

1 A bill to be entitled
 2 An act relating to juvenile sentencing; 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.

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

24 (b) A person who is convicted of a capital felony or an
 25 offense that was reclassified as a capital felony, that was
 26 committed before the person was 18 years of age shall be
 27 punished by life imprisonment and is ineligible for parole if
 28 the judge at a mandatory sentencing hearing concludes that life

29 imprisonment is an appropriate sentence. In determining whether
 30 life imprisonment is an appropriate sentence, the judge shall
 31 consider factors relevant to the offense and to the defendant's
 32 youth and attendant circumstances, including, but not limited
 33 to, the following:

34 1. The nature and circumstances of the offense committed
 35 by the defendant.

36 2. The effect of the crime on the victim's family and on
 37 the community.

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

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

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

45 6. The extent of the defendant's participation in the
 46 offense.

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

49 8. The nature and extent of the defendant's prior criminal
 50 history.

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

53 10. The possibility of rehabilitating the defendant.

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 55 If the judge concludes that life imprisonment is not an
 56 appropriate sentence, the defendant shall be punished by

57 imprisonment for a term of not less than 50 years. This
 58 paragraph shall apply retroactively only to the extent necessary
 59 to meet constitutional requirements for imposing a life sentence
 60 on a defendant who is convicted of committing a murder that was
 61 committed before the person was 18 years of age as set forth by
 62 the United States Supreme Court in Miller v. Alabama, 132 S.Ct.
 63 2455 (2012).

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

66 (a)1. For a life felony committed before ~~prior to~~ October
 67 1, 1983, by a term of imprisonment for life or for a term of
 68 years not less than 30.

69 2. For a life felony committed on or after October 1,
 70 1983, by a term of imprisonment for life or by a term of
 71 imprisonment not exceeding 40 years.

72 3. Except as provided in subparagraph 4., for a life
 73 felony committed on or after July 1, 1995, by a term of
 74 imprisonment for life or by imprisonment for a term of years not
 75 exceeding life imprisonment.

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

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

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

84 b. For a life felony committed on or after July 1, 2008,

85 | which is a person's second or subsequent violation of s.
86 | 800.04(5)(b), by a term of imprisonment for life.

87 | 5. Notwithstanding subparagraphs (a)1.-4., a person
88 | convicted under s. 782.04 for an offense that was reclassified
89 | as a life felony, that was committed before the person was 18
90 | years of age is eligible to be punished by a term of
91 | imprisonment for life or by a term of years equal to life
92 | imprisonment if the judge at a mandatory sentencing hearing
93 | considers factors relevant to the offense and to the defendant's
94 | youth and attendant circumstances, including, but not limited
95 | to, the factors listed in paragraph (1)(b) and concludes that
96 | imprisonment for life or a term of years equal to life
97 | imprisonment is an appropriate sentence. This paragraph shall
98 | apply retroactively only to the extent necessary to meet
99 | constitutional requirements for imposing a life sentence on a
100 | defendant who is convicted of committing a murder that was
101 | committed before the person was 18 years of age as set forth by
102 | the United States Supreme Court in Miller v. Alabama, 132 S.Ct.
103 | 2455 (2012).

104 | (b)1. For a felony of the first degree, by a term of
105 | imprisonment not exceeding 30 years or, when specifically
106 | provided by statute, by imprisonment for a term of years not
107 | exceeding life imprisonment.

108 | 2. Notwithstanding subparagraph (b)1., a person convicted
109 | under s. 782.04 of a first degree felony punishable by a term of
110 | years not exceeding life imprisonment, or an offense that was
111 | reclassified as a first degree felony punishable by a term of
112 | years not exceeding life, that was committed before the person

113 was 18 years of age is eligible for a term of years equal to
114 life imprisonment if the judge at a mandatory sentencing hearing
115 considers factors relevant to the offense and to the defendant's
116 youth and attendant circumstances, including, but not limited
117 to, the factors listed in paragraph (1)(b) and concludes that a
118 term of years equal to life imprisonment is an appropriate
119 sentence. This paragraph shall apply retroactively only to the
120 extent necessary to meet constitutional requirements for
121 imposing a life sentence on a defendant who is convicted of
122 committing a murder that was committed before the person was 18
123 years of age as set forth by the United States Supreme Court in
124 Miller v. Alabama, 132 S.Ct. 2455 (2012).

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

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

129 (e) Notwithstanding paragraphs (3)(a)-(d), for offenses
130 committed on or after July 1, 2013, a person convicted of a life
131 felony or an offense punishable by a term of years not exceeding
132 life imprisonment, other than an offense listed in s. 782.04, or
133 an offense, other than an offense listed in s. 782.04, that was
134 reclassified as a life felony or an offense punishable by a term
135 of years not exceeding life, that was committed before the
136 person was 18 years of age shall be punished by a term of
137 imprisonment not to exceed 50 years.

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