

By Senator Bradley

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1                   A bill to be entitled  
2           An act relating to criminal penalties; amending s.  
3           775.082, F.S.; providing criminal sentences applicable  
4           to a person who was under the age of 18 years at the  
5           time the offense was committed; requiring that a judge  
6           consider certain factors before determining if life  
7           imprisonment is an appropriate sentence; providing  
8           retroactive application; providing an effective date.

9  
10   Be It Enacted by the Legislature of the State of Florida:

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12           Section 1. Subsections (1) and (3) of section 775.082,  
13   Florida Statutes, are amended to read:

14           775.082 Penalties; applicability of sentencing structures;  
15   mandatory minimum sentences for certain reoffenders previously  
16   released from prison.—

17           (1) (a) A person who has been convicted of a capital felony  
18   shall be punished by death if the proceeding held to determine  
19   sentence according to the procedure set forth in s. 921.141  
20   results in findings by the court that such person shall be  
21   punished by death, otherwise such person shall be punished by  
22   life imprisonment and shall be ineligible for parole.

23           (b) A person who is convicted of a capital felony that  
24   occurred before the person was 18 years of age shall be punished  
25   by life imprisonment and is ineligible for parole if the judge  
26   at a mandatory sentencing hearing concludes that life  
27   imprisonment is an appropriate sentence. In determining whether  
28   life imprisonment is an appropriate sentence, the judge shall  
29   consider factors relevant to the offense and to the defendant's

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30 youth and attendant circumstances, including, but not limited  
31 to, the following:

32 1. The nature and circumstances of the offense committed by  
33 the defendant.

34 2. The effect of the crime on the victim's family and on  
35 the community.

36 3. The defendant's age, maturity, intellectual capacity,  
37 and mental and emotional health at the time of the offense.

38 4. The defendant's background, including his or her family,  
39 home, and community environment.

40 5. The effect, if any, of immaturity, impetuosity, or  
41 failure to appreciate risks and consequences on the defendant's  
42 participation in the offense.

43 6. The extent of the defendant's participation in the  
44 offense.

45 7. The effect, if any, of familial pressure or peer  
46 pressure on the defendant's actions.

47 8. The nature and extent of the defendant's prior criminal  
48 history.

49 9. The effect, if any, of characteristics attributable to  
50 the defendant's youth on the defendant's judgment.

51 10. The possibility of rehabilitating the defendant.

52  
53 If the judge concludes that life imprisonment is not an  
54 appropriate sentence, the defendant shall be punished by  
55 imprisonment for a term of not less than 50 years.

56 (3) A person who has been convicted of any other designated  
57 felony may be punished as follows:

58 (a)1. For a life felony committed before ~~prior to~~ October

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59 1, 1983, by a term of imprisonment for life or for a term of  
60 years not less than 30.

61 2. For a life felony committed on or after October 1, 1983,  
62 by a term of imprisonment for life or by a term of imprisonment  
63 not exceeding 40 years.

64 3. Except as provided in subparagraph 4., for a life felony  
65 committed on or after July 1, 1995, by a term of imprisonment  
66 for life or by imprisonment for a term of years not exceeding  
67 life imprisonment.

68 4.a. Except as provided in sub-subparagraph b., for a life  
69 felony committed on or after September 1, 2005, which is a  
70 violation of s. 800.04(5)(b), by:

71 (I) A term of imprisonment for life; or

72 (II) A split sentence that is a term of not less than 25  
73 years' imprisonment and not exceeding life imprisonment,  
74 followed by probation or community control for the remainder of  
75 the person's natural life, as provided in s. 948.012(4).

76 b. For a life felony committed on or after July 1, 2008,  
77 which is a person's second or subsequent violation of s.  
78 800.04(5)(b), by a term of imprisonment for life.

79 5. A person convicted under s. 782.04 for a life felony who  
80 was under the age of 18 at the time of the offense is eligible  
81 to be punished by a term of imprisonment for life or by a term  
82 of years equal to life imprisonment if the judge at a mandatory  
83 sentencing hearing considers factors relevant to the offense and  
84 to the defendant's youth and attendant circumstances, including,  
85 but not limited to, the factors listed in paragraph (1)(b) and  
86 concludes that imprisonment for life or a term of years equal to  
87 life imprisonment is an appropriate sentence. This paragraph

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88 shall apply retroactively only to the extent necessary to meet  
89 constitutional requirements for imposing a life sentence on a  
90 defendant who is convicted of committing a murder while a  
91 juvenile as set forth by the United States Supreme Court in  
92 Miller v. Alabama, 132 S.Ct. 2455 (2012).

93 6. For offenses committed on or after July 1, 2013, a  
94 person convicted of any other life felony who was under 18 years  
95 of age at the time of the offense shall be punished by a term of  
96 imprisonment not to exceed 50 years.

97 (b) For a felony of the first degree, by a term of  
98 imprisonment not exceeding 30 years or, when specifically  
99 provided by statute, by imprisonment for a term of years not  
100 exceeding life imprisonment.

101 1. A person convicted under s. 782.04 of a first-degree  
102 felony punishable by a term of years not exceeding life  
103 imprisonment who was under the age of 18 years at the time of  
104 the offense is eligible for a term of years equal to life  
105 imprisonment if the judge at a mandatory sentencing hearing  
106 considers factors relevant to the offense and to the defendant's  
107 youth and attendant circumstances, including, but not limited  
108 to, the factors listed in paragraph (1)(b) and concludes that a  
109 term of years equal to life imprisonment is an appropriate  
110 sentence. This paragraph shall apply retroactively only to the  
111 extent necessary to meet constitutional requirements for  
112 imposing a life sentence on a defendant who is convicted of  
113 committing a murder while a juvenile as set forth by the United  
114 States Supreme Court in Miller v. Alabama, 132 S.Ct. 2455  
115 (2012).

116 2. For offenses committed on or after July 1, 2013, a

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117 person convicted for any other first-degree felony punishable by  
118 a term of years not exceeding life imprisonment who was under 18  
119 years of age at the time of the offense shall be punished by a  
120 term of imprisonment not exceeding 50 years.

121 (c) For a felony of the second degree, by a term of  
122 imprisonment not exceeding 15 years.

123 (d) For a felony of the third degree, by a term of  
124 imprisonment not exceeding 5 years.

125 Section 2. This act shall take effect July 1, 2013.