

By Senator Simmons

9-00516-17

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1 A bill to be entitled
2 An act relating to youthful offenders; amending s.
3 958.04, F.S.; revising the criteria allowing a court
4 to sentence as a youthful offender a person who is
5 found guilty of, or who pled nolo contendere or guilty
6 to, committing a felony before the person turned 21
7 years of age; reenacting ss. 958.03(5), 958.045(8)(a),
8 and 985.565(4)(c), F.S., relating to the definition of
9 "youthful offender," the youthful offender basic
10 training program, and classification as a youth
11 offender, respectively, to incorporate the amendment
12 made to s. 958.04, F.S., in references thereto;
13 providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Subsection (1) of section 958.04, Florida
18 Statutes, is amended to read:

19 958.04 Judicial disposition of youthful offenders.—

20 (1) The court may sentence as a youthful offender any
21 person:

22 (a) Who is at least 18 years of age or who has been
23 transferred for prosecution to the criminal division of the
24 circuit court pursuant to chapter 985;

25 (b) Who is found guilty of or who has tendered, and the
26 court has accepted, a plea of nolo contendere or guilty to a
27 crime that is, under the laws of this state, a felony if such
28 crime was committed before the defendant turned 21 years of age
29 ~~the offender is younger than 21 years of age at the time~~

9-00516-17

2017892__

30 ~~sentence is imposed; and~~

31 (c) Who has not previously been classified as a youthful
32 offender under the provisions of this act; however, a person who
33 has been found guilty of a capital or life felony may not be
34 sentenced as a youthful offender under this act.

35 Section 2. For the purpose of incorporating the amendment
36 made by this act to section 958.04, Florida Statutes, in a
37 reference thereto, subsection (5) of section 958.03, Florida
38 Statutes, is reenacted to read:

39 958.03 Definitions.—As used in this act:

40 (5) "Youthful offender" means any person who is sentenced
41 as such by the court or is classified as such by the department
42 pursuant to s. 958.04.

43 Section 3. For the purpose of incorporating the amendment
44 made by this act to section 958.04, Florida Statutes, in a
45 reference thereto, paragraph (a) of subsection (8) of section
46 958.045, Florida Statutes, is reenacted to read:

47 958.045 Youthful offender basic training program.—

48 (8)(a) The Assistant Secretary for Youthful Offenders shall
49 continuously screen all institutions, facilities, and programs
50 for any inmate who meets the eligibility requirements for
51 youthful offender designation specified in s. 958.04, whose age
52 does not exceed 24 years. The department may classify and assign
53 as a youthful offender any inmate who meets the criteria of s.
54 958.04.

55 Section 4. For the purpose of incorporating the amendment
56 made by this act to section 958.04, Florida Statutes, in a
57 reference thereto, paragraph (c) of subsection (4) of section
58 985.565, Florida Statutes, is reenacted to read:

9-00516-17

2017892__

59 985.565 Sentencing powers; procedures; alternatives for
60 juveniles prosecuted as adults.—

61 (4) SENTENCING ALTERNATIVES.—

62 (c) *Adult sanctions upon failure of juvenile sanctions.*—If
63 a child proves not to be suitable to a commitment program,
64 juvenile probation program, or treatment program under paragraph
65 (b), the department shall provide the sentencing court with a
66 written report outlining the basis for its objections to the
67 juvenile sanction and shall simultaneously provide a copy of the
68 report to the state attorney and the defense counsel. The
69 department shall schedule a hearing within 30 days. Upon
70 hearing, the court may revoke the previous adjudication, impose
71 an adjudication of guilt, and impose any sentence which it may
72 lawfully impose, giving credit for all time spent by the child
73 in the department. The court may also classify the child as a
74 youthful offender under s. 958.04, if appropriate. For purposes
75 of this paragraph, a child may be found not suitable to a
76 commitment program, community control program, or treatment
77 program under paragraph (b) if the child commits a new violation
78 of law while under juvenile sanctions, if the child commits any
79 other violation of the conditions of juvenile sanctions, or if
80 the child's actions are otherwise determined by the court to
81 demonstrate a failure of juvenile sanctions.

82

83 It is the intent of the Legislature that the criteria and
84 guidelines in this subsection are mandatory and that a
85 determination of disposition under this subsection is subject to
86 the right of the child to appellate review under s. 985.534.

87 Section 5. This act shall take effect July 1, 2017.