

By Senator Brandes

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1 A bill to be entitled
2 An act relating to resentencing; creating s. 921.30,
3 F.S.; providing legislative intent; authorizing the
4 state attorney of a judicial circuit in which an
5 offender was sentenced for a felony offense to
6 petition the sentencing court to resentence the
7 offender if the original sentence no longer advances
8 the interests of justice; authorizing a court to grant
9 or deny the petition; providing requirements if the
10 sentencing court grants the petition; authorizing the
11 court to consider specified postconviction factors;
12 requiring that credit be given for time served;
13 providing requirements for state attorneys; requiring
14 a court to provide an opportunity for victims of the
15 offender's crimes to present statements; providing
16 applicability; providing an effective date.

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

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20 Section 1. Section 921.30, Florida Statutes, is created to
21 read:

22 921.30 State attorney petition for offender resentencing.-

23 (1) It is the intent of the Legislature to give prosecutors
24 the discretion to petition a sentencing court to resentence an
25 individual if the individual's sentence no longer advances the
26 interests of justice. The purpose of sentencing is to advance
27 public safety through punishment, rehabilitation, and
28 restorative justice. When a sentence includes incarceration,
29 this purpose is best served by terms that are proportionate to

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30 the seriousness of the offense and provide uniformity with the
31 sentences of offenders committing the same offense under similar
32 circumstances. By providing a means to reevaluate a sentence
33 after some time has passed, the Legislature intends to provide
34 prosecutors and courts with another tool to ensure these
35 purposes are achieved.

36 (2) The state attorney of a judicial circuit in which an
37 offender was sentenced for a felony offense may petition the
38 sentencing court to resentence the offender if the original
39 sentence no longer advances the interests of justice.

40 (3) The court may grant or deny a petition under this
41 section. If the sentencing court grants a petition, it must
42 resentence the defendant in the same manner as if the offender
43 had not previously been sentenced, and it may not impose a new
44 sentence greater than the initial sentence.

45 (4) The court may consider postconviction factors
46 including, but not limited to, the inmate's disciplinary record
47 and record of rehabilitation while incarcerated; evidence that
48 reflects whether age, time served, and diminished physical
49 condition, if any, have reduced the inmate's risk for future
50 violence; and evidence that reflects changed circumstances since
51 the inmate's original sentencing such that the inmate's
52 continued incarceration no longer serves the interests of
53 justice. Credit must be given for time served.

54 (5) The state attorney shall make reasonable efforts to
55 notify victims and survivors of victims of the petition for
56 resentencing and the date of the resentencing hearing. The state
57 attorney shall provide victims and survivors of victims access
58 to available victim advocates and other related services. The

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59 court shall provide an opportunity for victims and survivors of
60 victims of any crimes for which the offender has been convicted
61 to present a statement personally or by representation.

62 (6) A resentencing under this section does not reopen the
63 defendant's conviction to challenges that would otherwise be
64 barred.

65 Section 2. This act shall take effect July 1, 2021.