

1                   A bill to be entitled  
2           An act relating to sentencing; creating s. 775.08701,  
3           F.S.; providing legislative intent; prohibiting  
4           certain persons from being sentenced to mandatory  
5           minimum terms of imprisonment for aggravated assault  
6           or attempted aggravated assault committed before a  
7           specified date; requiring resentencing for persons who  
8           committed those violations before a specified date and  
9           are serving mandatory minimum terms of imprisonment;  
10          specifying the procedures for such resentencing;  
11          providing eligibility for gain-time for such  
12          resentenced persons; creating s. 893.13501, F.S.;  
13          providing legislative intent; providing for sentencing  
14          or resentencing for persons who committed certain  
15          violations before a specified date which involved  
16          trafficking in hydrocodone or codeine; requiring  
17          resentencing for persons who committed those  
18          violations before a specified date and are serving  
19          mandatory minimum terms of imprisonment; providing  
20          criminal penalties for such violations that are  
21          subject to resentencing; providing legislative intent;  
22          requiring sentencing or resentencing for persons who  
23          committed certain violations before a specified date  
24          which involved trafficking in oxycodone; providing  
25          criminal penalties for such violation that is subject

26 to resentencing; specifying the procedures for such  
 27 resentencing; providing an effective date.

28  
 29 Be It Enacted by the Legislature of the State of Florida:

30  
 31 Section 1. Section 775.08701, Florida Statutes, is created  
 32 to read:

33 775.08701 Retroactive application relating to s. 775.087;  
 34 legislative intent; prohibiting mandatory minimum sentencing for  
 35 certain offenses; resentencing procedures.-

36 (1) It is the intent of the Legislature to retroactively  
 37 apply chapter 2016-7, Laws of Florida, only as provided in this  
 38 section, to persons who committed aggravated assault or  
 39 attempted aggravated assault before July 1, 2016, the effective  
 40 date of chapter 2016-7, Laws of Florida, which amended s.  
 41 775.087 to remove aggravated assault or attempted aggravated  
 42 assault from the list of predicate offenses for mandatory  
 43 minimum terms of imprisonment under that section.

44 (2) As used in this section, a reference to "former s.  
 45 775.087" is a reference to s. 775.087 as it existed at any time  
 46 before its amendment by chapter 2016-7, Laws of Florida.

47 (3) (a) A person who committed aggravated assault or  
 48 attempted aggravated assault before July 1, 2016, but was not  
 49 sentenced under former s. 775.087 before October 1, 2020, the  
 50 effective date of this act, may not be sentenced for that

51 violation to a mandatory minimum term of imprisonment under  
 52 former s. 775.087.

53 (b) A person who committed aggravated assault or attempted  
 54 aggravated assault before July 1, 2016, who was sentenced before  
 55 October 1, 2019, to a mandatory minimum term of imprisonment  
 56 pursuant to former s. 775.087, and who is serving such mandatory  
 57 minimum term of imprisonment on or after October 1, 2020, must  
 58 be resentenced in accordance with paragraph (c) to a sentence  
 59 without such mandatory minimum term of imprisonment. The person  
 60 must be resentenced to a sentence as provided in s. 775.082, s.  
 61 775.083, or s. 775.084.

62 (c) Resentencing under this section must occur in the  
 63 following manner:

64 1. The Department of Corrections shall notify the person  
 65 described in paragraph (b) of his or her eligibility to request  
 66 a sentence review hearing.

67 2. The person seeking sentence review under this section  
 68 may submit an application to the court of original jurisdiction  
 69 requesting that a sentence review hearing be held. The  
 70 sentencing court shall retain original jurisdiction for the  
 71 duration of the sentence for this purpose.

72 3. A person who is eligible for a sentence review hearing  
 73 under this section is entitled to be represented by counsel, and  
 74 the court shall appoint a public defender to represent the  
 75 person if he or she cannot afford an attorney.

