

By the Committee on Criminal Justice; and Senators Brandes and Bracy

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1 A bill to be entitled
2 An act relating to criminal justice; providing a short
3 title; amending s. 775.082, F.S.; authorizing the
4 resentencing and release of certain persons who are
5 eligible for sentence review under specified
6 provisions; reenacting and amending s. 921.1402, F.S.;
7 revising the circumstances under which a juvenile
8 offender is not entitled to a review of his or her
9 sentence after a specified timeframe; creating s.
10 921.14021, F.S.; providing legislative intent;
11 providing for retroactive application of a specified
12 provision relating to a review of sentence for
13 juvenile offenders convicted of murder; providing for
14 immediate review of certain sentences; creating s.
15 921.1403, F.S.; defining the term "young adult
16 offender"; precluding eligibility for a sentence
17 review for young adult offenders who previously
18 committed, or conspired to commit, murder; providing
19 timeframes within which young adult offenders who
20 commit specified crimes are entitled to a review of
21 their sentences; providing applicability; requiring
22 the Department of Corrections to notify young adult
23 offenders in writing of their eligibility for sentence
24 review within certain timeframes; requiring a young
25 adult offender seeking a sentence review or a
26 subsequent sentence review to submit an application to
27 the original sentencing court and request a hearing;
28 providing for legal representation of eligible young
29 adult offenders; providing for one subsequent review

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30 hearing for the young adult offender after a certain
31 timeframe if he or she is not resentenced at the
32 initial sentence review hearing; requiring the
33 original sentencing court to hold a sentence review
34 hearing upon receiving an application from an eligible
35 young adult offender; requiring the court to consider
36 certain factors in determining whether to modify the
37 young adult offender's sentence; authorizing a court
38 to modify the sentence of certain young adult
39 offenders if the court makes certain determinations;
40 requiring the court to issue a written order stating
41 certain information in specified circumstances;
42 providing for retroactive application; amending s.
43 944.705, F.S.; requiring the department to provide
44 inmates with certain information upon their release;
45 creating s. 951.30, F.S.; requiring that
46 administrators of county detention facilities provide
47 inmates with certain information upon their release;
48 amending s. 1009.21, F.S.; providing that a specified
49 period of time spent in a county detention facility or
50 state correctional facility counts toward the 12-month
51 residency requirement for tuition purposes; requiring
52 the Office of Program Policy and Governmental
53 Accountability (OPPAGA) to conduct a study to evaluate
54 the various opportunities available to persons
55 returning to the community from imprisonment;
56 providing study requirements; requiring OPPAGA to
57 submit a report to the Governor and the Legislature by
58 a specified date; providing an effective date.

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59
60 Be It Enacted by the Legislature of the State of Florida:

61
62 Section 1. This act may be cited as "The Second Look Act."

63 Section 2. Paragraph (b) of subsection (9) of section
64 775.082, Florida Statutes, is amended to read:

65 775.082 Penalties; applicability of sentencing structures;
66 mandatory minimum sentences for certain reoffenders previously
67 released from prison.—

68 (9)

69 (b) 1. Except as provided in subparagraph 2., a person
70 sentenced under paragraph (a) shall be released only by
71 expiration of sentence and shall not be eligible for parole,
72 control release, or any form of early release. Any person
73 sentenced under paragraph (a) must serve 100 percent of the
74 court-imposed sentence.

75 2. A juvenile or young adult offender who is eligible for
76 review of his or her sentence under s. 921.1402 or s. 921.1403,
77 respectively, may be resentenced and released from imprisonment
78 if a court deems the resentencing appropriate in accordance with
79 the review requirements under such sections.

80 Section 3. Paragraph (a) of subsection (2) of section
81 921.1402, Florida Statutes, is amended, and subsection (4) of
82 that section is reenacted, to read:

83 921.1402 Review of sentences for persons convicted of
84 specified offenses committed while under the age of 18 years.—

85 (2) (a) A juvenile offender sentenced under s.
86 775.082(1)(b)1. is entitled to a review of his or her sentence
87 after 25 years. However, a juvenile offender is not entitled to

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88 review if he or she has previously been convicted of committing
 89 ~~one of the following offenses~~, or of conspiracy to commit ~~one of~~
 90 ~~the following offenses~~, murder if the murder offense for which
 91 the person was previously convicted was part of a separate
 92 criminal transaction or episode than the murder ~~that~~ which
 93 resulted in the sentence under s. 775.082(1)(b)1.÷

