



176486

LEGISLATIVE ACTION

Senate	.	House
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Floor: WD/2R	.	
04/11/2014 11:10 AM	.	
	.	

Senator Bradley moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

(1) (a) Except as provided in paragraph (b), a person who



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11 has been convicted of a capital felony shall be punished by
12 death if the proceeding held to determine sentence according to
13 the procedure set forth in s. 921.141 results in findings by the
14 court that such person shall be punished by death, otherwise
15 such person shall be punished by life imprisonment and shall be
16 ineligible for parole.

17 (b) For offenses committed before the offender attained 18
18 years of age, a person who is convicted of a capital felony or
19 an offense that was reclassified as a capital felony shall be
20 punished by life imprisonment and is ineligible for parole if
21 the judge at a mandatory sentencing hearing concludes that life
22 imprisonment is an appropriate sentence. In determining whether
23 life imprisonment is an appropriate sentence, the judge shall
24 consider factors relevant to the offense and to the defendant's
25 youth and attendant circumstances, including, but not limited
26 to:

27 1. The nature and circumstances of the offense committed by
28 the defendant.

29 2. The effect of the crime on the victim's family and on
30 the community.

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

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

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

38 6. The extent of the defendant's participation in the
39 offense.



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

42 8. The nature and extent of the defendant's prior criminal
43 history.

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

46 10. The possibility of rehabilitating the defendant.

47

48 If the judge concludes that life imprisonment is not an
49 appropriate sentence, the defendant shall be punished by
50 imprisonment for a term of not less than 35 years.

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

53 (a)1. For a life felony committed before ~~prior to~~ October
54 1, 1983, by a term of imprisonment for life or for a term of
55 years not less than 30.

56 2. For a life felony committed on or after October 1, 1983,
57 by a term of imprisonment for life or by a term of imprisonment
58 not exceeding 40 years.

59 3. Except as provided in subparagraph 4., for a life felony
60 committed on or after July 1, 1995, by a term of imprisonment
61 for life or by imprisonment for a term of years not exceeding
62 life imprisonment.

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

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

67 (II) A split sentence that is a term of not less than 25
68 years' imprisonment and not exceeding life imprisonment,



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69 followed by probation or community control for the remainder of
70 the person's natural life, as provided in s. 948.012(4).

71 b. For a life felony committed on or after July 1, 2008,
72 which is a person's second or subsequent violation of s.
73 800.04(5)(b), by a term of imprisonment for life.

74 (b) Notwithstanding paragraph (a), for offenses committed
75 before the offender attained 18 years of age, a person convicted
76 under s. 782.04 of an offense that was reclassified as a life
77 felony is eligible to be punished by life imprisonment or by
78 imprisonment for a term of years equal to life imprisonment if
79 the judge at a mandatory sentencing hearing considers factors
80 relevant to the offense and to the defendant's youth and
81 attendant circumstances, including, but not limited to, the
82 factors listed in paragraph (1)(b), and concludes that
83 imprisonment for life or a term of years equal to life
84 imprisonment is an appropriate sentence.

85 (c) ~~(b)~~ For a felony of the first degree, by a term of
86 imprisonment not exceeding 30 years or, when specifically
87 provided by statute, by imprisonment for a term of years not
88 exceeding life imprisonment. However, for offenses committed
89 before the offender attained 18 years of age, a person convicted
90 under s. 782.04 of a first-degree felony punishable by a term of
91 years not exceeding life imprisonment or an offense that was
92 reclassified as a first-degree felony punishable by a term of
93 years not exceeding life imprisonment is eligible for a term of
94 years equal to life imprisonment only if the judge at a
95 mandatory sentencing hearing considers factors relevant to the
96 offense and to the defendant's youth and attendant
97 circumstances, including, but not limited to, the factors



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98 specified in paragraph (1)(b), and concludes that a term of
99 years equal to life imprisonment is an appropriate sentence.

100 (d) ~~(e)~~ For a felony of the second degree, by a term of
101 imprisonment not exceeding 15 years.

