



841792

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
Floor: 2/AD/3R	.	Floor: SENA2/C
04/23/2014 03:01 PM	.	05/02/2014 08:14 PM
	.	

---

Senator Braynon moved the following:

1           **Senate Substitute for Amendment (978768) (with title**  
2 **amendment)**

3  
4           Delete everything after the enacting clause  
5 and insert:

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

8           775.082 Penalties; applicability of sentencing structures;  
9 mandatory minimum sentences for certain reoffenders previously  
10 released from prison.—

11           (1) (a) Except as provided in paragraph (b), a person who



841792

12 has been convicted of a capital felony shall be punished by  
13 death if the proceeding held to determine sentence according to  
14 the procedure set forth in s. 921.141 results in findings by the  
15 court that such person shall be punished by death, otherwise  
16 such person shall be punished by life imprisonment and shall be  
17 ineligible for parole.

18 (b)1. A person who actually killed, intended to kill, or  
19 attempted to kill the victim and who is convicted under s.  
20 782.04 of a capital felony, or an offense that was reclassified  
21 as a capital felony, which was committed before the person  
22 attained 18 years of age shall be punished by a term of  
23 imprisonment for life if, after a sentencing hearing conducted  
24 by the court in accordance with s. 921.1401, the court finds  
25 that life imprisonment is an appropriate sentence. If the court  
26 finds that life imprisonment is not an appropriate sentence,  
27 such person shall be punished by a term of imprisonment of at  
28 least 40 years. A person sentenced pursuant to this subparagraph  
29 is entitled to a review of his or her sentence in accordance  
30 with s. 921.1402(2)(a).

31 2. A person who did not actually kill, intend to kill, or  
32 attempt to kill the victim and who is convicted under s. 782.04  
33 of a capital felony, or an offense that was reclassified as a  
34 capital felony, which was committed before the person attained  
35 18 years of age may be punished by a term of imprisonment for  
36 life or by a term of years equal to life if, after a sentencing  
37 hearing conducted by the court in accordance with s. 921.1401,  
38 the court finds that life imprisonment is an appropriate  
39 sentence. A person who is sentenced to a term of imprisonment of  
40 more than 15 years is entitled to a review of his or her



841792

41 sentence in accordance with s. 921.1402(2)(c).

42 3. The court shall make a written finding as to whether a  
43 person is eligible for a sentence review hearing under s.  
44 921.1402(2)(a) or (2)(c). Such a finding shall be based upon  
45 whether the person actually killed, intended to kill, or  
46 attempted to kill the victim. The court may find that multiple  
47 defendants killed, intended to kill, or attempted to kill the  
48 victim.

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

51 (a)1. For a life felony committed before ~~prior to~~ October  
52 1, 1983, by a term of imprisonment for life or for a term of at  
53 least years not less than 30 years.

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

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

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

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

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

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



70 which is a person's second or subsequent violation of s.  
71 800.04(5) (b), by a term of imprisonment for life.

72 5. Notwithstanding subparagraphs 1.-4., a person who is  
73 convicted under s. 782.04 of an offense that was reclassified as  
74 a life felony which was committed before the person attained 18  
75 years of age may be punished by a term of imprisonment for life  
76 or by a term of years equal to life imprisonment if the judge  
77 conducts a sentencing hearing in accordance with s. 921.1401 and  
78 finds that life imprisonment or a term of years equal to life  
79 imprisonment is an appropriate sentence.

80 a. A person who actually killed, intended to kill, or  
81 attempted to kill the victim and is sentenced to a term of  
82 imprisonment of more than 25 years is entitled to a review of  
83 his or her sentence in accordance with s. 921.1402(2) (b).

84 b. A person who did not actually kill, intend to kill, or  
85 attempt to kill the victim and is sentenced to a term of  
86 imprisonment of more than 15 years is entitled to a review of  
87 his or her sentence in accordance with s. 921.1402(2) (c).

