

1 A bill to be entitled

2 An act relating to juvenile sentencing; amending s.  
3 775.082, F.S.; providing criminal penalties applicable  
4 to a juvenile offender for certain serious felonies;  
5 requiring a judge to consider specified factors before  
6 determining if life imprisonment is an appropriate  
7 sentence for a juvenile offender convicted of certain  
8 offenses; providing review of sentences for specified  
9 juvenile offenders; creating s. 921.140, F.S.;  
10 providing sentencing proceedings for determining if  
11 life imprisonment is an appropriate sentence for a  
12 juvenile offender convicted of certain offenses;  
13 providing certain factors a judge shall consider when  
14 determining if life imprisonment is appropriate for a  
15 juvenile offender; creating s. 921.1401, F.S.;  
16 defining the term "juvenile offender"; providing  
17 sentence review proceedings to be conducted after a  
18 specified period of time by the original sentencing  
19 court for juvenile offenders convicted of certain  
20 offenses; providing for subsequent reviews; requiring  
21 the Department of Corrections to notify a juvenile  
22 offender of his or her eligibility to participate in  
23 sentence review hearings; entitling a juvenile  
24 offender to be represented by counsel; providing  
25 factors that must be considered by the court in the  
26 sentence review; requiring the court to modify a

27 juvenile offender's sentence if certain factors are  
28 found; requiring the court to impose a term of  
29 probation for any sentence modified; requiring the  
30 court to make written findings if the court declines  
31 to modify a juvenile offender's sentence; amending ss.  
32 316.3026, 373.430, 403.161, and 648.571, F.S.;  
33 conforming cross-references; providing an effective  
34 date.

35

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

37

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

40 775.082 Penalties; applicability of sentencing structures;  
41 mandatory minimum sentences for certain reoffenders previously  
42 released from prison.—

43 (1) (a) Except as provided in paragraph (b), a person who  
44 has been convicted of a capital felony shall be punished by  
45 death if the proceeding held to determine sentence according to  
46 the procedure set forth in s. 921.141 results in findings by the  
47 court that such person shall be punished by death, otherwise  
48 such person shall be punished by life imprisonment and shall be  
49 ineligible for parole.

50 (b)1. A person who participated in the physical killing of  
51 the victim and who is convicted under s. 782.04 of a capital  
52 felony or an offense that was reclassified as a capital felony,

53 which was committed before the person attained 18 years of age,  
54 shall be punished by a term of imprisonment for life if, after a  
55 sentencing hearing conducted by the court in accordance with s.  
56 921.140, the court finds that life imprisonment is an  
57 appropriate sentence. If the court finds that life imprisonment  
58 is not an appropriate sentence, such person shall be punished by  
59 a term of imprisonment of at least 40 years. A person sentenced  
60 pursuant to this subparagraph is entitled to a review of his or  
61 her sentence in accordance with s. 921.1401.

62 2. A person who did not participate in the physical  
63 killings of the victim and who is convicted under s. 782.04 of a  
64 capital felony or an offense that was reclassified as a capital  
65 felony, which was committed before the person attained 18 years  
66 of age, may be punished by a term of imprisonment for life or by  
67 a term of years equal to life if, after a sentencing hearing  
68 conducted by the court in accordance with s. 921.140, the court  
69 finds that life imprisonment is an appropriate sentence. A  
70 person who is sentenced to a term of imprisonment of 15 years or  
71 more is entitled to a review of his or her sentence in  
72 accordance with s. 921.1401.

73 3. The court shall make a written finding as to whether a  
74 person is eligible for a sentence review hearing under s.  
75 921.1401(2)(a) or s. 921.1401(2)(c). Such a finding shall be  
76 based upon whether the person participated in the physical  
77 killings of the victim. The court may find that multiple  
78 defendants contributed to the physical killing of the victim.

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

81 (a)1. For a life felony committed before ~~prior to~~ October  
 82 1, 1983, by a term of imprisonment for life or for a term of at  
 83 least ~~years not less than~~ 30 years.

84 2. For a life felony committed on or after October 1,  
 85 1983, by a term of imprisonment for life or by a term of  
 86 imprisonment not exceeding 40 years.

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

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

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

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

99 b. For a life felony committed on or after July 1, 2008,  
 100 which is a person's second or subsequent violation of s.  
 101 800.04(5)(b), by a term of imprisonment for life.

