

1 A bill to be entitled
2 An act relating to sentence review hearings; providing
3 a short title; reenacting and amending s. 921.1402,
4 F.S.; revising the circumstances under which a
5 juvenile offender is not entitled to a review of his
6 or her sentence after a specified timeframe; creating
7 s. 921.14021, F.S.; providing for retroactive
8 application of a specified provision related to review
9 of sentence for juvenile offenders convicted of
10 murder; providing for immediate review of certain
11 sentences; creating s. 921.1403, F.S.; defining the
12 term "young adult offender"; precluding eligibility
13 for a sentence review for young adult offenders who
14 previously committed, or conspired to commit,
15 specified offenses; providing timeframes within which
16 young adult offenders who commit specified crimes are
17 entitled to a review of their sentences; providing
18 applicability; requiring the Department of Corrections
19 to notify young adult offenders in writing of their
20 eligibility within certain timeframes; requiring a
21 young adult offender seeking a sentence review or a
22 subsequent sentence review to submit an application to
23 the original sentencing court and request a hearing;
24 providing for legal representation of eligible young
25 adult offenders; providing for one subsequent review

26 hearing for the young adult offender after a certain
 27 timeframe if he or she is not resentenced at the
 28 initial sentence review hearing; requiring the
 29 original sentencing court to hold a sentence review
 30 hearing upon receiving an application from an eligible
 31 young adult offender; requiring the court to consider
 32 certain factors in determining whether to modify the
 33 young adult offender's sentence; providing
 34 requirements if the court makes certain determinations
 35 regarding the young adult offender; providing for
 36 retroactive application; providing an effective date.

37

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

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40 Section 1. This act may be cited as "The Second Look Act."

41 Section 2. Paragraph (a) of subsection (2) of section
 42 921.1402, Florida Statutes, is amended, and subsection (4) of
 43 that section is reenacted, to read:

44 921.1402 Review of sentences for persons convicted of
 45 specified offenses committed while under the age of 18 years.—

46 (2) (a) A juvenile offender sentenced under s.
 47 775.082(1)(b)1. is entitled to a review of his or her sentence
 48 after 25 years. However, a juvenile offender is not entitled to
 49 review if he or she has previously been convicted of committing
 50 ~~one of the following offenses, or of~~ conspiracy to commit ~~one of~~

51 ~~the following offenses, murder and if the murder offense for~~
52 ~~which the person was previously convicted was part of a separate~~
53 ~~criminal transaction or episode than that which resulted in the~~
54 ~~sentence under s. 775.082(1)(b)1.÷~~

- 55 ~~1. Murder;~~
- 56 ~~2. Manslaughter;~~
- 57 ~~3. Sexual battery;~~
- 58 ~~4. Armed burglary;~~
- 59 ~~5. Armed robbery;~~
- 60 ~~6. Armed carjacking;~~
- 61 ~~7. Home invasion robbery;~~
- 62 ~~8. Human trafficking for commercial sexual activity with a~~
63 ~~child under 18 years of age;~~
- 64 ~~9. False imprisonment under s. 787.02(3)(a); or~~
- 65 ~~10. Kidnapping.~~

66 (4) A juvenile offender seeking sentence review pursuant
67 to subsection (2) must submit an application to the court of
68 original jurisdiction requesting that a sentence review hearing
69 be held. The juvenile offender must submit a new application to
70 the court of original jurisdiction to request subsequent
71 sentence review hearings pursuant to paragraph (2)(d). The
72 sentencing court shall retain original jurisdiction for the
73 duration of the sentence for this purpose.

74 Section 3. Section 921.14021, Florida Statutes, is created
75 to read:

76 921.14021 Retroactive application relating to s. 921.1402;
 77 review of sentence.—A juvenile offender, as defined in s.
 78 921.1402, who was convicted and sentenced under s.
 79 921.1402(2)(a), excluding s. 921.1402(2)(a)1., as it existed on
 80 or before June 30, 2020, is entitled to a review of his or her
 81 sentence after 25 years or, if on July 1, 2020, 25 years have
 82 already passed since the sentencing, immediately.

83 Section 4. Section 921.1403, Florida Statutes, is created
 84 to read:

85 921.1403 Review of sentences for persons convicted of
 86 specified offenses committed while under 25 years of age.—

87 (1) As used in this section, the term "young adult
 88 offender" means a person who committed an offense before he or
 89 she reached 25 years of age and for which he or she is sentenced
 90 to a term of years in the custody of the Department of
 91 Corrections, regardless of the date of sentencing.

92 (2) A young adult offender is not entitled to a sentence
 93 review under this section if he or she has previously been
 94 convicted of committing, or of conspiring to commit, any of the
 95 following offenses and if the offense was part of a separate
 96 criminal transaction or episode that resulted in the sentence
 97 under s. 775.082(3)(a)1., 2., 3., 4., or 6., or (b)1.:

- 98 (a) Section 782.04(1)(a)1.;
- 99 (b) Section 782.04(1)(a)3.; or
- 100 (c) Section 782.04(2).