88 c. The court shall make a written finding as to whether a  
89 person is eligible for a sentence review hearing under s.  
90 921.1402(2) (b) or (2) (c). Such a finding shall be based upon  
91 whether the person actually killed, intended to kill, or  
92 attempted to kill the victim. The court may find that multiple  
93 defendants killed, intended to kill, or attempted to kill the  
94 victim.

95 (b)1. For a felony of the first degree, by a term of  
96 imprisonment not exceeding 30 years or, when specifically  
97 provided by statute, by imprisonment for a term of years not  
98 exceeding life imprisonment.



841792

99           2. Notwithstanding subparagraph 1., a person convicted  
100 under s. 782.04 of a first-degree felony punishable by a term of  
101 years not exceeding life imprisonment, or an offense that was  
102 reclassified as a first degree felony punishable by a term of  
103 years not exceeding life, which was committed before the person  
104 attained 18 years of age may be punished by a term of years  
105 equal to life imprisonment if the judge conducts a sentencing  
106 hearing in accordance with s. 921.1401 and finds that a term of  
107 years equal to life imprisonment is an appropriate sentence.

108           a. A person who actually killed, intended to kill, or  
109 attempted to kill the victim and is sentenced to a term of  
110 imprisonment of more than 25 years is entitled to a review of  
111 his or her sentence in accordance with s. 921.1402(2) (b).

112           b. A person who did not actually kill, intend to kill, or  
113 attempt to kill the victim and is sentenced to a term of  
114 imprisonment of more than 15 years is entitled to a review of  
115 his or her sentence in accordance with s. 921.1402(2) (c).

116           c. The court shall make a written finding as to whether a  
117 person is eligible for a sentence review hearing under s.  
118 921.1402(2) (b) or (2) (c). Such a finding shall be based upon  
119 whether the person actually killed, intended to kill, or  
120 attempted to kill the victim. The court may find that multiple  
121 defendants killed, intended to kill, or attempted to kill the  
122 victim.

123           (c) Notwithstanding paragraphs (a) and (b), a person  
124 convicted of an offense that is not included in s. 782.04 but  
125 that is an offense that is a life felony or is punishable by a  
126 term of imprisonment for life or by a term of years not  
127 exceeding life imprisonment, or an offense that was reclassified



841792

128 as a life felony or an offense punishable by a term of  
129 imprisonment for life or by a term of years not exceeding life  
130 imprisonment, which was committed before the person attained 18  
131 years of age may be punished by a term of imprisonment for life  
132 or a term of years equal to life imprisonment if the judge  
133 conducts a sentencing hearing in accordance with s. 921.1401 and  
134 finds that life imprisonment or a term of years equal to life  
135 imprisonment is an appropriate sentence. A person who is  
136 sentenced to a term of imprisonment of more than 20 years is  
137 entitled to a review of his or her sentence in accordance with  
138 s. 921.1402(2)(d).

139 (d)~~(e)~~ For a felony of the second degree, by a term of  
140 imprisonment not exceeding 15 years.

141 (e)~~(d)~~ For a felony of the third degree, by a term of  
142 imprisonment not exceeding 5 years.

143 Section 2. Section 921.1401, Florida Statutes, is created  
144 to read:

145 921.1401 Sentence of life imprisonment for persons who are  
146 under the age of 18 years at the time of the offense; sentencing  
147 proceedings.-

148 (1) Upon conviction or adjudication of guilt of an offense  
149 described in s. 775.082(1)(b), s. 775.082(3)(a)5., s.  
150 775.082(3)(b)2., or s. 775.082(3)(c) which was committed on or  
151 after July 1, 2014, the court may conduct a separate sentencing  
152 hearing to determine if a term of imprisonment for life or a  
153 term of years equal to life imprisonment is an appropriate  
154 sentence.

155 (2) In determining whether life imprisonment or a term of  
156 years equal to life imprisonment is an appropriate sentence, the



841792

157 court shall consider factors relevant to the offense and the  
158 defendant's youth and attendant circumstances, including, but  
159 not limited to:

160 (a) The nature and circumstances of the offense committed  
161 by the defendant.

