

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 involved trafficking in hydrocodone,
 7 codeine, or oxycodone before a date certain; providing
 8 for retroactive application of provisions; requiring
 9 resentencing for persons who committed those
 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 resentencing and sentencing; specifying the procedures
 14 for such resentencing; providing an effective date.

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

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 18 Section 1. Section 893.13501, Florida Statutes, is created
 19 to read:

20 893.13501 Retroactive application relating to s. 893.135;
 21 legislative intent; sentencing or resentencing for trafficking
 22 in hydrocodone, codeine, or oxycodone; penalties; resentencing
 23 procedures.-

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

26 and to penalties for trafficking in hydrocodone or codeine which
27 are applicable to persons who committed these offenses on or
28 after October 1, 2019, the effective date of amendments to s.
29 893.135 by s. 45, ch. 2019-167, Laws of Florida. The changes by
30 this section must be retroactively applied as provided in this
31 subsection to a violation of s. 893.135(1)(c) involving
32 trafficking in hydrocodone, as described in s. 893.03(2)(a)1.k.;
33 trafficking in codeine, as described in s. 893.03(2)(a)1.g.; or
34 trafficking in any salt of hydrocodone or of codeine, or any
35 mixture containing any such substance, as described in s.
36 893.03(2)(a)2., if the violation was committed before October 1,
37 2019, and the violation was punishable as a felony of the first
38 degree at the time the violation was committed.

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

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

48 (d)1. A violation described in paragraph (a) for which the
49 person is to be sentenced or resentenced under this subsection
50 is a felony of the first degree, punishable as provided in s.

51 775.082, s. 775.083, or s. 775.084.

52 2. If the quantity of hydrocodone as described in s.
53 893.03(2)(a)1.k., codeine as described in s. 893.03(2)(a)1.g.,
54 any salt thereof, or any mixture containing any such substance
55 involved in the violation of s. 893.135:

56 a. Was 4 grams or more, but less than 28 grams, the person
57 must be sentenced or resentenced as provided in s. 775.082, s.
58 775.083, or s. 775.084.

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

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

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

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

75 (2)(a) It is the intent of the Legislature to

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

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

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

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

101 2. If the quantity of oxycodone, as described in s.
102 893.03(2)(a)1.g., any salt thereof, or any mixture containing
103 any such substance involved in the violation of s. 893.135:

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

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

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

115 d. Was 25 grams or more, but less than 100 grams, such
116 person must be sentenced or resentenced to a mandatory minimum
117 term of imprisonment of 15 years and ordered to pay a fine of
118 \$500,000.

119 e. Was 100 grams or more, but less than 30 kilograms, such
120 person must be sentenced or resentenced to a mandatory minimum
121 term of imprisonment of 25 years and ordered to pay a fine of
122 1\$500,000.

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

125 (a) The Department of Corrections shall notify the person

126 described in paragraph (1)(c) or paragraph (2)(c) of his or her
127 eligibility to request a sentence review hearing.

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

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

137 (d) Upon receiving an application from the eligible
138 person, the court of original sentencing jurisdiction shall hold
139 a sentence review hearing to determine if the eligible person
140 meets the criteria for resentencing under this section. If the
141 court determines at the sentence review hearing that the
142 eligible person meets the criteria in this section for
143 resentencing, the court must resentence the person as provided
144 in this section; however, the new sentence may not exceed the
145 person's original sentence with credit for time served. If the
146 court determines that such person does not meet the criteria for
147 resentencing under this section, the court must make written
148 findings why such person does not meet such criteria.

149 (e) Upon resentencing, the eligible person shall be
150 awarded all credit for time served in correctional facilities

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151 | and all credit for time served in any county jail facility.

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