

By Senator Jones

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1 A bill to be entitled
2 An act relating to sentencing for controlled substance
3 offenses; creating s. 893.13501, F.S.; providing
4 legislative intent; providing for sentencing or
5 resentencing for persons who committed certain
6 violations that involve trafficking in hydrocodone,
7 codeine, or oxycodone before specified dates;
8 providing for retroactive application of provisions;
9 requiring resentencing for persons who committed such
10 violations before a specified date and are serving
11 mandatory minimum terms of imprisonment; providing
12 criminal penalties for violations that are subject to
13 sentencing or resentencing; requiring the Department
14 of Corrections to notify certain persons of their
15 eligibility to request sentence review hearings;
16 specifying the procedures for such resentencing;
17 providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Section 893.13501, Florida Statutes, is created
22 to read:

23 893.13501 Retroactive application relating to s. 893.135;
24 legislative intent; sentencing or resentencing for trafficking
25 in hydrocodone, codeine, or oxycodone; penalties; resentencing
26 procedures.-

27 (1) (a) It is the intent of the Legislature to retroactively
28 apply changes to gram-weight thresholds and ranges and to
29 penalties for trafficking in hydrocodone or codeine which are

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30 applicable to persons who committed these offenses on or after
31 October 1, 2019, the effective date of amendments to s. 893.135
32 by s. 45, chapter 2019-167, Laws of Florida. These changes must
33 be retroactively applied as provided in this subsection to a
34 violation of s. 893.135(1)(c) involving trafficking in
35 hydrocodone, as described in s. 893.03(2)(a)1.k.; trafficking in
36 codeine, as described in s. 893.03(2)(a)1.g.; or trafficking in
37 any salt of hydrocodone or of codeine, or any mixture containing
38 any such substance, as described in s. 893.03(2)(a)2., if the
39 violation was committed before October 1, 2019, and the
40 violation was punishable as a felony of the first degree at the
41 time the violation was committed.

42 (b) A person who committed a trafficking violation
43 described in paragraph (a) before October 1, 2019, but who was
44 not sentenced for such violation before October 1, 2021, must be
45 sentenced as provided in paragraph (d).

46 (c) A person who committed a trafficking violation
47 described in paragraph (a) before October 1, 2019, and who is
48 -serving a mandatory minimum term of imprisonment for such
49 violation on or after October 1, 2021, must be resentenced as
50 provided in paragraph (d) and in accordance with subsection (3).

51 (d)1. A violation described in paragraph (a) for which the
52 person is to be sentenced or resentenced under this subsection
53 is a felony of the first degree, punishable as provided in s.
54 775.082, s. 775.083, or s. 775.084.

55 2. If the quantity of hydrocodone as described in s.
56 893.03(2)(a)1.k., codeine as described in s. 893.03(2)(a)1.g.,
57 any salt thereof, or any mixture containing any such substance
58 involved in the violation of s. 893.135:

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59 a. Was 4 grams or more, but less than 28 grams, the person
60 must be sentenced or resentenced as provided in s. 775.082, s.
61 775.083, or s. 775.084.

62 b. Was 28 grams or more, but less than 50 grams, the person
63 must be sentenced or resentenced to a mandatory minimum term of
64 imprisonment of 3 years and ordered to pay a fine of \$50,000.

65 c. Was 50 grams or more, but less than 100 grams, the
66 person must be sentenced or resentenced to a mandatory minimum
67 term of imprisonment of 7 years and ordered to pay a fine of
68 \$100,000.

69 d. Was 100 grams or more, but less than 300 grams, the
70 person must be sentenced or resentenced to a mandatory minimum
71 term of imprisonment of 15 years and ordered to pay a fine of
72 \$500,000.

73 e. Was 300 grams or more, but less than 30 kilograms, the
74 person must be sentenced or resentenced to a mandatory minimum
75 term of imprisonment of 25 years and ordered to pay a fine of
76 \$500,000.

77 (2)(a) It is the intent of the Legislature to retroactively
78 apply the changes to gram-weight thresholds and ranges and to
79 penalties for trafficking in oxycodone which are applicable to
80 persons who committed offenses on or after July 1, 2014, the
81 effective date of amendments to s. 893.135 by s. 1, chapter
82 2014-176, Laws of Florida. These changes must be retroactively
83 applied as provided in this subsection to a violation of s.
84 893.135(1)(c) involving trafficking in oxycodone, as described
85 in s. 893.03(2)(a)1.g., any salt thereof, or any mixture
86 containing any such substance if the violation was committed
87 before July 1, 2014, and the violation was punishable as a

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88 felony of the first degree at the time the violation was
89 committed.

90 (b) A person who committed a trafficking violation
91 described in paragraph (a) before July 1, 2014, but who was not
92 sentenced for such violation before October 1, 2021, must be
93 sentenced as provided in paragraph (d).

94 (c) A person who committed a trafficking violation
95 described in paragraph (a) before July 1, 2014, and who is
96 servicing a mandatory minimum term of imprisonment for such
97 violation on or after October 1, 2021, must be resentenced as
98 provided in paragraph (d) and in accordance with subsection (3).

99 (d)1. The violation described in paragraph (a) for which
100 the person is to be sentenced or resentenced under this
101 subsection is a felony of the first degree, punishable as
102 provided in s. 775.082, s. 775.083, or s. 775.084.

103 2. If the quantity of oxycodone, as described in s.
104 893.03(2)(a)1.q., any salt thereof, or any mixture containing
105 any such substance involved in the violation of s. 893.135:

106 a. Was 4 grams or more, but less than 7 grams, such person
107 must be sentenced or resentenced as provided in s. 775.082, s.
108 775.083, or s. 775.084.

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

112 c. Was 14 grams or more, but less than 25 grams, such
113 person must be sentenced or resentenced to a mandatory minimum
114 term of imprisonment of 7 years and ordered to pay a fine of
115 \$100,000.

116 d. Was 25 grams or more, but less than 100 grams, such

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117 person must be sentenced or resentenced to a mandatory minimum
118 term of imprisonment of 15 years and ordered to pay a fine of
119 \$500,000.

120 e. Was 100 grams or more, but less than 30 kilograms, such
121 person must be sentenced or resentenced to a mandatory minimum
122 term of imprisonment of 25 years and ordered to pay a fine of
123 \$500,000.

124 (3) Resentencing under this section must occur in the
125 following manner:

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

129 (b) The person seeking sentence review under this section
130 may submit an application to the court of original jurisdiction
131 requesting that a sentence review hearing be held. The
132 sentencing court shall retain original jurisdiction for the
133 duration of the sentence for this purpose.

134 (c) The person who is eligible for a sentence review
135 hearing under this section may be represented by counsel and the
136 court shall appoint a public defender to represent the person if
137 he or she cannot afford an attorney.

138 (d) Upon receiving an application from the eligible person,
139 the court of original jurisdiction shall hold a sentence review
140 hearing to determine if the eligible person meets the criteria
141 for resentencing under this section. If the court determines at
142 the sentence review hearing that the eligible person meets the
143 criteria in this section for resentencing, the court must
144 resentence the person as provided in this section; however, the
145 new sentence may not exceed the person's original sentence with

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146 credit for time served. If the court determines that such person
147 does not meet the criteria for resentencing under this section,
148 the court must make written findings explaining why such person
149 does not meet such criteria.

150 (e) Upon resentencing, the eligible person shall be awarded
151 all credit for time served in correctional facilities and all
152 credit for time served in any county jail facility.

153 Section 2. This act shall take effect October 1, 2021.