162 (b) The effect of the crime on the victim's family and on  
163 the community.

164 (c) The defendant's age, maturity, intellectual capacity,  
165 and mental and emotional health at the time of the offense.

166 (d) The defendant's background, including his or her  
167 family, home, and community environment.

168 (e) The effect, if any, of immaturity, impetuosity, or  
169 failure to appreciate risks and consequences on the defendant's  
170 participation in the offense.

171 (f) The extent of the defendant's participation in the  
172 offense.

173 (g) The effect, if any, of familial pressure or peer  
174 pressure on the defendant's actions.

175 (h) The nature and extent of the defendant's prior criminal  
176 history.

177 (i) The effect, if any, of characteristics attributable to  
178 the defendant's youth on the defendant's judgment.

179 (j) The possibility of rehabilitating the defendant.

180 Section 3. Section 921.1402, Florida Statutes, is created  
181 to read:

182 921.1402 Review of sentences for persons convicted of  
183 specified offenses committed while under the age of 18 years.—

184 (1) For purposes of this section, the term "juvenile  
185 offender" means a person sentenced to imprisonment in the



841792

186 custody of the Department of Corrections for an offense  
187 committed on or after July 1, 2014, and committed before he or  
188 she attained 18 years of age.

189 (2) (a) A juvenile offender sentenced under s.  
190 775.082(1) (b)1. is entitled to a review of his or her sentence  
191 after 25 years. However, a juvenile offender is not entitled to  
192 review if he or she has previously been convicted of one of the  
193 following offenses, or conspiracy to commit one of the following  
194 offenses, if the offense for which the person was previously  
195 convicted was part of a separate criminal transaction or episode  
196 than that which resulted in the sentence under s.

197 775.082(1) (b)1.:

- 198 1. Murder;
- 199 2. Manslaughter;
- 200 3. Sexual battery;
- 201 4. Armed burglary;
- 202 5. Armed robbery;
- 203 6. Armed carjacking;
- 204 7. Home-invasion robbery;
- 205 8. Human trafficking for commercial sexual activity with a  
206 child under 18 years of age;
- 207 9. False imprisonment under s. 787.02(3) (a); or
- 208 10. Kidnapping.

209 (b) A juvenile offender sentenced to a term of more than 25  
210 years under s. 775.082(3) (a)5.a. or s. 775.082(3) (b)2.a. is  
211 entitled to a review of his or her sentence after 25 years.

212 (c) A juvenile offender sentenced to a term of more than 15  
213 years under s. 775.082(1) (b)2., s. 775.082(3) (a)5.b., or s.  
214 775.082(3) (b)2.b. is entitled to a review of his or her sentence





215 after 15 years.

216 (d) A juvenile offender sentenced to a term of 20 years or  
217 more under s. 775.082(3)(c) is entitled to a review of his or  
218 her sentence after 20 years. If the juvenile offender is not  
219 resentenced at the initial review hearing, he or she is eligible  
220 for one subsequent review hearing 10 years after the initial  
221 review hearing.

222 (3) The Department of Corrections shall notify a juvenile  
223 offender of his or her eligibility to request a sentence review  
224 hearing 18 months before the juvenile offender is entitled to a  
225 sentence review hearing under this section.

226 (4) A juvenile offender seeking sentence review pursuant to  
227 subsection (2) must submit an application to the court of  
228 original jurisdiction requesting that a sentence review hearing  
229 be held. The juvenile offender must submit a new application to  
230 the court of original jurisdiction to request subsequent  
231 sentence review hearings pursuant to paragraph (2)(d). The  
232 sentencing court shall retain original jurisdiction for the  
233 duration of the sentence for this purpose.

234 (5) A juvenile offender who is eligible for a sentence  
235 review hearing under this section is entitled to be represented  
236 by counsel, and the court shall appoint a public defender to  
237 represent the juvenile offender if the juvenile offender cannot  
238 afford an attorney.

