

By the Committee on Appropriations; and Senator Bradley

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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

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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.

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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

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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) A person who is sentenced to imprisonment

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117 for committing an offense before attaining 18 years of age is
118 entitled to review of his or her sentence in the following
119 circumstances:

120 (a) A person who is sentenced to life imprisonment,
121 imprisonment for life, or imprisonment for a term of more than
122 25 years for any offense that is included in s. 782.04, Florida
123 Statutes, but for which he or she was not the person who
124 actually killed the victim, is entitled to a review of his or
125 her sentence after 25 years. The sentencing court shall retain
126 original jurisdiction for the duration of the sentence for this
127 purpose.

128 (b) A person who is sentenced to life imprisonment,
129 imprisonment for life, or imprisonment for a term of more than
130 20 years for any offense that is not included in s. 782.04,
131 Florida Statutes, is entitled to a review of his or her sentence
132 after 20 years. If the court does not modify the person's
133 sentence in accordance with subsection (5) and the person is
134 servicing a sentence of imprisonment for a term of more than 30
135 years, the person is entitled to another review of his or her
136 sentence after serving 30 years of the sentence. The sentencing
137 court shall retain original jurisdiction for the duration of the
138 sentence for this purpose.

139 (2) The Department of Corrections shall notify a juvenile
140 offender who is committed to the department of his or her
141 eligibility to participate in a resentencing hearing 30 months
142 before the date that he or she will be eligible for the
143 resentencing hearing. The juvenile offender may apply to the
144 court of original jurisdiction requesting that a resentencing
145 hearing be held.

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

149 (4) The court shall hold a resentencing hearing to
150 determine whether the offender's sentence should be modified.

151 The resentencing court shall consider all of the following:

152 (a) Whether the offender demonstrates maturity and
153 rehabilitation.

154 (b) Whether the offender remains at the same level of risk
155 to society as he or she did at the time of the initial
156 sentencing.

157 (c) The opinion of the victim or the victim's next of kin.
158 The absence of the victim or the victim's next of kin from the
159 resentencing hearing may not be a factor in the court's
160 determination under this section. If the victim or the victim's
161 next of kin chooses not to participate in the hearing, the court
162 may consider previous statements made by the victim or the
163 victim's next of kin during the trial or initial sentencing
164 phase.

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

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

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

173 (g) Whether the offender has successfully obtained a
174 general educational development certificate or completed another

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175 educational, technical, work, vocational, or self-rehabilitation
176 program, if such a program is available.

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

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

181 (5) If the court determines at the resentencing hearing
182 that the offender has been rehabilitated and is reasonably
183 believed to be fit to reenter society based on these factors, a
184 term of probation of at least 5 years shall be imposed. If the
185 court determines that the offender has not demonstrated
186 rehabilitation and is not fit to reenter society based on these
187 factors, the court shall issue an order in writing stating the
188 reasons why the sentence is not being modified.

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

191 316.3026 Unlawful operation of motor carriers.—

192 (2) Any motor carrier enjoined or prohibited from operating
193 by an out-of-service order by this state, any other state, or
194 the Federal Motor Carrier Safety Administration may not operate
195 on the roadways of this state until the motor carrier has been
196 authorized to resume operations by the originating enforcement
197 jurisdiction. Commercial motor vehicles owned or operated by any
198 motor carrier prohibited from operation found on the roadways of
199 this state shall be placed out of service by law enforcement
200 officers of the Department of Highway Safety and Motor Vehicles,
201 and the motor carrier assessed a \$10,000 civil penalty pursuant
202 to 49 C.F.R. s. 383.53, in addition to any other penalties
203 imposed on the driver or other responsible person. Any person

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204 who knowingly drives, operates, or causes to be operated any
205 commercial motor vehicle in violation of an out-of-service order
206 issued by the department in accordance with this section commits
207 a felony of the third degree, punishable as provided in s.
208 775.082(3)(e) ~~775.082(3)(d)~~. Any costs associated with the
209 impoundment or storage of such vehicles are the responsibility
210 of the motor carrier. Vehicle out-of-service orders may be
211 rescinded when the department receives proof of authorization
212 for the motor carrier to resume operation.

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

215 373.430 Prohibitions, violation, penalty, intent.—

216 (3) Any person who willfully commits a violation specified
217 in paragraph (1)(a) is guilty of a felony of the third degree,
218 punishable as provided in ss. 775.082(3)(e) ~~775.082(3)(d)~~ and
219 775.083(1)(g), by a fine of not more than \$50,000 or by
220 imprisonment for 5 years, or by both, for each offense. Each day
221 during any portion of which such violation occurs constitutes a
222 separate offense.

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

225 403.161 Prohibitions, violation, penalty, intent.—

226 (3) Any person who willfully commits a violation specified
227 in paragraph (1)(a) is guilty of a felony of the third degree
228 punishable as provided in ss. 775.082(3)(e) ~~775.082(3)(d)~~ and
229 775.083(1)(g) by a fine of not more than \$50,000 or by
230 imprisonment for 5 years, or by both, for each offense. Each day
231 during any portion of which such violation occurs constitutes a
232 separate offense.

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233 Section 6. Paragraph (c) of subsection (3) of section
234 648.571, Florida Statutes, is amended to read:

235 648.571 Failure to return collateral; penalty.—

236 (3)

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

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

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

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

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

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