

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

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:

34

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, 2022, 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, 2022, 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, 2022, 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 eligible for a sentence review hearing under

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

79 4. Upon receiving an application from an 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, 2022, 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 servicing a mandatory minimum term of imprisonment for such
 124 violation on or after October 1, 2022, 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 if the trafficking involves hydrocodone, any salt
153 thereof, or any mixture containing hydrocodone; or to pay a fine
154 of \$750,000 if the trafficking involves codeine, any salt
155 thereof, or any mixture containing codeine.

156 (2) It is the intent of the Legislature to retroactively
157 apply the changes to gram-weight thresholds and ranges and to
158 penalties for trafficking in oxycodone which are applicable to
159 offenders who committed this offense on or after July 1, 2014,
160 the effective date of amendments to s. 893.135 by chapter 2014-
161 176, Laws of Florida.

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

169 (b) A person who committed a trafficking violation
170 described in paragraph (a) before July 1, 2014, but who was not
171 sentenced for such violation before October 1, 2022, must be
172 sentenced as provided in paragraph (d).

173 (c) A person who committed a trafficking violation
174 described in paragraph (a) before July 1, 2014, and who is
175 servng a mandatory minimum term of imprisonment for such

176 violation on or after October 1, 2022, must be resentenced as
 177 provided in paragraph (d) and in accordance with subsection (3).

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

182 2. If the quantity of oxycodone, as described in s.
 183 893.03(2)(a)1.g., any salt thereof, or any mixture containing
 184 any such substance involved in the violation of s. 893.135:

185 a. Was 4 grams or more, but less than 7 grams, such person
 186 must be sentenced or resentenced as provided in s. 775.082, s.
 187 775.083, or s. 775.084.

188 b. Was 7 grams or more, but less than 14 grams, such
 189 person must be sentenced or resentenced to a mandatory minimum
 190 term of imprisonment of 3 years and ordered to pay a fine of
 191 \$50,000.

192 c. Was 14 grams or more, but less than 25 grams, such
 193 person must be sentenced or resentenced to a mandatory minimum
 194 term of imprisonment of 7 years and ordered to pay a fine of
 195 \$100,000.

196 d. Was 25 grams or more, but less than 100 grams, such
 197 person must be sentenced or resentenced to a mandatory minimum
 198 term of imprisonment of 15 years and ordered to pay a fine of
 199 \$500,000.

200 e. Was 100 grams or more, but less than 30 kilograms, such

201 person must be sentenced or resentenced to a mandatory minimum
202 term of imprisonment of 25 years and ordered to pay a fine of
203 \$500,000.

204 (3) Resentencing under this section must occur in the
205 following manner:

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

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

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

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

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226 | person's original sentence with credit for time served. If the
227 | court determines that such person does not meet the criteria for
228 | resentencing under this section, the court must provide written
229 | reasons why such person does not meet such criteria.

230 | Section 3. This act shall take effect October 1, 2022.