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LEGISLATIVE ACTION

Senate

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House

The Committee on Criminal Justice (Rouson) recommended the following:

Senate Amendment

Delete lines 57 - 151
and insert:
October 1, 2021, to a mandatory minimum term of imprisonment
pursuant to former s. 775.087, and who is serving such mandatory
minimum term of imprisonment on or after October 1, 2021, must
be resentenced in accordance with paragraph (c) to a sentence
without such mandatory minimum term of imprisonment. The new
sentence must be as provided in s. 775.082, s. 775.083, or s.



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11 775.084.

12 (c) Resentencing under this section must occur in the
13 following manner:

14 1. The Department of Corrections shall notify the person
15 described in paragraph (b) of his or her eligibility to request
16 a sentence review hearing.

17 2. The person seeking sentence review under this section
18 may submit an application to the court of original jurisdiction
19 requesting that a sentence review hearing be held. The
20 sentencing court retains original jurisdiction for the duration
21 of the sentence for this purpose.

22 3. A person who is eligible for a sentence review hearing
23 under this section is entitled to be represented by counsel, and
24 the court shall appoint a public defender to represent the
25 person if he or she cannot afford an attorney.

26 4. Upon receiving an application from the eligible person,
27 the court of original sentencing jurisdiction shall hold a
28 sentence review hearing to determine if the eligible person
29 meets the criteria for resentencing under this section. If the
30 court determines at the sentence review hearing that the
31 eligible person meets the criteria in this section for
32 resentencing, the court must resentence the person as provided
33 in this section; however, the new sentence may not exceed the
34 person's original sentence with credit for time served. If the
35 court determines that such person does not meet the criteria for
36 resentencing under this section, the court must provide written
37 reasons why such person does not meet such criteria.

38 (d) A person sentenced or resented pursuant to this
39 section is eligible to receive any gain-time pursuant to s.



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40 944.275 which he or she was previously ineligible to receive
41 because of the imposition of the mandatory minimum term of
42 imprisonment pursuant to former s. 775.087.

43 Section 2. Section 893.13501, Florida Statutes, is created
44 to read:

45 893.13501 Retroactive application relating to s. 893.135;
46 legislative intent; sentencing or resentencing for trafficking
47 in hydrocodone, codeine, or oxycodone; penalties; resentencing
48 procedures.—

49 (1) It is the intent of the Legislature to retroactively
50 apply changes to gram-weight thresholds and ranges and to
51 penalties for trafficking in hydrocodone or codeine which are
52 applicable to offenders who committed these offenses on or after
53 October 1, 2019, the effective date of amendments to s. 893.135
54 by chapter 2019-167, Laws of Florida.

55 (a) If a violation of s. 893.135(1)(c) involving
56 trafficking in hydrocodone, as described in s. 893.03(2)(a)1.k.;
57 trafficking in codeine, as described in s. 893.03(2)(a)1.g.; or
58 trafficking in any salt of hydrocodone or of codeine, or any
59 mixture containing any such substance, as described in s.
60 893.03(2)(a)2., was committed before October 1, 2019, and was
61 punishable as a felony of the first degree at the time the
62 violation was committed, the changes must be retroactively
63 applied as provided in this subsection.

64 (b) A person who committed a trafficking violation
65 described in paragraph (a) before October 1, 2019, but who was
66 not sentenced for such violation before October 1, 2021, must be
67 sentenced as provided in paragraph (d).

68 (c) A person who committed a trafficking violation



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69 described in paragraph (a) before October 1, 2019, and who is
70 serving a mandatory minimum term of imprisonment for such
71 violation on or after October 1, 2021, must be resentenced as
72 provided in paragraph (d) and in accordance with subsection (3).

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

77 2. If the quantity of hydrocodone, as described in s.
78 893.03(2)(a)1.k., codeine, as described in s. 893.03(2)(a)1.g.,
79 any salt thereof, or any mixture containing any such substance
80 involved in the violation of s. 893.135:

81 a. Was 4 grams or more, but less than 28 grams, such person
82 must be sentenced or resentenced as provided in s. 775.082, s.
83 775.083, or s. 775.084.

84 b. Was 28 grams or more, but less than 50 grams, such
85 person must be sentenced or resentenced to a mandatory minimum
86 term of imprisonment of 3 years and ordered to pay a fine of
87 \$50,000.

88 c. Was 50 grams or more, but less than 100 grams, such
89 person must be sentenced or resentenced to a mandatory minimum
90 term of imprisonment of 7 years and ordered to pay a fine of
91 \$100,000.

92 d. Was 100 grams or more, but less than 300 grams, such
93 person must be sentenced or resentenced to a mandatory minimum
94 term of imprisonment of 15 years and ordered to pay a fine of
95 \$500,000.

96 e. Was 300 grams or more, but less than 30 kilograms, such
97 person must be sentenced or resentenced to a mandatory minimum



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98 term of imprisonment of 25 years and ordered to pay a fine of
99 \$500,000 if the trafficking involves hydrocodone, any salt
100 thereof, or any mixture containing hydrocodone, or \$750,000, if
101 the trafficking involves codeine, or any salt thereof, or any
102 mixture containing codeine.
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