101 (3) (a) 1. A young adult offender who is convicted of an
102 offense that is a life felony, that is punishable by a term of
103 years not exceeding life imprisonment, or that was reclassified
104 as a life felony, which was committed after the person attained
105 18 years of age and who is sentenced to a term of more than 20
106 years under s. 775.082 (3) (a) 1., 2., 3., 4., or 6., is entitled
107 to a review of his or her sentence after 20 years.

108 2. This paragraph does not apply to a person who is
109 eligible for sentencing under s. 775.082 (3) (a) 5.

110 (b) A young adult offender who is convicted of an offense
111 that is a felony of the first degree or that was reclassified as
112 a felony of the first degree and who is sentenced to a term of
113 more than 15 years under s. 775.082 (3) (b) 1. is entitled to a
114 review of his or her sentence after 15 years.

115 (4) The Department of Corrections must notify a young
116 adult offender in writing of his or her eligibility to request a
117 sentence review hearing 18 months before the young adult
118 offender is entitled to a sentence review hearing or notify him
119 or her immediately in writing if the offender is eligible as of
120 July 1, 2020.

121 (5) A young adult offender seeking a sentence review under
122 this section must submit an application to the original
123 sentencing court requesting that the court hold a sentence
124 review hearing. The young adult offender seeking a subsequent
125 sentence review hearing must submit a new application to the

126 original sentencing court to request a subsequent sentence
127 review hearing pursuant to subsection (7). The original
128 sentencing court retains jurisdiction for the duration of the
129 sentence for this purpose.

130 (6) A young adult offender who is eligible for a sentence
131 review hearing under this section is entitled to be represented
132 by an attorney, and the court must appoint a public defender to
133 represent the young adult offender if he or she cannot afford an
134 attorney.

135 (7) (a) If the young adult offender seeking sentence review
136 under paragraph (3) (a) is not resentenced at the initial
137 sentence review hearing, he or she is eligible for one
138 subsequent review hearing 10 years after the initial review
139 hearing.

140 (b) If the young adult offender seeking sentence review
141 under paragraph (3) (b) is not resentenced at the initial
142 sentence review hearing, he or she is eligible for one
143 subsequent review hearing 5 years after the initial review
144 hearing.

145 (8) Upon receiving an application from an eligible young
146 adult offender, the original sentencing court must hold a
147 sentence review hearing to determine whether to modify the young
148 adult offender's sentence. When determining if it is appropriate
149 to modify the young adult offender's sentence, the court must
150 consider any factor it deems appropriate, including, but not

151 limited to, any of the following:

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

154 (b) Whether the young adult offender remains at the same
155 level of risk to society as he or she did at the time of the
156 initial 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 sentence review hearing may not be a factor in the determination
160 of the court under this section. The court must allow the victim
161 or victim's next of kin to be heard in person, in writing, or by
162 electronic means. If the victim or the victim's next of kin
163 chooses not to participate in the hearing, the court may
164 consider previous statements made by the victim or the victim's
165 next of kin during the trial, initial sentencing phase, or
166 previous sentencing review hearings.

167 (d) Whether the young adult offender was a relatively
168 minor participant in the criminal offense or whether he or she
169 acted under extreme duress or under the domination of another
170 person.

171 (e) Whether the young adult offender has shown sincere and
172 sustained remorse for the criminal offense.

173 (f) Whether the young adult offender's age, maturity, or
174 psychological development at the time of the offense affected
175 his or her behavior.

176 (g) Whether the young adult offender has successfully
177 obtained a high school equivalency diploma or completed another
178 educational, technical, work, vocational, or self-rehabilitation
179 program, if such a program is available.

180 (h) Whether the young adult offender was a victim of
181 sexual, physical, or emotional abuse before he or she committed
182 the offense.

183 (i) The results of any mental health assessment, risk
184 assessment, or evaluation of the young adult offender as to
185 rehabilitation.

186 (9) (a) If the court determines at a sentence review
187 hearing that the young adult offender who is seeking sentence
188 review under paragraph (3) (a) has been rehabilitated and is
189 reasonably believed to be fit to reenter society, the court must
190 modify the sentence and impose a term of probation of at least 5
191 years.

192 (b) If the court determines at a sentence review hearing
193 that the young adult offender who is seeking sentence review
194 under paragraph (3) (b) has been rehabilitated and is reasonably
195 believed to be fit to reenter society, the court must modify the
196 sentence and impose a term of probation of at least 3 years.

197 (c) If the court determines that the young adult offender
198 seeking sentence review under paragraph (3) (a) or (3) (b) has not
199 demonstrated rehabilitation or is not fit to reenter society,
200 the court must issue a written order stating the reasons why the

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201 | sentence is not being modified.

202 | (10) This section applies retroactively to a young adult
203 | offender eligible under this section.

204 | Section 5. This act shall take effect July 1, 2020.