

By Senator Thompson

15-01305-24

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1                                   A bill to be entitled  
 2           An act relating to review of juvenile sentences;  
 3           amending s. 921.1402, F.S.; revising the definition of  
 4           the term "juvenile offender"; revising eligibility  
 5           requirements for review of sentences for offenses a  
 6           person committed while a juvenile; revising duties of  
 7           the Department of Corrections concerning such reviews;  
 8           revising procedures for initiating a review; providing  
 9           for appointment of counsel for indigent offenders;  
 10          providing requirements for hearings; requiring a  
 11          certain court to render a written ruling within a  
 12          specified period; requiring a certain court to  
 13          consider specified additional factors in reviewing a  
 14          sentence; requiring that concurrent and consecutive  
 15          sentences be treated as a single sentence; providing  
 16          legislative intent; requiring an annual report  
 17          concerning sentence reviews; providing requirements  
 18          for the report; providing for retroactive application;  
 19          providing an effective date.

20  
 21 Be It Enacted by the Legislature of the State of Florida:  
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23           Section 1. Section 921.1402, Florida Statutes, is amended  
 24 to read:

25           921.1402 Review of sentences for persons convicted of  
 26 ~~specified~~ offenses committed while under the age of 18 years.—

27           (1) As used in ~~For purposes of~~ this section, the term  
 28 "juvenile offender" means a person sentenced to imprisonment in  
 29 the custody of the Department of Corrections for an offense

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30 committed ~~on or after July 1, 2014, and committed~~ before he or  
31 she attained 18 years of age.

32 (2) (a) A juvenile offender sentenced under s.  
33 775.082(1)(b)1. is entitled to a review of his or her sentence  
34 after 25 years. However, a juvenile offender sentenced under s.  
35 775.082(1)(b)1. is not entitled to a review of his or her  
36 sentence if he or she has previously been convicted of one of  
37 the following offenses, or conspiracy to commit one of the  
38 following offenses, if the offense for which the person was  
39 previously convicted was part of a separate criminal transaction  
40 or episode than that which resulted in the sentence under s.  
41 775.082(1)(b)1.:

- 42 1. Murder;
- 43 2. Manslaughter;
- 44 3. Sexual battery;
- 45 4. Armed burglary;
- 46 5. Armed robbery;
- 47 6. Armed carjacking;
- 48 7. Home-invasion robbery;
- 49 8. Human trafficking for commercial sexual activity with a  
50 child under 18 years of age;
- 51 9. False imprisonment under s. 787.02(3)(a); or
- 52 10. Kidnapping.

53 (b) A juvenile offender sentenced to a term of more than 25  
54 years under s. 775.082(3)(a)5.a. or s. 775.082(3)(b)2.a. is  
55 entitled to a review of his or her sentence after 25 years.

56 (c) A juvenile offender sentenced to a term of more than 15  
57 years under s. 775.082(1)(b)2., s. 775.082(3)(a)5.b., or s.  
58 775.082(3)(b)2.b. is entitled to a review of his or her sentence

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59 after 10 ~~15~~ years.

60 (d) A juvenile offender sentenced to a term of 20 years or  
61 more under s. 775.082(3)(c) is entitled to a review of his or  
62 her sentence after 10 ~~20~~ years. If the juvenile offender is not  
63 resentenced at the initial review hearing, he or she is eligible  
64 for one subsequent review hearing 2 ~~10~~ years after the initial  
65 review hearing.

66 (3) The Department of Corrections shall do all of the  
67 following:

68 (a) Notify a juvenile offender of his or her eligibility to  
69 request a sentence review hearing 18 months before the juvenile  
70 offender is entitled to a sentence review hearing under this  
71 section.

72 (b) Include a juvenile offender's time spent in county jail  
73 before his or her custody in the Department of Corrections when  
74 calculating the juvenile offender's eligibility date for  
75 sentence review.

76 (c) Update a juvenile offender's classification records to  
77 reflect the potential for early release.

78 (d) Ensure that a juvenile offender has access to  
79 transitional programming, with the aim of reducing recidivism.

80 (4) (a) A juvenile offender seeking sentence review pursuant  
81 to subsection (2) must submit an application under Rule 3.996,  
82 Florida Rules of Criminal Procedure, to the court of original  
83 jurisdiction requesting that a sentence review hearing be held.  
84 The juvenile offender may submit the application at any time  
85 following the notice under subsection (3), but not more than 18  
86 months before the judicial review eligibility date.

87 (b) The juvenile offender must submit a new application to

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88 the court of original jurisdiction to request subsequent  
89 sentence review hearings pursuant to paragraph (2) (d). The  
90 sentencing court shall retain original jurisdiction for the  
91 duration of the sentence for this purpose.

92 (5) (a) A juvenile offender who is eligible for a sentence  
93 review hearing under this section is entitled to be represented  
94 by counsel, and the court shall appoint a public defender to  
95 represent the juvenile offender if the juvenile offender cannot  
96 afford an attorney. The juvenile offender may file a request for  
97 appointment of counsel, if indigent, to prepare for the judicial  
98 review at any time following the notice under subsection (3),  
99 but not more than 18 months before the judicial review  
100 eligibility date.

