

1 A bill to be entitled

2 An act relating to resentencing for persons serving
3 mandatory minimum sentences; creating s. 775.08701,
4 F.S.; providing legislative intent; providing for the
5 retroactive applicability of s. 775.087, F.S.;
6 prohibiting certain persons from being sentenced to
7 mandatory minimum terms of imprisonment for aggravated
8 assault or attempted aggravated assault committed
9 before a specified date; requiring resentencing for
10 persons who committed such violations before a
11 specified date and are serving mandatory minimum terms
12 of imprisonment; specifying procedures for such
13 resentencing; providing eligibility for gain-time for
14 such sentenced or resentenced persons; creating s.
15 893.13501, F.S.; providing legislative intent;
16 providing for the retroactive applicability of s.
17 893.135, F.S.; requiring the initial sentencing and
18 the resentencing of certain persons who committed
19 certain violations before a specified date which
20 involved trafficking in hydrocodone or codeine;
21 providing criminal penalties for such violations that
22 are subject to an initial sentencing or a
23 resentencing; providing legislative intent; providing
24 for the retroactive applicability of s. 893.135, F.S.;
25 requiring the initial sentencing and the resentencing

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26 of certain persons who committed certain violations
27 before a specified date which involved trafficking in
28 oxycodone; providing criminal penalties for such
29 violations that are subject to an initial sentencing
30 or a resentencing; specifying procedures for such
31 resentencing; providing an effective date.

32
33 Be It Enacted by the Legislature of the State of Florida:

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35 Section 1. Section 775.08701, Florida Statutes, is created
36 to read:

37 775.08701 Retroactive application relating to s. 775.087;
38 legislative intent; prohibiting mandatory minimum sentencing for
39 certain offenses; resentencing procedures.-

40 (1) It is the intent of the Legislature to retroactively
41 apply chapter 2016-7, Laws of Florida, only as provided in this
42 section, to persons who committed aggravated assault or
43 attempted aggravated assault before July 1, 2016, the effective
44 date of chapter 2016-7, Laws of Florida, which amended s.
45 775.087 to remove aggravated assault and attempted aggravated
46 assault from the list of predicate offenses for mandatory
47 minimum terms of imprisonment under that section.

48 (2) As used in this section, a reference to "former s.
49 775.087" is a reference to s. 775.087 as it existed at any time
50 before its amendment by chapter 2016-7, Laws of Florida.

51 (3) (a) A person who committed aggravated assault or
52 attempted aggravated assault before July 1, 2016, but was not
53 sentenced under former s. 775.087 before October 1, 2021, may
54 not be sentenced for that violation to a mandatory minimum term
55 of imprisonment under former s. 775.087.

56 (b) A person who committed aggravated assault or attempted
57 aggravated assault before July 1, 2016, who was sentenced before
58 October 1, 2019, to a mandatory minimum term of imprisonment
59 pursuant to former s. 775.087, and who is serving such mandatory
60 minimum term of imprisonment on or after October 1, 2021, must
61 be resentenced in accordance with paragraph (c) to a sentence
62 without such mandatory minimum term of imprisonment. The new
63 sentence must be as provided in s. 775.082, s. 775.083, or s.
64 775.084.

65 (c) Resentencing under this section must occur in the
66 following manner:

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

70 2. The person seeking sentence review under this section
71 may submit an application to the court of original jurisdiction
72 requesting that a sentence review hearing be held. The
73 sentencing court retains original jurisdiction for the duration
74 of the sentence for this purpose.

75 3. A person who is eligible for a sentence review hearing

76 under this section is entitled to be represented by counsel, and
77 the court shall appoint a public defender to represent the
78 person if he or she cannot afford an attorney.

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

91 (d) A person sentenced or resented pursuant to this
92 section is eligible to receive any gain-time pursuant to s.
93 944.275 which he or she was previously ineligible to receive
94 because of the imposition of the mandatory minimum term of
95 imprisonment pursuant to former s. 775.087.

96 Section 2. Section 893.13501, Florida Statutes, is created
97 to read:

98 893.13501 Retroactive application relating to s. 893.135;
99 legislative intent; sentencing or resentencing for trafficking
100 in hydrocodone, codeine, or oxycodone; penalties; resentencing

101 procedures.-

102 (1) It is the intent of the Legislature to retroactively
103 apply changes to gram-weight thresholds and ranges and to
104 penalties for trafficking in hydrocodone or codeine which are
105 applicable to offenders who committed these offenses on or after
106 October 1, 2019, the effective date of amendments to s. 893.135
107 by chapter 2019-167, Laws of Florida.