239 (6) Upon receiving an application from an eligible juvenile  
240 offender, the court of original sentencing jurisdiction shall  
241 hold a sentence review hearing to determine whether the juvenile  
242 offender's sentence should be modified. When determining if it  
243 is appropriate to modify the juvenile offender's sentence, the



841792

244 court shall consider any factor it deems appropriate, including  
245 all of the following:

246 (a) Whether the juvenile offender demonstrates maturity and  
247 rehabilitation.

248 (b) Whether the juvenile offender remains at the same level  
249 of risk to society as he or she did at the time of the initial  
250 sentencing.

251 (c) The opinion of the victim or the victim's next of kin.  
252 The absence of the victim or the victim's next of kin from the  
253 sentence review hearing may not be a factor in the determination  
254 of the court under this section. The court shall permit the  
255 victim or victim's next of kin to be heard, in person, in  
256 writing, or by electronic means. If the victim or the victim's  
257 next of kin chooses not to participate in the hearing, the court  
258 may consider previous statements made by the victim or the  
259 victim's next of kin during the trial, initial sentencing phase,  
260 or subsequent sentencing review hearings.

261 (d) Whether the juvenile offender was a relatively minor  
262 participant in the criminal offense or acted under extreme  
263 duress or the domination of another person.

264 (e) Whether the juvenile offender has shown sincere and  
265 sustained remorse for the criminal offense.

266 (f) Whether the juvenile offender's age, maturity, and  
267 psychological development at the time of the offense affected  
268 his or her behavior.

269 (g) Whether the juvenile offender has successfully obtained  
270 a general educational development certificate or completed  
271 another educational, technical, work, vocational, or self-  
272 rehabilitation program, if such a program is available.



273 (h) Whether the juvenile offender was a victim of sexual,  
274 physical, or emotional abuse before he or she committed the  
275 offense.

276 (i) The results of any mental health assessment, risk  
277 assessment, or evaluation of the juvenile offender as to  
278 rehabilitation.

279 (7) If the court determines at a sentence review hearing  
280 that the juvenile offender has been rehabilitated and is  
281 reasonably believed to be fit to reenter society, the court  
282 shall modify the sentence and impose a term of probation of at  
283 least 5 years. If the court determines that the juvenile  
284 offender has not demonstrated rehabilitation or is not fit to  
285 reenter society, the court shall issue a written order stating  
286 the reasons why the sentence is not being modified.

287 Section 4. Subsection (2) of section 316.3026, Florida  
288 Statutes, is amended to read:

289 316.3026 Unlawful operation of motor carriers.—

290 (2) Any motor carrier enjoined or prohibited from operating  
291 by an out-of-service order by this state, any other state, or  
292 the Federal Motor Carrier Safety Administration may not operate  
293 on the roadways of this state until the motor carrier has been  
294 authorized to resume operations by the originating enforcement  
295 jurisdiction. Commercial motor vehicles owned or operated by any  
296 motor carrier prohibited from operation found on the roadways of  
297 this state shall be placed out of service by law enforcement  
298 officers of the Department of Highway Safety and Motor Vehicles,  
299 and the motor carrier assessed a \$10,000 civil penalty pursuant  
300 to 49 C.F.R. s. 383.53, in addition to any other penalties  
301 imposed on the driver or other responsible person. Any person



841792

302 who knowingly drives, operates, or causes to be operated any  
303 commercial motor vehicle in violation of an out-of-service order  
304 issued by the department in accordance with this section commits  
305 a felony of the third degree, punishable as provided in s.  
306 775.082(3)(e) ~~775.082(3)(d)~~. Any costs associated with the  
307 impoundment or storage of such vehicles are the responsibility  
308 of the motor carrier. Vehicle out-of-service orders may be  
309 rescinded when the department receives proof of authorization  
310 for the motor carrier to resume operation.