102 (e) ~~(d)~~ For a felony of the third degree, by a term of
103 imprisonment not exceeding 5 years.

104 Section 2. (1) A person who is sentenced to imprisonment
105 for committing an offense before attaining 18 years of age is
106 entitled to review of his or her sentence in the following
107 circumstances:

108 (a) A person who is sentenced to life imprisonment,
109 imprisonment for life, or imprisonment for a term of more than
110 25 years for any offense that is included in s. 782.04, Florida
111 Statutes, but for which he or she was not the person who
112 actually killed the victim, is entitled to a review of his or
113 her sentence after 25 years. The sentencing court shall retain
114 original jurisdiction for the duration of the sentence for this
115 purpose.

116 (b) A person who is sentenced to life imprisonment,
117 imprisonment for life, or imprisonment for a term of more than
118 20 years for any offense that is not included in s. 782.04,
119 Florida Statutes, is entitled to a review of his or her sentence
120 after 20 years. If the court does not modify the person's
121 sentence in accordance with subsection (5) and the person is
122 servicing a sentence of imprisonment for a term of more than 30
123 years, the person is entitled to another review of his or her
124 sentence after serving 30 years of the sentence. The sentencing
125 court shall retain original jurisdiction for the duration of the
126 sentence for this purpose.



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127 (2) The Department of Corrections shall notify a juvenile
128 offender who is committed to the department of his or her
129 eligibility to participate in a resentencing hearing 30 months
130 before the date that he or she will be eligible for the
131 resentencing hearing. The juvenile offender may apply to the
132 court of original jurisdiction requesting that a resentencing
133 hearing be held.

134 (3) An offender is entitled to be represented by counsel,
135 and the court shall appoint a public defender to represent the
136 offender if the offender cannot afford an attorney.

137 (4) The court shall hold a resentencing hearing to
138 determine whether the offender's sentence should be modified.
139 The resentencing court shall consider all of the following:

140 (a) Whether the offender demonstrates maturity and
141 rehabilitation.

142 (b) Whether the offender remains at the same level of risk
143 to society as he or she did at the time of the initial
144 sentencing.

145 (c) The opinion of the victim or the victim's next of kin.
146 The absence of the victim or the victim's next of kin from the
147 resentencing hearing may not be a factor in the court's
148 determination under this section. If the victim or the victim's
149 next of kin chooses not to participate in the hearing, the court
150 may consider previous statements made by the victim or the
151 victim's next of kin during the trial or initial sentencing
152 phase.

153 (d) Whether the offender was a relatively minor participant
154 in the criminal offense or acted under extreme duress or the
155 domination of another person.



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156 (e) Whether the offender has shown sincere and sustained
157 remorse for the criminal offense.

158 (f) Whether the offender's age, maturity, and psychological
159 development at the time of the offense affected his or her
160 behavior.

161 (g) Whether the offender has successfully obtained a
162 general educational development certificate or completed another
163 educational, technical, work, vocational, or self-rehabilitation
164 program, if such a program is available.

165 (h) Whether the offender was a victim of sexual, physical,
166 or emotional abuse before he or she committed the offense.

167 (i) The results of any mental health assessment, risk
168 assessment, or evaluation of the offender as to rehabilitation.

169 (5) If the court determines at the resentencing hearing
170 that the offender has been rehabilitated and is reasonably
171 believed to be fit to reenter society based on these factors, a
172 term of probation of at least 5 years shall be imposed. If the
173 court determines that the offender has not demonstrated
174 rehabilitation and is not fit to reenter society based on these
175 factors, the court shall issue an order in writing stating the
176 reasons why the sentence is not being modified.