76        4. Upon receiving an application from the eligible person,  
77 the court of original sentencing jurisdiction shall hold a  
78 sentence review hearing to determine if the eligible person  
79 meets the criteria for resentencing under this section. If the  
80 court determines at the sentence review hearing that the  
81 eligible person meets the criteria in this section for  
82 resentencing, the court must resentence the person as provided  
83 in this section; however, the new sentence may not exceed the  
84 person's original sentence with credit for time served. If the  
85 court determines that such person does not meet the criteria for  
86 resentencing under this section, the court must provide written  
87 reasons why such person does not meet such criteria.

88        (d) A person sentenced or resenteded pursuant to this  
89 section is eligible to receive any gain-time pursuant to s.  
90 944.275 which he or she was previously ineligible to receive  
91 because of the imposition of the mandatory minimum term of  
92 imprisonment pursuant to former s. 775.087.

93        Section 2. Section 893.13501, Florida Statutes, is created  
94 to read:

95        893.13501 Retroactive application relating to s. 893.135;  
96 legislative intent; sentencing or resentencing for trafficking  
97 in hydrocodone, codeine, or oxycodone; penalties; resentencing  
98 procedures.-

99        (1) (a) It is the intent of the Legislature to  
100 retroactively apply changes to gram-weight thresholds and ranges

101 and to penalties for trafficking in hydrocodone or codeine which  
102 are applicable to offenders who committed these offenses on or  
103 after October 1, 2019, the effective date of amendments to s.  
104 893.135 by chapter 2019-167, Laws of Florida. These changes must  
105 be retroactively applied as provided in this subsection to a  
106 violation of s. 893.135(1)(c) involving trafficking in  
107 hydrocodone, as described in s. 893.03(2)(a)1.k.; trafficking in  
108 codeine, as described in s. 893.03(2)(a)1.g.; or trafficking in  
109 any salt of hydrocodone or of codeine, or any mixture containing  
110 any such substance, as described in s. 893.03(2)(a)2., if the  
111 violation was committed before October 1, 2019, and the  
112 violation was punishable as a felony of the first degree at the  
113 time the violation was committed.

114 (b) A person who committed a trafficking violation  
115 described in paragraph (a) before October 1, 2019, but who was  
116 not sentenced for such violation before October 1, 2020, the  
117 effective date of this act, must be sentenced as provided in  
118 paragraph (d).

119 (c) A person who committed a trafficking violation  
120 described in paragraph (a) before October 1, 2019, and who is  
121 -serving a mandatory minimum term of imprisonment for such  
122 violation on or after October 1, 2020, must be resentenced as  
123 provided in paragraph (d) and in accordance with subsection (3).

124 (d)1. The violation described in paragraph (a) for which  
125 the person is to be sentenced or resentenced pursuant to this

126 subsection is a felony of the first degree, punishable as  
127 provided in s. 775.082, s. 775.083, or s. 775.084.

128 2. If the quantity of hydrocodone, as described in s.  
129 893.03(2)(a)1.k., codeine, as described in s. 893.03(2)(a)1.g.,  
130 any salt thereof, or any mixture containing any such substance  
131 involved in the violation of s. 893.135:

132 a. Was 4 grams or more, but less than 28 grams, such  
133 person must be sentenced or resentenced as provided in s.  
134 775.082, s. 775.083, or s. 775.084.

135 b. Was 28 grams or more, but less than 50 grams, such  
136 person must be sentenced or resentenced to a mandatory minimum  
137 term of imprisonment of 3 years and ordered to pay a fine of  
138 \$50,000.

139 c. Was 50 grams or more, but less than 100 grams, such  
140 person must be sentenced or resentenced to a mandatory minimum  
141 term of imprisonment of 7 years and ordered to pay a fine of  
142 \$100,000.

143 d. Was 100 grams or more, but less than 300 grams, such  
144 person must be sentenced or resentenced to a mandatory minimum  
145 term of imprisonment of 15 years and ordered to pay a fine of  
146 \$500,000.

147 e. Was 300 grams or more, but less than 30 kilograms, such  
148 person must be sentenced or resentenced to a mandatory minimum  
149 term of imprisonment of 25 years and ordered to pay a fine of  
150 \$500,000.