311 Section 5. Subsection (3) of section 373.430, Florida  
312 Statutes, is amended to read:

313 373.430 Prohibitions, violation, penalty, intent.—

314 (3) Any person who willfully commits a violation specified  
315 in paragraph (1)(a) is guilty of a felony of the third degree,  
316 punishable as provided in ss. 775.082(3)(e) ~~775.082(3)(d)~~ and  
317 775.083(1)(g), by a fine of not more than \$50,000 or by  
318 imprisonment for 5 years, or by both, for each offense. Each day  
319 during any portion of which such violation occurs constitutes a  
320 separate offense.

321 Section 6. Subsection (3) of section 403.161, Florida  
322 Statutes, is amended to read:

323 403.161 Prohibitions, violation, penalty, intent.—

324 (3) Any person who willfully commits a violation specified  
325 in paragraph (1)(a) is guilty of a felony of the third degree  
326 punishable as provided in ss. 775.082(3)(e) ~~775.082(3)(d)~~ and  
327 775.083(1)(g) by a fine of not more than \$50,000 or by  
328 imprisonment for 5 years, or by both, for each offense. Each day  
329 during any portion of which such violation occurs constitutes a  
330 separate offense.



331 Section 7. Paragraph (c) of subsection (3) of section  
332 648.571, Florida Statutes, is amended to read:  
333 648.571 Failure to return collateral; penalty.—  
334 (3)  
335 (c) Allowable expenses incurred in apprehending a defendant  
336 because of a bond forfeiture or judgment under s. 903.29 may be  
337 deducted if such expenses are accounted for. The failure to  
338 return collateral under these terms is punishable as follows:  
339 1. If the collateral is of a value less than \$100, as  
340 provided in s. 775.082(4)(a).  
341 2. If the collateral is of a value of \$100 or more, as  
342 provided in s. 775.082(3)(e) ~~775.082(3)(d)~~.  
343 3. If the collateral is of a value of \$1,500 or more, as  
344 provided in s. 775.082(3)(d) ~~775.082(3)(e)~~.  
345 4. If the collateral is of a value of \$10,000 or more, as  
346 provided in s. 775.082(3)(b).  
347 Section 8. This act shall take effect July 1, 2014.

348  
349 ===== T I T L E A M E N D M E N T =====

350 And the title is amended as follows:  
351 Delete everything before the enacting clause  
352 and insert:  
353 A bill to be entitled  
354 An act relating to juvenile sentencing; amending s.  
355 775.082, F.S.; providing criminal penalties applicable  
356 to a juvenile offender for certain serious felonies;  
357 requiring a judge to consider specified factors before  
358 determining if life imprisonment is an appropriate  
359 sentence for a juvenile offender convicted of certain



841792

360 offenses; providing review of sentences for specified  
361 juvenile offenders; creating s. 921.1401, F.S.;  
362 providing sentencing proceedings for determining if  
363 life imprisonment is an appropriate sentence for a  
364 juvenile offender convicted of certain offenses;  
365 providing certain factors a judge shall consider when  
366 determining if life imprisonment is appropriate for a  
367 juvenile offender; creating s. 921.1402, F.S.;  
368 defining the term "juvenile offender"; providing  
369 sentence review proceedings to be conducted after a  
370 specified period of time by the original sentencing  
371 court for juvenile offenders convicted of certain  
372 offenses; providing for subsequent reviews; requiring  
373 the Department of Corrections to notify a juvenile  
374 offender of his or her eligibility to participate in  
375 sentence review hearings; entitling a juvenile  
376 offender to be represented by counsel; providing  
377 factors that must be considered by the court in the  
378 sentence review; requiring the court to modify a  
379 juvenile offender's sentence if certain factors are  
380 found; requiring the court to impose a term of  
381 probation for any sentence modified; requiring the  
382 court to make written findings if the court declines  
383 to modify a juvenile offender's sentence; amending ss.  
384 316.3026, 373.430, 403.161, and 648.571, F.S.;  
385 conforming cross-references; providing an effective  
386 date.