102 5. Notwithstanding subparagraphs 1.-4., a person who is  
 103 convicted under s. 782.04 of an offense that was reclassified as  
 104 a life felony, which was committed before the person attained 18

105 years of age, may be punished by a term of imprisonment for life  
106 or by a term of years equal to life imprisonment if the judge  
107 conducts a sentencing hearing in accordance with s. 921.140 and  
108 finds that life imprisonment or a term of years equal to life  
109 imprisonment is an appropriate sentence.

110 a. A person who participated in the physical killing of  
111 the victim and is sentenced to a term of imprisonment of 20  
112 years or more is entitled to a review of his or her sentence in  
113 accordance with s. 921.1401.

114 b. A person who did not participate in the physical  
115 killing of the victim and is sentenced to a term of imprisonment  
116 of 15 years or more is entitled to a review of his or her  
117 sentence in accordance with s. 921.1401.

118 c. The court shall make a written finding as to whether a  
119 person is eligible for a sentence review hearing under s.  
120 921.1401(2) (b) or s. 921.1401(2) (c). Such a finding shall be  
121 based upon whether the person participated in the physical  
122 killing of the victim. The court may find that multiple  
123 defendants contributed to the physical killing of the victim.

124 (b)1. For a felony of the first degree, by a term of  
125 imprisonment not exceeding 30 years or, when specifically  
126 provided by statute, by imprisonment for a term of years not  
127 exceeding life imprisonment.

128 2. Notwithstanding subparagraph 1., a person convicted  
129 under s. 782.04 of a first degree felony punishable by a term of  
130 years not exceeding life imprisonment or an offense that was

131 reclassified as a first degree felony punishable by a term of  
132 years not exceeding life, which was committed before the person  
133 attained 18 years of age, may be punished by a term of years  
134 equal to life imprisonment if the judge conducts a sentencing  
135 hearing in accordance with s. 921.140 and finds that a term of  
136 years equal to life imprisonment is an appropriate sentence.

137 a. A person who participated in the physical killing of  
138 the victim and is sentenced to a term of imprisonment of 20  
139 years or more is entitled to a review of his or her sentence in  
140 accordance with s. 921.1401.

141 b. A person who did not participate in the physical  
142 killing of the victim and is sentenced to a term of imprisonment  
143 of 15 years or more is entitled to a review of his or her  
144 sentence in accordance with s. 921.1401.

145 c. The court shall make a written finding as to whether a  
146 person is eligible for a sentence review hearing under s.  
147 921.1401(2) (b) or s. 921.1401(2) (c). Such a finding shall be  
148 based upon whether the person participated in the physical  
149 killing of the victim. The court may find that multiple  
150 defendants contributed to the physical killing of the victim.

151 (c) Notwithstanding paragraphs (a) and (b), a person  
152 convicted of an offense that is not included in s. 782.04, but  
153 which is an offense that is a life felony or is punishable by a  
154 term of imprisonment for life or by a term of years not  
155 exceeding life imprisonment, or an offense that was reclassified  
156 as a life felony or an offense punishable by a term of

157 imprisonment for life or by a term of years not exceeding life  
 158 imprisonment, which was committed before the person attained 18  
 159 years of age, may be punished by a term of imprisonment for life  
 160 or a term of years equal to life imprisonment if the judge  
 161 conducts a sentencing hearing in accordance with s. 921.140 and  
 162 finds that life imprisonment or a term of years equal to life  
 163 imprisonment is an appropriate sentence. A person who is  
 164 sentenced to a term of imprisonment of 20 years or more is  
 165 entitled to a review of his or her sentence in accordance with  
 166 s. 921.1401.

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

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

171 Section 2. Section 921.140, Florida Statutes, is created  
 172 to read:

173 921.140 Sentence of life imprisonment for persons who are  
 174 under the age of 18 years at the time of the offense; sentencing  
 175 proceedings.-

176 (1) Upon conviction or adjudication of guilt of an offense  
 177 described in ss. 775.082(1)(b), (3)(a)5., (3)(b)2., or (3)(c)  
 178 which was committed on or after July 1, 2014, the court may  
 179 conduct a separate sentencing hearing to determine if a term of  
 180 imprisonment for life or a term of years equal to life  
 181 imprisonment is an appropriate sentence.