177 Section 3. Subsection (2) of section 316.3026, Florida
178 Statutes, is amended to read:

179 316.3026 Unlawful operation of motor carriers.-

180 (2) Any motor carrier enjoined or prohibited from operating
181 by an out-of-service order by this state, any other state, or
182 the Federal Motor Carrier Safety Administration may not operate
183 on the roadways of this state until the motor carrier has been
184 authorized to resume operations by the originating enforcement



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185 jurisdiction. Commercial motor vehicles owned or operated by any
186 motor carrier prohibited from operation found on the roadways of
187 this state shall be placed out of service by law enforcement
188 officers of the Department of Highway Safety and Motor Vehicles,
189 and the motor carrier assessed a \$10,000 civil penalty pursuant
190 to 49 C.F.R. s. 383.53, in addition to any other penalties
191 imposed on the driver or other responsible person. Any person
192 who knowingly drives, operates, or causes to be operated any
193 commercial motor vehicle in violation of an out-of-service order
194 issued by the department in accordance with this section commits
195 a felony of the third degree, punishable as provided in s.
196 775.082(3)(e) ~~775.082(3)(d)~~. Any costs associated with the
197 impoundment or storage of such vehicles are the responsibility
198 of the motor carrier. Vehicle out-of-service orders may be
199 rescinded when the department receives proof of authorization
200 for the motor carrier to resume operation.

201 Section 4. Subsection (3) of section 373.430, Florida
202 Statutes, is amended to read:

203 373.430 Prohibitions, violation, penalty, intent.—

204 (3) Any person who willfully commits a violation specified
205 in paragraph (1)(a) is guilty of a felony of the third degree,
206 punishable as provided in ss. 775.082(3)(e) ~~775.082(3)(d)~~ and
207 775.083(1)(g), by a fine of not more than \$50,000 or by
208 imprisonment for 5 years, or by both, for each offense. Each day
209 during any portion of which such violation occurs constitutes a
210 separate offense.

211 Section 5. Subsection (3) of section 403.161, Florida
212 Statutes, is amended to read:

213 403.161 Prohibitions, violation, penalty, intent.—



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214 (3) Any person who willfully commits a violation specified
215 in paragraph (1)(a) is guilty of a felony of the third degree
216 punishable as provided in ss. 775.082(3)(e) ~~775.082(3)(d)~~ and
217 775.083(1)(g) by a fine of not more than \$50,000 or by
218 imprisonment for 5 years, or by both, for each offense. Each day
219 during any portion of which such violation occurs constitutes a
220 separate offense.

221 Section 6. Paragraph (c) of subsection (3) of section
222 648.571, Florida Statutes, is amended to read:

223 648.571 Failure to return collateral; penalty.—

224 (3)

225 (c) Allowable expenses incurred in apprehending a defendant
226 because of a bond forfeiture or judgment under s. 903.29 may be
227 deducted if such expenses are accounted for. The failure to
228 return collateral under these terms is punishable as follows:

229 1. If the collateral is of a value less than \$100, as
230 provided in s. 775.082(4)(a).

231 2. If the collateral is of a value of \$100 or more, as
232 provided in s. 775.082(3)(e) ~~775.082(3)(d)~~.

233 3. If the collateral is of a value of \$1,500 or more, as
234 provided in s. 775.082(3)(d) ~~775.082(3)(e)~~.

235 4. If the collateral is of a value of \$10,000 or more, as
236 provided in s. 775.082(3)(c) ~~775.082(3)(b)~~.

237 Section 7. This act shall take effect July 1, 2014.

238
239 ===== T I T L E A M E N D M E N T =====

240 And the title is amended as follows:

241 Delete everything before the enacting clause
242 and insert:



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243 A bill to be entitled
244 An act relating to juvenile sentencing; amending s.
245 775.082, F.S.; providing criminal sentences applicable
246 to a person who was under the age of 18 years at the
247 time the offense was committed; requiring a judge to
248 consider certain factors before determining if life
249 imprisonment is an appropriate sentence for a homicide
250 defendant; providing for review of sentences of
251 certain offenders who were under the age of 18 at the
252 time of the offense; providing requirements and
253 procedures for such reviews; amending ss. 316.3026,
254 373.430, 403.161, and 648.571, F.S.; conforming cross-
255 references; providing an effective date.