



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. 921.1401, 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. 921.1402, 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



CS/HB 7035, Engrossed 2

2014

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 actually killed, intended to kill, or



51 attempted to kill the victim and who is convicted under s.
52 782.04 of a capital felony, or an offense that was reclassified
53 as a capital felony, which was committed before the person
54 attained 18 years of age shall be punished by a term of
55 imprisonment for life if, after a sentencing hearing conducted
56 by the court in accordance with s. 921.1401, the court finds
57 that life imprisonment is an appropriate sentence. If the court
58 finds that life imprisonment is not an appropriate sentence,
59 such person shall be punished by a term of imprisonment of at
60 least 40 years. A person sentenced pursuant to this subparagraph
61 is entitled to a review of his or her sentence in accordance
62 with s. 921.1402(2)(a).

63 2. A person who did not actually kill, intend to kill, or
64 attempt to kill the victim and who is convicted under s. 782.04
65 of a capital felony, or an offense that was reclassified as a
66 capital felony, which was committed before the person attained
67 18 years of age may be punished by a term of imprisonment for
68 life or by a term of years equal to life if, after a sentencing
69 hearing conducted by the court in accordance with s. 921.1401,
70 the court finds that life imprisonment is an appropriate
71 sentence. A person who is sentenced to a term of imprisonment of
72 more than 15 years is entitled to a review of his or her
73 sentence in accordance with s. 921.1402(2)(c).

74 3. The court shall make a written finding as to whether a
75 person is eligible for a sentence review hearing under s.



CS/HB 7035, Engrossed 2

2014

76 921.1402(2)(a) or (2)(c). Such a finding shall be based upon
77 whether the person actually killed, intended to kill, or
78 attempted to kill the victim. The court may find that multiple
79 defendants killed, intended to kill, or attempted to kill the
80 victim.

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

83 (a)1. For a life felony committed before ~~prior to~~ October
84 1, 1983, by a term of imprisonment for life or for a term of at
85 least ~~years not less than~~ 30 years.

86 2. For a life felony committed on or after October 1,
87 1983, by a term of imprisonment for life or by a term of
88 imprisonment not exceeding 40 years.

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

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

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

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



CS/HB 7035, Engrossed 2

2014

101 b. For a life felony committed on or after July 1, 2008,
102 which is a person's second or subsequent violation of s.
103 800.04(5)(b), by a term of imprisonment for life.

104 5. Notwithstanding subparagraphs 1.-4., a person who is
105 convicted under s. 782.04 of an offense that was reclassified as
106 a life felony which was committed before the person attained 18
107 years of age may be punished by a term of imprisonment for life
108 or by a term of years equal to life imprisonment if the judge
109 conducts a sentencing hearing in accordance with s. 921.1401 and
110 finds that life imprisonment or a term of years equal to life
111 imprisonment is an appropriate sentence.

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

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

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



CS/HB 7035, Engrossed 2

2014

126 victim.

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

131 2. Notwithstanding subparagraph 1., a person convicted
132 under s. 782.04 of a first-degree felony punishable by a term of
133 years not exceeding life imprisonment, or an offense that was
134 reclassified as a first degree felony punishable by a term of
135 years not exceeding life, which was committed before the person
136 attained 18 years of age may be punished by a term of years
137 equal to life imprisonment if the judge conducts a sentencing
138 hearing in accordance with s. 921.1401 and finds that a term of
139 years equal to life imprisonment is an appropriate sentence.

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

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

148 c. The court shall make a written finding as to whether a
149 person is eligible for a sentence review hearing under s.
150 921.1402(2)(b) or (2)(c). Such a finding shall be based upon



CS/HB 7035, Engrossed 2

2014

151 whether the person actually killed, intended to kill, or
152 attempted to kill the victim. The court may find that multiple
153 defendants killed, intended to kill, or attempted to kill the
154 victim.

155 (c) Notwithstanding paragraphs (a) and (b), a person
156 convicted of an offense that is not included in s. 782.04 but
157 that is an offense that is a life felony or is punishable by a
158 term of imprisonment for life or by a term of years not
159 exceeding life imprisonment, or an offense that was reclassified
160 as a life felony or an offense punishable by a term of
161 imprisonment for life or by a term of years not exceeding life
162 imprisonment, which was committed before the person attained 18
163 years of age may be punished by a term of imprisonment for life
164 or a term of years equal to life imprisonment if the judge
165 conducts a sentencing hearing in accordance with s. 921.1401 and
166 finds that life imprisonment or a term of years equal to life
167 imprisonment is an appropriate sentence. A person who is
168 sentenced to a term of imprisonment of more than 20 years is
169 entitled to a review of his or her sentence in accordance with
170 s. 921.1402(2)(d).