182 (2) In determining whether life imprisonment or a term of

183 years equal to life imprisonment is an appropriate sentence, the  
 184 court shall consider factors relevant to the offense and the  
 185 defendant's youth and attendant circumstances, including, but  
 186 not limited to:

187 (a) The nature and circumstances of the offense committed  
 188 by the defendant.

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

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

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

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

198 (f) The extent of the defendant's participation in the  
 199 offense.

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

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

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

206 (j) The possibility of rehabilitating the defendant.

207 Section 3. Section 921.1401, Florida Statutes, is created  
 208 to read:



209 921.1401 Review of sentences for persons convicted of  
 210 specified offenses committed while under the age of 18 years.-

211 (1) For purposes of this section, the term "juvenile  
 212 offender" means a person sentenced to imprisonment in the  
 213 custody of the Department of Corrections for an offense  
 214 committed on or after July 1, 2014, and committed before he or  
 215 she attained 18 years of age.

216 (2) (a) A juvenile offender sentenced to a term of  
 217 imprisonment for life, a term of years equal to life  
 218 imprisonment, or a term of 40 years or more under s.  
 219 775.082(1) (b)1. is entitled to a review of his or her sentence  
 220 after 25 years.

221 (b) A juvenile offender sentenced to a term of  
 222 imprisonment for life, a term of years equal to life  
 223 imprisonment, or a term of 20 years or more under s.  
 224 775.082(3) (a)5.a., s. 775.082(3) (b)2.a., or s. 775.082(3) (c) is  
 225 entitled to a review of his or her sentence after 20 years.

226 (c) A juvenile offender sentenced to a term of  
 227 imprisonment for life, a term of years equal to life  
 228 imprisonment, or a term of 15 years or more under s.  
 229 775.082(1) (b)2., s. 775.082(3) (a)5.b., or s. 775.082(3) (b)2.b.  
 230 is entitled to a review of his or her sentence after 15 years.

231 (3) (a) A juvenile offender who is not resentenced at the  
 232 initial sentence review hearing under paragraph (2) (a) is  
 233 eligible for one subsequent sentence review hearing 10 years  
 234 after the court's initial review.

235 (b) A juvenile offender who is not resentenced at the  
236 initial sentence review hearing under paragraph (2)(b) is  
237 eligible for two subsequent sentence review hearings to occur 10  
238 years and 15 years after the court's initial review.

239 (c) A juvenile offender who is not resentenced at the  
240 initial sentence review hearing under paragraph (2)(c) is  
241 eligible for two subsequent sentence review hearings to occur at  
242 5 years and 10 years after the court's initial review.

243 (4) The Department of Corrections shall notify a juvenile  
244 offender of his or her eligibility to request a sentence review  
245 hearing 18 months before the juvenile offender is entitled to a  
246 sentence review hearing under this section.

247 (5) A juvenile offender seeking sentence review pursuant  
248 to subsection (2) must submit an application to the court of  
249 original jurisdiction requesting that a sentence review hearing  
250 be held. The juvenile offender must submit a new application to  
251 the court of original jurisdiction to request subsequent  
252 sentence review hearings pursuant to subsection (3). The  
253 sentencing court shall retain original jurisdiction for the  
254 duration of the sentence for this purpose.

255 (6) A juvenile offender who is eligible for a sentence  
256 review hearing under this section is entitled to be represented  
257 by counsel and the court shall appoint a public defender to  
258 represent the juvenile offender if the juvenile offender cannot  
259 afford an attorney.

260 (7) Upon receiving an application from an eligible

261 juvenile offender, the court of original sentencing jurisdiction  
262 shall hold a sentence review hearing to determine whether the  
263 juvenile offender's sentence should be modified. When  
264 determining if it is appropriate to resentence the juvenile  
265 offender, the court shall consider any factor it deems  
266 appropriate, including all of the following:

267 (a) Whether the juvenile offender demonstrates maturity  
268 and rehabilitation.