108 (a) If a violation of s. 893.135(1)(c) involving
109 trafficking in hydrocodone, as described in s. 893.03(2)(a)1.k.;
110 trafficking in codeine, as described in s. 893.03(2)(a)1.g.; or
111 trafficking in any salt of hydrocodone or of codeine, or any
112 mixture containing any such substance, as described in s.
113 893.03(2)(a)2., was committed before October 1, 2019, and was
114 punishable as a felony of the first degree at the time the
115 violation was committed, the changes must be retroactively
116 applied as provided in this subsection.

117 (b) A person who committed a trafficking violation
118 described in paragraph (a) before October 1, 2019, but who was
119 not sentenced for such violation before October 1, 2021, must be
120 sentenced as provided in paragraph (d).

121 (c) A person who committed a trafficking violation
122 described in paragraph (a) before October 1, 2019, and who is
123 servng a mandatory minimum term of imprisonment for such
124 violation on or after October 1, 2021, must be resentenced as
125 provided in paragraph (d) and in accordance with subsection (3).

126 (d)1. A violation described in paragraph (a) for which the
127 person is to be sentenced or resentenced pursuant to this
128 subsection is a felony of the first degree, punishable as
129 provided in s. 775.082, s. 775.083, or s. 775.084.

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

134 a. Was 4 grams or more, but less than 28 grams, such
135 person must be sentenced or resentenced as provided in s.
136 775.082, s. 775.083, or s. 775.084.

137 b. Was 28 grams or more, but less than 50 grams, such
138 person must be sentenced or resentenced to a mandatory minimum
139 term of imprisonment of 3 years and ordered to pay a fine of
140 \$50,000.

141 c. Was 50 grams or more, but less than 100 grams, such
142 person must be sentenced or resentenced to a mandatory minimum
143 term of imprisonment of 7 years and ordered to pay a fine of
144 \$100,000.

145 d. Was 100 grams or more, but less than 300 grams, such
146 person must be sentenced or resentenced to a mandatory minimum
147 term of imprisonment of 15 years and ordered to pay a fine of
148 \$500,000.

149 e. Was 300 grams or more, but less than 30 kilograms, such
150 person must be sentenced or resentenced to a mandatory minimum

151 term of imprisonment of 25 years and ordered to pay a fine of
152 \$500,000.

153 (2) It is the intent of the Legislature to retroactively
154 apply the changes to gram-weight thresholds and ranges and to
155 penalties for trafficking in oxycodone which are applicable to
156 offenders who committed this offense on or after July 1, 2014,
157 the effective date of amendments to s. 893.135 by chapter 2014-
158 176, Laws of Florida.

159 (a) If a violation of s. 893.135(1)(c) involving
160 trafficking in oxycodone, as described in s. 893.03(2)(a)1.g.,
161 any salt thereof, or any mixture containing any such substance
162 was committed before July 1, 2014, and was punishable as a
163 felony of the first degree at the time the violation was
164 committed, the changes must be retroactively applied as provided
165 in this subsection.

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

170 (c) A person who committed a trafficking violation
171 described in paragraph (a) before July 1, 2014, and who is
172 servng a mandatory minimum term of imprisonment for such
173 violation on or after October 1, 2021, must be resentenced as
174 provided in paragraph (d) and in accordance with subsection (3).

175 (d)1. A violation described in paragraph (a) for which the

176 person is to be sentenced or resentenced pursuant to this
177 subsection is a felony of the first degree, punishable as
178 provided in s. 775.082, s. 775.083, or s. 775.084.

179 2. If the quantity of oxycodone, as described in s.
180 893.03(2)(a)1.g., any salt thereof, or any mixture containing
181 any such substance involved in the violation of s. 893.135:

182 a. Was 4 grams or more, but less than 7 grams, such person
183 must be sentenced or resentenced as provided in s. 775.082, s.
184 775.083, or s. 775.084.

185 b. Was 7 grams or more, but less than 14 grams, such
186 person must be sentenced or resentenced to a mandatory minimum
187 term of imprisonment of 3 years and ordered to pay a fine of
188 \$50,000.

189 c. Was 14 grams or more, but less than 25 grams, such
190 person must be sentenced or resentenced to a mandatory minimum
191 term of imprisonment of 7 years and ordered to pay a fine of
192 \$100,000.

193 d. Was 25 grams or more, but less than 100 grams, such
194 person must be sentenced or resentenced to a mandatory minimum
195 term of imprisonment of 15 years and ordered to pay a fine of
196 \$500,000.

197 e. Was 100 grams or more, but less than 30 kilograms, such
198 person must be sentenced or resentenced to a mandatory minimum
199 term of imprisonment of 25 years and ordered to pay a fine of
200 \$500,000.

201 (3) Resentencing under this section must occur in the
202 following manner:

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

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

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

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

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226 | reasons why such person does not meet such criteria.

227 | Section 3. This act shall take effect October 1, 2021.