of kin.  
142 The absence of the victim or the victim's next of kin from the  
143 resentencing hearing may not be a factor in the court's  
144 determination under this section. If the victim or the victim's  
145 next of kin chooses not to participate in the hearing, the court

7-00151B-14

2014384\_\_

146 may consider previous statements made by the victim or the  
147 victim's next of kin during the trial or initial sentencing  
148 phase.

149 (d) Whether the offender was a relatively minor participant  
150 in the criminal offense or acted under extreme duress or the  
151 domination of another person.

152 (e) Whether the offender has shown sincere and sustained  
153 remorse for the criminal offense.

154 (f) Whether the offender's age, maturity, and psychological  
155 development at the time of the offense affected his or her  
156 behavior.

157 (g) Whether the offender has successfully obtained a  
158 general educational development certificate or completed another  
159 educational, technical, work, vocational, or self-rehabilitation  
160 program, if such a program is available.

161 (h) Whether the offender was a victim of sexual, physical,  
162 or emotional abuse before he or she committed the offense.

163 (i) The results of any mental health assessment, risk  
164 assessment, or evaluation of the offender as to rehabilitation.

165 (5) If the court determines at the resentencing hearing  
166 that the offender has been rehabilitated and is reasonably  
167 believed to be fit to reenter society based on these factors, a  
168 term of probation of at least 5 years shall be imposed. If the  
169 court determines that the offender has not demonstrated  
170 rehabilitation and is not fit to reenter society based on these  
171 factors, the court shall issue an order in writing stating the  
172 reasons why the sentence is not being modified.

173 Section 3. Subsection (2) of section 316.3026, Florida  
174 Statutes, is amended to read:

7-00151B-14

2014384\_\_

175 316.3026 Unlawful operation of motor carriers.—  
176 (2) Any motor carrier enjoined or prohibited from operating  
177 by an out-of-service order by this state, any other state, or  
178 the Federal Motor Carrier Safety Administration may not operate  
179 on the roadways of this state until the motor carrier has been  
180 authorized to resume operations by the originating enforcement  
181 jurisdiction. Commercial motor vehicles owned or operated by any  
182 motor carrier prohibited from operation found on the roadways of  
183 this state shall be placed out of service by law enforcement  
184 officers of the Department of Highway Safety and Motor Vehicles,  
185 and the motor carrier assessed a \$10,000 civil penalty pursuant  
186 to 49 C.F.R. s. 383.53, in addition to any other penalties  
187 imposed on the driver or other responsible person. Any person  
188 who knowingly drives, operates, or causes to be operated any  
189 commercial motor vehicle in violation of an out-of-service order  
190 issued by the department in accordance with this section commits  
191 a felony of the third degree, punishable as provided in s.  
192 775.082(3)(e) ~~775.082(3)(d)~~. Any costs associated with the  
193 impoundment or storage of such vehicles are the responsibility  
194 of the motor carrier. Vehicle out-of-service orders may be  
195 rescinded when the department receives proof of authorization  
196 for the motor carrier to resume operation.

197 Section 4. Subsection (3) of section 373.430, Florida  
198 Statutes, is amended to read:

199 373.430 Prohibitions, violation, penalty, intent.—

200 (3) Any person who willfully commits a violation specified  
201 in paragraph (1)(a) is guilty of a felony of the third degree,  
202 punishable as provided in ss. 775.082(3)(e) ~~775.082(3)(d)~~ and  
203 775.083(1)(g), by a fine of not more than \$50,000 or by

7-00151B-14

2014384\_\_

204 imprisonment for 5 years, or by both, for each offense. Each day  
205 during any portion of which such violation occurs constitutes a  
206 separate offense.

207 Section 5. Subsection (3) of section 403.161, Florida  
208 Statutes, is amended to read:

209 403.161 Prohibitions, violation, penalty, intent.—

210 (3) Any person who willfully commits a violation specified  
211 in paragraph (1)(a) is guilty of a felony of the third degree  
212 punishable as provided in ss. 775.082(3)(e) ~~775.082(3)(d)~~ and  
213 775.083(1)(g) by a fine of not more than \$50,000 or by  
214 imprisonment for 5 years, or by both, for each offense. Each day  
215 during any portion of which such violation occurs constitutes a  
216 separate offense.

217 Section 6. Paragraph (c) of subsection (3) of section  
218 648.571, Florida Statutes, is amended to read:

219 648.571 Failure to return collateral; penalty.—

220 (3)

221 (c) Allowable expenses incurred in apprehending a defendant  
222 because of a bond forfeiture or judgment under s. 903.29 may be  
223 deducted if such expenses are accounted for. The failure to  
224 return collateral under these terms is punishable as follows:

225 1. If the collateral is of a value less than \$100, as  
226 provided in s. 775.082(4)(a).

227 2. If the collateral is of a value of \$100 or more, as  
228 provided in s. 775.082(3)(e) ~~775.082(3)(d)~~.

229 3. If the collateral is of a value of \$1,500 or more, as  
230 provided in s. 775.082(3)(d) ~~775.082(3)(e)~~.

231 4. If the collateral is of a value of \$10,000 or more, as  
232 provided in s. 775.082(3)(c) ~~775.082(3)(b)~~.



7-00151B-14

2014384\_\_

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Section 7. This act shall take effect July 1, 2014.