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

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

175 Section 2. Section 921.1401, Florida Statutes, is created



176 to read:

177 921.1401 Sentence of life imprisonment for persons who are
178 under the age of 18 years at the time of the offense; sentencing
179 proceedings.-

180 (1) Upon conviction or adjudication of guilt of an offense
181 described in s. 775.082(1)(b), s. 775.082(3)(a)5., s.
182 775.082(3)(b)2., or s. 775.082(3)(c) which was committed on or
183 after July 1, 2014, the court may conduct a separate sentencing
184 hearing to determine if a term of imprisonment for life or a
185 term of years equal to life imprisonment is an appropriate
186 sentence.

187 (2) In determining whether life imprisonment or a term of
188 years equal to life imprisonment is an appropriate sentence, the
189 court shall consider factors relevant to the offense and the
190 defendant's youth and attendant circumstances, including, but
191 not limited to:

192 (a) The nature and circumstances of the offense committed
193 by the defendant.

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

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

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

200 (e) The effect, if any, of immaturity, impetuosity, or



CS/HB 7035, Engrossed 2

2014

201 failure to appreciate risks and consequences on the defendant's
202 participation in the offense.

203 (f) The extent of the defendant's participation in the
204 offense.

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

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

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

211 (j) The possibility of rehabilitating the defendant.

212 Section 3. Section 921.1402, Florida Statutes, is created
213 to read:

214 921.1402 Review of sentences for persons convicted of
215 specified offenses committed while under the age of 18 years.-

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

221 (2) (a) A juvenile offender sentenced under s.
222 775.082(1)(b)1. is entitled to a review of his or her sentence
223 after 25 years. However, a juvenile offender is not entitled to
224 review if he or she has previously been convicted of one of the
225 following offenses, or conspiracy to commit one of the following



CS/HB 7035, Engrossed 2

2014

226 offenses, if the offense for which the person was previously
227 convicted was part of a separate criminal transaction or episode
228 than that which resulted in the sentence under s.
229 775.082(1)(b)1.:

- 230 1. Murder;
- 231 2. Manslaughter;
- 232 3. Sexual battery;
- 233 4. Armed burglary;
- 234 5. Armed robbery;
- 235 6. Armed carjacking;
- 236 7. Home-invasion robbery;
- 237 8. Human trafficking for commercial sexual activity with a
238 child under 18 years of age;
- 239 9. False imprisonment under s. 787.02(3)(a); or
- 240 10. Kidnapping.

241 (b) A juvenile offender sentenced to a term of more than
242 25 years under s. 775.082(3)(a)5.a. or s. 775.082(3)(b)2.a. is
243 entitled to a review of his or her sentence after 25 years.

244 (c) A juvenile offender sentenced to a term of more than
245 15 years under s. 775.082(1)(b)2., s. 775.082(3)(a)5.b., or s.
246 775.082(3)(b)2.b. is entitled to a review of his or her sentence
247 after 15 years.

248 (d) A juvenile offender sentenced to a term of 20 years or
249 more under s. 775.082(3)(c) is entitled to a review of his or
250 her sentence after 20 years. If the juvenile offender is not



251 resentenced at the initial review hearing, he or she is eligible
252 for one subsequent review hearing 10 years after the initial
253 review hearing.

254 (3) The Department of Corrections shall notify a juvenile
255 offender of his or her eligibility to request a sentence review
256 hearing 18 months before the juvenile offender is entitled to a
257 sentence review hearing under this section.

258 (4) A juvenile offender seeking sentence review pursuant
259 to subsection (2) must submit an application to the court of
260 original jurisdiction requesting that a sentence review hearing
261 be held. The juvenile offender must submit a new application to
262 the court of original jurisdiction to request subsequent
263 sentence review hearings pursuant to paragraph (2) (d). The
264 sentencing court shall retain original jurisdiction for the
265 duration of the sentence for this purpose.

266 (5) A juvenile offender who is eligible for a sentence
267 review hearing under this section is entitled to be represented
268 by counsel, and the court shall appoint a public defender to
269 represent the juvenile offender if the juvenile offender cannot
270 afford an attorney.