151       (2) (a) It is the intent of the Legislature to  
152 retroactively apply the changes to gram-weight thresholds and  
153 ranges and to penalties for trafficking in oxycodone which are  
154 applicable to offenders who committed this offense on or after  
155 July 1, 2014, the effective date of amendments to s. 893.135 by  
156 chapter 2014-176, Laws of Florida. These changes must be  
157 retroactively applied as provided in this subsection to a  
158 violation of s. 893.135(1)(c) involving trafficking in  
159 oxycodone, as described in s. 893.03(2)(a)1.q., any salt  
160 thereof, or any mixture containing any such substance if the  
161 violation was committed before July 1, 2014, and the violation  
162 was punishable as a felony of the first degree at the time the  
163 violation was committed.

164       (b) A person who committed a trafficking violation  
165 described in paragraph (a) before July 1, 2014, but who was not  
166 sentenced for such violation before October 1, 2020, must be  
167 sentenced as provided in paragraph (d).

168       (c) A person who committed a trafficking violation  
169 described in paragraph (a) before July 1, 2014, and who is  
170 serving a mandatory minimum term of imprisonment for such  
171 violation on or after October 1, 2020, must be resentenced as  
172 provided in paragraph (d) and in accordance with subsection (3).

173       (d)1. The violation described in paragraph (a) for which  
174 the person is to be sentenced or resentenced pursuant to this  
175 subsection is a felony of the first degree, punishable as

176 provided in s. 775.082, s. 775.083, or s. 775.084.

177 2. If the quantity of oxycodone, as described in s.  
178 893.03(2)(a)1.g., any salt thereof, or any mixture containing  
179 any such substance involved in the violation of s. 893.135:

180 a. Was 4 grams or more, but less than 7 grams, such person  
181 must be sentenced or resentenced as provided in s. 775.082, s.  
182 775.083, or s. 775.084.

183 b. Was 7 grams or more, but less than 14 grams, such  
184 person must be sentenced or resentenced to a mandatory minimum  
185 term of imprisonment of 3 years and ordered to pay a fine of  
186 \$50,000.

187 c. Was 14 grams or more, but less than 25 grams, such  
188 person must be sentenced or resentenced to a mandatory minimum  
189 term of imprisonment of 7 years and ordered to pay a fine of  
190 \$100,000.

191 d. Was 25 grams or more, but less than 100 grams, such  
192 person must be sentenced or resentenced to a mandatory minimum  
193 term of imprisonment of 15 years and ordered to pay a fine of  
194 \$500,000.

195 e. Was 100 grams or more, but less than 30 kilograms, such  
196 person must be sentenced or resentenced to a mandatory minimum  
197 term of imprisonment of 25 years and ordered to pay a fine of  
198 \$500,000.

199 (3) Resentencing under this section must occur in the  
200 following manner:



201        (a) The Department of Corrections shall notify the person  
202 described in paragraph (1)(c) or paragraph (2)(c) of his or her  
203 eligibility to request a sentence review hearing.

204        (b) The person seeking sentence review under this section  
205 may submit an application to the court of original jurisdiction  
206 requesting that a sentence review hearing be held. The  
207 sentencing court shall retain original jurisdiction for the  
208 duration of the sentence for this purpose.

209        (c) A person who is eligible for a sentence review hearing  
210 under this section is entitled to be represented by counsel, and  
211 the court shall appoint a public defender to represent the  
212 person if he or she cannot afford an attorney.

213        (d) Upon receiving an application from the eligible  
214 person, the court of original sentencing jurisdiction shall hold  
215 a sentence review hearing to determine if the eligible person  
216 meets the criteria for resentencing under this section. If the  
217 court determines at the sentence review hearing that the  
218 eligible person meets the criteria in this section for  
219 resentencing, the court must resentence the person as provided  
220 in this section; however, the new sentence may not exceed the  
221 person's original sentence with credit for time served. If the  
222 court determines that such person does not meet the criteria for  
223 resentencing under this section, the court must provide written  
224 reasons why such person does not meet such criteria.

225        Section 3. This act shall take effect October 1, 2020.