94 ~~1. Murder;~~

95 ~~2. Manslaughter;~~

96 ~~3. Sexual battery;~~

97 ~~4. Armed burglary;~~

98 ~~5. Armed robbery;~~

99 ~~6. Armed carjacking;~~

100 ~~7. Home-invasion robbery;~~

101 ~~8. Human trafficking for commercial sexual activity with a~~
 102 ~~child under 18 years of age;~~

103 ~~9. False imprisonment under s. 787.02(3)(a); or~~

104 ~~10. Kidnapping.~~

105 (4) A juvenile offender seeking sentence review pursuant to
 106 subsection (2) must submit an application to the court of
 107 original jurisdiction requesting that a sentence review hearing
 108 be held. The juvenile offender must submit a new application to
 109 the court of original jurisdiction to request subsequent
 110 sentence review hearings pursuant to paragraph (2)(d). The
 111 sentencing court shall retain original jurisdiction for the
 112 duration of the sentence for this purpose.

113 Section 4. Section 921.14021, Florida Statutes, is created
 114 to read:

115 921.14021 Retroactive application relating to s. 921.1402;
 116 legislative intent; review of sentence.-

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117 (1) It is the intent of the Legislature to retroactively
118 apply the amendments made to s. 921.1402 which are effective on
119 July 1, 2020, only as provided in this section, to juvenile
120 offenders convicted of a capital offense and sentenced under s.
121 775.082(1)(b)1. who have been ineligible for sentence review
122 hearings because of a previous conviction of an offense
123 enumerated in s. 921.1402(2)(a) thereby providing such juvenile
124 offenders with an opportunity for consideration by a court and
125 an opportunity for release if deemed appropriate under law.

126 (2) A juvenile offender, as defined in s. 921.1402, who was
127 convicted for a capital offense and sentenced under s.
128 775.082(1)(b)1., and who was ineligible for a sentence review
129 hearing pursuant to s. 921.1402(2)(a)2.-10. as it existed before
130 July 1, 2020, is entitled to a review of his or her sentence
131 after 25 years or, if on July 1, 2020, 25 years have already
132 passed since the sentencing, immediately.

133 Section 5. Section 921.1403, Florida Statutes, is created
134 to read:

135 921.1403 Review of sentences for persons convicted of
136 specified offenses committed while under 25 years of age.-

137 (1) As used in this section, the term "young adult
138 offender" means a person who committed an offense before he or
139 she reached 25 years of age and for which he or she is sentenced
140 to a term of years in the custody of the Department of
141 Corrections, regardless of the date of sentencing.

142 (2) A young adult offender is not entitled to a sentence
143 review under this section if he or she has previously been
144 convicted of committing, or of conspiring to commit, murder if
145 the murder offense for which the person was previously convicted

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146 was part of a separate criminal transaction or episode than that
147 which resulted in the sentence under s. 775.082(3) (a)1., 2., 3.,
148 4., or 6., or (b)1.

149 (3) (a)1. A young adult offender who is convicted of an
150 offense that is a life felony, that is punishable by a term of
151 years not exceeding life imprisonment, or that was reclassified
152 as a life felony, which was committed after the person attained
153 18 years of age and who is sentenced to a term of more than 20
154 years under s. 775.082(3) (a)1., 2., 3., 4., or 6., is entitled
155 to a review of his or her sentence after 20 years.

156 2. This paragraph does not apply to a person who is
157 eligible for sentencing under s. 775.082(3) (a)5.

158 (b) A young adult offender who is convicted of an offense
159 that is a felony of the first degree or that was reclassified as
160 a felony of the first degree and who is sentenced to a term of
161 more than 15 years under s. 775.082(3) (b)1. is entitled to a
162 review of his or her sentence after 15 years.

163 (4) The Department of Corrections must notify a young adult
164 offender in writing of his or her eligibility to request a
165 sentence review hearing 18 months before the young adult
166 offender is entitled to a sentence review hearing or notify him
167 or her immediately in writing if the offender is eligible as of
168 July 1, 2020.

169 (5) A young adult offender seeking a sentence review under
170 this section must submit an application to the original
171 sentencing court requesting that the court hold a sentence
172 review hearing. The young adult offender seeking a subsequent
173 sentence review hearing must submit a new application to the
174 original sentencing court to request a subsequent sentence

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175 review hearing pursuant to subsection (7). The original
176 sentencing court retains jurisdiction for the duration of the
177 sentence for this purpose.

