

RULE 3.802 | REVIEW OF SENTENCES FOR JUVENILE OFFENDERS

(a) Application. A juvenile offender, as defined in section 921.1402(1), Florida Statutes, may seek a modification of sentence pursuant to section 921.1402, Florida Statutes, by submitting an application to the trial court requesting a sentence review hearing.

(b) Time for Filing. An application for sentence review may not be filed until the juvenile offender becomes eligible pursuant to section 921.1402(2), Florida Statutes. A juvenile offender becomes eligible:

(1) after 25 years, if the juvenile offender is sentenced to life under section 775.082(1)(b)1., Florida Statutes, or to a term of more than 25 years under sections 775.082(3)(a)5.a. or 775.082(3)(b)2.a., Florida Statutes; or

(2) after 20 years, if the juvenile offender is sentenced to a term of 20 years or more under section 775.082(3)(c), Florida Statutes; or

(3) after 15 years, if the juvenile offender is sentenced to a term of more than 15 years under sections 775.082(1)(b)2., 775.082(3)(a)5.b., or 775.082(3)(b)2.b., Florida Statutes.

(c) Contents of Application. The application must state that the juvenile offender is eligible for sentence review and include:

(1) a copy of the judgment and sentence, or a statement containing the following:

(A) the date of sentencing;

(B) the offense for which the defendant was sentenced; and

(C) the sentence imposed;

(2) the nature of the relief sought;

(3) whether a previous application has been filed, the date of filing of the application, and the disposition of that application;

(4) a brief statement outlining the facts in support of the application; and



(5) if the application is being filed by a juvenile offender sentenced to life pursuant to section 775.082(1)(b)1., Florida Statutes, a statement certifying that the applicant has not been previously convicted of one of the offenses enumerated in sections 921.1402(2)(a)1.-(2)(a)10., Florida Statutes, or conspiracy to commit one of offenses enumerated in sections 921.1402(2)(a)1.-(2)(a)10., Florida Statutes, in a separate criminal transaction or episode than that which resulted in the sentence under section 775.082(1)(b)1., Florida Statutes.

(d) Procedure; Evidentiary Hearing; Disposition. Upon application from an eligible juvenile offender, the trial court shall hold a sentence review hearing to determine whether the juvenile offender's sentence should be modified. If the application, files, and records in the case conclusively show that the applicant does not qualify as a juvenile offender under section 921.1402(1), Florida Statutes, or that the application is premature, the court may deny the application without a hearing, and shall attach such documents to the order. If an application is denied as premature, the denial shall be without prejudice.

(1) At the sentence review hearing, the court shall consider the following factors when determining if it is appropriate to modify the juvenile offender's sentence:

(A) whether the juvenile offender demonstrates maturity and rehabilitation;

(B) whether the juvenile offender remains at the same level of risk to society as he or she did at the time of the initial sentencing;

(C) the opinion of the victim or the victim's next of kin;

(D) whether the juvenile offender was a relatively minor participant in the criminal offense or acted under extreme duress or the domination of another person;

(E) whether the juvenile offender has shown sincere and sustained remorse for the criminal offense;



(F) whether the juvenile offender's age, maturity, and psychological development at the time of the offense affected his or her behavior;

(G) whether the juvenile offender has successfully obtained a general educational development certificate or completed another educational, technical, work, vocational, or self-rehabilitation program, if such a program is available;

(H) whether the juvenile offender was a victim of sexual, physical, or emotional abuse before he or she committed the offense;

(I) the results of any mental health assessment, risk assessment, or evaluation of the juvenile offender as to rehabilitation; and

(J) any other factor the court deems appropriate.

(2) If the court determines at a sentence review hearing that the juvenile offender has been rehabilitated and is reasonably believed to be fit to reenter society, the court shall modify the sentence and impose a term of probation of at least 5 years. If the court determines that the juvenile offender has not demonstrated rehabilitation, or is not fit to reenter society, the court shall issue a written order stating the reasons why the sentence is not being modified.

(e) Successive Applications. A second or successive application shall be denied without a hearing, except under the following circumstances:

(1) the initial application was denied as premature; or

(2) pursuant to section 921.1402(2)(d), Florida Statutes, the initial application was submitted by a juvenile offender sentenced to a term of 20 years or more under section 775.082(3)(c), Florida Statutes, and more than 10 years has elapsed since the initial sentence review hearing.

(f) Jurisdiction. The sentencing court shall retain original jurisdiction for the duration of the sentence for the purpose of a sentence review hearing.

(g) Right to Counsel. A juvenile offender who is eligible for a sentence review hearing under section 921.1402(5), Florida Statutes, is entitled to be represented by counsel, and the court shall appoint a public defender to represent the juvenile offender if the juvenile offender cannot afford an attorney.