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

272 (c) The opinion of the victim or the victim's next of kin.  
273 The absence of the victim or the victim's next of kin from the  
274 sentence review hearing may not be a factor in the determination  
275 of the court under this section. The court shall permit the  
276 victim or victim's next of kin to be heard, in person, in  
277 writing, or by electronic means. If the victim or the victim's  
278 next of kin chooses not to participate in the hearing, the court  
279 may consider previous statements made by the victim or the  
280 victim's next of kin during the trial, initial sentencing phase,  
281 or subsequent sentencing review hearings.

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

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

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

290 (g) Whether the juvenile offender has successfully  
291 obtained a general educational development certificate or  
292 completed another educational, technical, work, vocational, or  
293 self-rehabilitation program, if such a program is available.

294 (h) Whether the juvenile offender was a victim of sexual,  
295 physical, or emotional abuse before he or she committed the  
296 offense.

297 (i) The results of any mental health assessment, risk  
298 assessment, or evaluation of the juvenile offender as to  
299 rehabilitation.

300 (8) If the court determines at a sentence review hearing  
301 that the juvenile offender has been rehabilitated and is  
302 reasonably believed to be fit to reenter society, the court  
303 shall modify the sentence and impose a term of probation of at  
304 least 5 years. If the court determines that the juvenile  
305 offender has not demonstrated rehabilitation or is not fit to  
306 reenter society, the court shall issue a written order stating  
307 the reasons why the sentence is not being modified.

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

310 316.3026 Unlawful operation of motor carriers.—

311 (2) Any motor carrier enjoined or prohibited from  
312 operating by an out-of-service order by this state, any other

313 state, or the Federal Motor Carrier Safety Administration may  
 314 not operate on the roadways of this state until the motor  
 315 carrier has been authorized to resume operations by the  
 316 originating enforcement jurisdiction. Commercial motor vehicles  
 317 owned or operated by any motor carrier prohibited from operation  
 318 found on the roadways of this state shall be placed out of  
 319 service by law enforcement officers of the Department of Highway  
 320 Safety and Motor Vehicles, and the motor carrier assessed a  
 321 \$10,000 civil penalty pursuant to 49 C.F.R. s. 383.53, in  
 322 addition to any other penalties imposed on the driver or other  
 323 responsible person. Any person who knowingly drives, operates,  
 324 or causes to be operated any commercial motor vehicle in  
 325 violation of an out-of-service order issued by the department in  
 326 accordance with this section commits a felony of the third  
 327 degree, punishable as provided in s. 775.082(3)(e)  
 328 ~~775.082(3)(d)~~. Any costs associated with the impoundment or  
 329 storage of such vehicles are the responsibility of the motor  
 330 carrier. Vehicle out-of-service orders may be rescinded when the  
 331 department receives proof of authorization for the motor carrier  
 332 to resume operation.

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

335 373.430 Prohibitions, violation, penalty, intent.—

336 (3) Any person who willfully commits a violation specified  
 337 in paragraph (1)(a) is guilty of a felony of the third degree,  
 338 punishable as provided in ss. 775.082(3)(e) ~~775.082(3)(d)~~ and

339 775.083(1)(g), by a fine of not more than \$50,000 or by  
 340 imprisonment for 5 years, or by both, for each offense. Each day  
 341 during any portion of which such violation occurs constitutes a  
 342 separate offense.

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

345 403.161 Prohibitions, violation, penalty, intent.—

346 (3) Any person who willfully commits a violation specified  
 347 in paragraph (1)(a) is guilty of a felony of the third degree  
 348 punishable as provided in ss. 775.082(3)(e) ~~775.082(3)(d)~~ and  
 349 775.083(1)(g) by a fine of not more than \$50,000 or by  
 350 imprisonment for 5 years, or by both, for each offense. Each day  
 351 during any portion of which such violation occurs constitutes a  
 352 separate offense.

353 Section 7. Paragraph (c) of subsection (3) of section  
 354 648.571, Florida Statutes, is amended to read:

355 648.571 Failure to return collateral; penalty.—

356 (3)

357 (c) Allowable expenses incurred in apprehending a  
 358 defendant because of a bond forfeiture or judgment under s.  
 359 903.29 may be deducted if such expenses are accounted for. The  
 360 failure to return collateral under these terms is punishable as  
 361 follows:

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

364 2. If the collateral is of a value of \$100 or more, as

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365 provided in s. 775.082(3)(e) ~~775.082(3)(d)~~.

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

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

370 Section 8. This act shall take effect July 1, 2014.