178 (6) A young adult offender who is eligible for a sentence
179 review hearing under this section is entitled to be represented
180 by an attorney, and the court must appoint a public defender to
181 represent the young adult offender if he or she cannot afford an
182 attorney.

183 (7) (a) If the young adult offender seeking sentence review
184 under paragraph (3) (a) is not resentenced at the initial
185 sentence review hearing, he or she is eligible for one
186 subsequent review hearing 5 years after the initial review
187 hearing.

188 (b) If the young adult offender seeking sentence review
189 under paragraph (3) (b) is not resentenced at the initial
190 sentence review hearing, he or she is eligible for one
191 subsequent review hearing 5 years after the initial review
192 hearing.

193 (8) Upon receiving an application from an eligible young
194 adult offender, the original sentencing court must hold a
195 sentence review hearing to determine whether to modify the young
196 adult offender's sentence. When determining if it is appropriate
197 to modify the young adult offender's sentence, the court must
198 consider any factor it deems appropriate, including, but not
199 limited to, any of the following:

200 (a) Whether the young adult offender demonstrates maturity
201 and rehabilitation.

202 (b) Whether the young adult offender remains at the same
203 level of risk to society as he or she did at the time of the

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204 initial sentencing.

205 (c) The opinion of the victim or the victim's next of kin.
206 The absence of the victim or the victim's next of kin from the
207 sentence review hearing may not be a factor in the determination
208 of the court under this section. The court must allow the victim
209 or victim's next of kin to be heard in person, in writing, or by
210 electronic means. If the victim or the victim's next of kin
211 chooses not to participate in the hearing, the court may
212 consider previous statements made by the victim or the victim's
213 next of kin during the trial, initial sentencing phase, or
214 previous sentencing review hearings.

215 (d) Whether the young adult offender was a relatively minor
216 participant in the criminal offense or whether he or she acted
217 under extreme duress or under the domination of another person.

218 (e) Whether the young adult offender has shown sincere and
219 sustained remorse for the criminal offense.

220 (f) Whether the young adult offender's age, maturity, or
221 psychological development at the time of the offense affected
222 his or her behavior.

223 (g) Whether the young adult offender has successfully
224 obtained a high school equivalency diploma or completed another
225 educational, technical, work, vocational, or self-rehabilitation
226 program, if such a program is available.

227 (h) Whether the young adult offender was a victim of
228 sexual, physical, or emotional abuse before he or she committed
229 the offense.

230 (i) The results of any mental health assessment, risk
231 assessment, or evaluation of the young adult offender as to
232 rehabilitation.

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233 (9) (a) If the court determines at a sentence review hearing
234 that the young adult offender who is seeking sentence review
235 under paragraph (3) (a) has been rehabilitated and is reasonably
236 believed to be fit to reenter society, the court may modify the
237 sentence and impose a term of probation of at least 5 years.

238 (b) If the court determines at a sentence review hearing
239 that the young adult offender who is seeking sentence review
240 under paragraph (3) (b) has been rehabilitated and is reasonably
241 believed to be fit to reenter society, the court may modify the
242 sentence and impose a term of probation of at least 3 years.

243 (c) If the court determines that the young adult offender
244 seeking sentence review under paragraph (3) (a) or (3) (b) has not
245 demonstrated rehabilitation or is not fit to reenter society,
246 the court must issue a written order stating the reasons why the
247 sentence is not being modified.

248 (10) This section applies retroactively to a young adult
249 offender eligible under this section.

250 Section 6. Paragraph (a) of subsection (7) of section
251 944.705, Florida Statutes, is amended to read:

252 944.705 Release orientation program.—

253 (7) (a) The department shall notify every inmate in the
254 inmate's release documents:

255 1. Of all outstanding terms of the inmate's sentence at the
256 time of release to assist the inmate in determining his or her
257 status with regard to the completion of all terms of sentence,
258 as that term is defined in s. 98.0751. This subparagraph does
259 not apply to inmates who are being released from the custody of
260 the department to any type of supervision monitored by the
261 department;

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262 2. Of the dates of admission to and release from the
263 custody of the department, including the total length of the
264 term of imprisonment for which he or she is being released; and

265 ~~3.2.~~ In not less than 18-point type, that the inmate may be
266 sentenced pursuant to s. 775.082(9) if the inmate commits any
267 felony offense described in s. 775.082(9) within 3 years after
268 the inmate's release. This notice must be prefaced by the word
269 "WARNING" in boldfaced type.