101 (b) At a hearing under this section, the juvenile offender  
102 must be present unless he or she waives the right to be present  
103 in writing. This requirement may be satisfied by the juvenile  
104 offender appearing by video teleconference. The hearing must be  
105 recorded and transcribed.

106 (6) Upon receiving an application from an eligible juvenile  
107 offender, the court of original sentencing jurisdiction shall  
108 hold a sentence review hearing within 120 days to determine  
109 whether the juvenile offender's sentence should be modified.  
110 When determining if it is appropriate to modify the juvenile  
111 offender's sentence, the court shall consider any factor it  
112 deems appropriate, including all of the following:

113 (a) Whether the juvenile offender demonstrates maturity and  
114 rehabilitation and the current age of the juvenile offender.

115 (b) Whether the juvenile offender remains at the same level  
116 of risk to society as he or she did at the time of the initial

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117 sentencing.

118 (c) The opinion of the victim or the victim's next of kin.  
119 The absence of the victim or the victim's next of kin from the  
120 sentence review hearing may not be a factor in the determination  
121 of the court under this section. The court shall permit the  
122 victim or victim's next of kin to be heard, in person, in  
123 writing, or by electronic means. If the victim or the victim's  
124 next of kin chooses not to participate in the hearing, the court  
125 may consider previous statements made by the victim or the  
126 victim's next of kin during the trial, initial sentencing phase,  
127 or subsequent sentencing review hearings.

128 (d) Whether the juvenile offender was a relatively minor  
129 participant in the criminal offense or acted under extreme  
130 duress or the domination of another person.

131 (e) Whether the juvenile offender has shown sincere and  
132 sustained remorse for the criminal offense.

133 (f) Whether the juvenile offender's age, maturity, and  
134 psychological development at the time of the offense affected  
135 his or her behavior.

136 (g) Whether the juvenile offender has successfully obtained  
137 a high school equivalency diploma or completed another  
138 educational, technical, work, vocational, or self-rehabilitation  
139 program, if such a program is available.

140 (h) Whether the juvenile offender was a victim of sexual,  
141 physical, or emotional abuse before he or she committed the  
142 offense.

143 (i) The results of any mental health assessment, risk  
144 assessment, or evaluation of the juvenile offender as to  
145 rehabilitation.

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146       (j) The nature of the offense, including changing societal  
147 attitudes regarding the propriety of criminalizing the offense  
148 and the appropriate sentence for the offense.

149       (7) If the court determines at a sentence review hearing  
150 that the juvenile offender has been rehabilitated and is  
151 reasonably believed to be fit to reenter society, the court  
152 shall modify the sentence and impose a term of probation of at  
153 least 5 years, which can be terminated early for compliance with  
154 probation guidelines pursuant to s. 948.04. If the court  
155 determines that the juvenile offender has not demonstrated  
156 rehabilitation or is not fit to reenter society, the court shall  
157 issue a written order stating the reasons why the sentence is  
158 not being modified.

159       (8) If the court does not render a ruling during the  
160 judicial review hearing, the court shall have 90 days to issue a  
161 written ruling on whether the court finds the juvenile offender  
162 has been rehabilitated and is reasonably believed to be fit to  
163 reenter society.

164       (9) Concurrent and consecutive sentences shall be treated  
165 as a single sentence.

166       (10) It is the intent of the Legislature that:

167       (a) All persons sentenced for a crime committed while under  
168 the age of 18 be entitled to periodic case reviews, ensuring  
169 consistent consideration of their evolving circumstances and the  
170 chance to show maturity and rehabilitation before their sentence  
171 ends. The Legislature emphasizes that juvenile sentencing should  
172 align with the lowest permissible punishment as detailed in Rule  
173 3.992, Florida Rules of Criminal Procedure, Criminal Punishment  
174 Code scoresheet, reflecting the distinct nature of juvenile

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175 offenses and the potential for rehabilitation of juvenile  
176 offenders.

177 (b) Juvenile offenders serving lengthy sentences, with  
178 judicial review hearings on the horizon, be provided with  
179 transitional programming by the Department of Corrections.

180 (11) (a) By July 1, 2025, and annually thereafter, the State  
181 Courts Administrator shall submit to the President of the Senate  
182 and the Speaker of the House of Representatives a report on  
183 requests for sentence reductions under this section and make the  
184 report available to the public.

185 (b) Each report must include, for the 1-year period  
186 preceding the report:

187 1. The number of incarcerated juveniles granted and denied  
188 sentence reductions under this section.

189 2. The number of incarcerated juveniles released from  
190 prison under this section.

191 3. The demographic characteristics of the incarcerated  
192 juveniles, including race and gender, and the location,  
193 categorized by judicial circuit and county, of:

194 a. Those who applied for sentence reductions under this  
195 section.

196 b. Those granted sentence reductions under this section.

197 c. Those released from prison under this section.

198 d. Those denied release from prison under this section.

199 e. The initial sentencing term, including any prior  
200 resentencing proceedings, of each incarcerated juvenile in  
201 subparagraphs 1. and 2.

202 f. The applicable Criminal Punishment Code scoresheet total  
203 and mandatory minimums imposed on each incarcerated juvenile in

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204 subparagraphs 1. and 2.

205       Section 2. This act shall apply retroactively to all  
206 persons serving a sentence for offenses committed while under  
207 the age of 18.

208       Section 3. This act shall take effect July 1, 2024.