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



CS/HB 7035, Engrossed 2

2014

276 offender's sentence, the court shall consider any factor it
277 deems appropriate, including all of the following:

278 (a) Whether the juvenile offender demonstrates maturity
279 and rehabilitation.

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

283 (c) The opinion of the victim or the victim's next of kin.
284 The absence of the victim or the victim's next of kin from the
285 sentence review hearing may not be a factor in the determination
286 of the court under this section. The court shall permit the
287 victim or victim's next of kin to be heard, in person, in
288 writing, or by electronic means. If the victim or the victim's
289 next of kin chooses not to participate in the hearing, the court
290 may consider previous statements made by the victim or the
291 victim's next of kin during the trial, initial sentencing phase,
292 or subsequent sentencing review hearings.

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

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

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



CS/HB 7035, Engrossed 2

2014

301 (g) Whether the juvenile offender has successfully
302 obtained a general educational development certificate or
303 completed another educational, technical, work, vocational, or
304 self-rehabilitation program, if such a program is available.

305 (h) Whether the juvenile offender was a victim of sexual,
306 physical, or emotional abuse before he or she committed the
307 offense.

308 (i) The results of any mental health assessment, risk
309 assessment, or evaluation of the juvenile offender as to
310 rehabilitation.

311 (7) If the court determines at a sentence review hearing
312 that the juvenile offender has been rehabilitated and is
313 reasonably believed to be fit to reenter society, the court
314 shall modify the sentence and impose a term of probation of at
315 least 5 years. If the court determines that the juvenile
316 offender has not demonstrated rehabilitation or is not fit to
317 reenter society, the court shall issue a written order stating
318 the reasons why the sentence is not being modified.

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

321 316.3026 Unlawful operation of motor carriers.—

322 (2) Any motor carrier enjoined or prohibited from
323 operating by an out-of-service order by this state, any other
324 state, or the Federal Motor Carrier Safety Administration may
325 not operate on the roadways of this state until the motor



CS/HB 7035, Engrossed 2

2014

326 carrier has been authorized to resume operations by the
327 originating enforcement jurisdiction. Commercial motor vehicles
328 owned or operated by any motor carrier prohibited from operation
329 found on the roadways of this state shall be placed out of
330 service by law enforcement officers of the Department of Highway
331 Safety and Motor Vehicles, and the motor carrier assessed a
332 \$10,000 civil penalty pursuant to 49 C.F.R. s. 383.53, in
333 addition to any other penalties imposed on the driver or other
334 responsible person. Any person who knowingly drives, operates,
335 or causes to be operated any commercial motor vehicle in
336 violation of an out-of-service order issued by the department in
337 accordance with this section commits a felony of the third
338 degree, punishable as provided in s. 775.082(3)(e)
339 ~~775.082(3)(d)~~. Any costs associated with the impoundment or
340 storage of such vehicles are the responsibility of the motor
341 carrier. Vehicle out-of-service orders may be rescinded when the
342 department receives proof of authorization for the motor carrier
343 to resume operation.

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

346 373.430 Prohibitions, violation, penalty, intent.—

347 (3) Any person who willfully commits a violation specified
348 in paragraph (1)(a) is guilty of a felony of the third degree,
349 punishable as provided in ss. 775.082(3)(e) ~~775.082(3)(d)~~ and
350 775.083(1)(g), by a fine of not more than \$50,000 or by



CS/HB 7035, Engrossed 2

2014

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

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

356 403.161 Prohibitions, violation, penalty, intent.—

357 (3) Any person who willfully commits a violation specified
358 in paragraph (1)(a) is guilty of a felony of the third degree
359 punishable as provided in ss. 775.082(3)(e) ~~775.082(3)(d)~~ and
360 775.083(1)(g) by a fine of not more than \$50,000 or by
361 imprisonment for 5 years, or by both, for each offense. Each day
362 during any portion of which such violation occurs constitutes a
363 separate offense.

364 Section 7. Paragraph (c) of subsection (3) of section
365 648.571, Florida Statutes, is amended to read:

366 648.571 Failure to return collateral; penalty.—

367 (3)

368 (c) Allowable expenses incurred in apprehending a
369 defendant because of a bond forfeiture or judgment under s.
370 903.29 may be deducted if such expenses are accounted for. The
371 failure to return collateral under these terms is punishable as
372 follows:

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

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



CS/HB 7035, Engrossed 2

2014

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

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

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

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