270 Section 7. Section 951.30, Florida Statutes, is created to
271 read:

272 951.30 Release documents requirements.—The administrator of
273 a county detention facility must provide to each inmate upon
274 release from the custody of the facility the dates of his or her
275 admission to and release from the custody of the facility,
276 including the total length of the term of imprisonment from
277 which he or she is being released.

278 Section 8. Paragraph (a) of subsection (2) and paragraphs
279 (b) and (c) of subsection (3) of section 1009.21, Florida
280 Statutes, are amended to read:

281 1009.21 Determination of resident status for tuition
282 purposes.—Students shall be classified as residents or
283 nonresidents for the purpose of assessing tuition in
284 postsecondary educational programs offered by charter technical
285 career centers or career centers operated by school districts,
286 in Florida College System institutions, and in state
287 universities.

288 (2) (a) To qualify as a resident for tuition purposes:

289 1. A person or, if that person is a dependent child, his or
290 her parent or parents must have established legal residence in

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291 this state and must have maintained legal residence in this
292 state for at least 12 consecutive months immediately before
293 ~~prior to~~ his or her initial enrollment in an institution of
294 higher education. The 12 consecutive months immediately before
295 enrollment may include time spent incarcerated in a county
296 detention facility or state correctional facility.

297 2. Every applicant for admission to an institution of
298 higher education shall be required to make a statement as to his
299 or her length of residence in the state and, further, shall
300 establish that his or her presence or, if the applicant is a
301 dependent child, the presence of his or her parent or parents in
302 the state currently is, and during the requisite 12-month
303 qualifying period was, for the purpose of maintaining a bona
304 fide domicile, rather than for the purpose of maintaining a mere
305 temporary residence or abode incident to enrollment in an
306 institution of higher education.

307 (3)

308 (b) Except as otherwise provided in this section, evidence
309 of legal residence and its duration shall include clear and
310 convincing documentation that residency in this state was for a
311 minimum of 12 consecutive months prior to a student's initial
312 enrollment in an institution of higher education. Time spent
313 incarcerated in a county detention facility or state
314 correctional facility must be credited toward the residency
315 requirement, with any combination of documented time living in
316 Florida before and after incarceration.

317 (c) Each institution of higher education shall
318 affirmatively determine that an applicant who has been granted
319 admission to that institution as a Florida resident meets the

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320 residency requirements of this section at the time of initial
321 enrollment. The residency determination must be documented by
322 the submission of written or electronic verification that
323 includes two or more of the documents identified in this
324 paragraph. No single piece of evidence shall be conclusive.

325 1. The documents must include at least one of the
326 following:

327 a. A Florida voter's registration card.

328 b. A Florida driver license.

329 c. A State of Florida identification card.

330 d. A Florida vehicle registration.

331 e. Proof of a permanent home in Florida which is occupied
332 as a primary residence by the individual or by the individual's
333 parent if the individual is a dependent child.

334 f. Proof of a homestead exemption in Florida.

335 g. Transcripts from a Florida high school for multiple
336 years if the Florida high school diploma or high school
337 equivalency diploma was earned within the last 12 months.

338 h. Proof of permanent full-time employment in Florida for
339 at least 30 hours per week for a 12-month period.

340 2. The documents may include one or more of the following:

341 a. A declaration of domicile in Florida.

342 b. A Florida professional or occupational license.

343 c. Florida incorporation.

344 d. A document evidencing family ties in Florida.

345 e. Proof of membership in a Florida-based charitable or
346 professional organization.

347 f. Any other documentation that supports the student's
348 request for resident status, including, but not limited to,

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349 utility bills and proof of 12 consecutive months of payments; a
350 lease agreement and proof of 12 consecutive months of payments;
351 or an official local, state, federal, or court document
352 evidencing legal ties to Florida.

353 Section 9. The Office of Program Policy and Governmental
354 Accountability (OPPAGA) must conduct a study to evaluate the
355 various opportunities available to persons returning to the
356 community from imprisonment. The study's scope must include, but
357 need not be limited to, any barriers to such opportunities; the
358 collateral consequences that are present, if applicable, for
359 persons who are released from incarceration into the community;
360 and methods for reducing the collateral consequences identified.
361 OPPAGA must submit a report to the Governor, the President of
362 the Senate, the Minority Leader of the Senate, the Speaker of
363 the House of Representatives, and the Minority Leader of the
364 House of Representatives by November 1, 2020.

365 Section 10. This act shall take effect July 1, 2020.