

1 A bill to be entitled
 2 An act relating to sentencing; amending s. 775.082,
 3 F.S.; prohibiting a sentencing court from crediting a
 4 defendant for the length of time he or she is
 5 determined to have malingered or feigned an illness;
 6 amending s. 921.161, F.S.; providing an exception to
 7 the requirement that a sentencing court allow a
 8 defendant credit for a specified time served;
 9 reenacting ss. 907.041(4)(j), 947.146(6), and
 10 947.16(2)(g), F.S., relating to pretrial detention and
 11 release, the Control Release Authority, and
 12 determining eligibility for parole interview and
 13 release, respectively, to incorporate the amendment
 14 made to s. 921.161, F.S., in references thereto;
 15 providing an effective date.

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 17 Be It Enacted by the Legislature of the State of Florida:

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 19 Section 1. Present subsection (11) of section 775.082,
 20 Florida Statutes, is renumbered as subsection (12), and a new
 21 subsection (11) is added to that section, to read:

22 775.082 Penalties; applicability of sentencing structures;
 23 mandatory minimum sentences for certain reoffenders previously
 24 released from prison.—

25 (11) If a psychologist or a psychiatrist determines that a

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26 | person who is under civil or criminal arrest and in the lawful
27 | custody of a law enforcement official or that a person who is
28 | committed to or detained in a municipal or county jail or state
29 | prison, prison farm, or penitentiary, or to the custody of the
30 | department, pursuant to lawful authority, is knowingly
31 | malingering or feigning an illness and a judge concurs with the
32 | psychologist's or psychiatrist's determination, the court may
33 | not allow such person credit for the length of time the person
34 | is determined to have malingered or feigned the illness.

35 | Section 2. Subsection (1) of section 921.161, Florida
36 | Statutes, is amended to read:

37 | 921.161 Sentence not to run until imposed; credit for
38 | county jail time after sentence; certificate of custodian of
39 | jail.—

40 | (1) A sentence of imprisonment shall not begin to run
41 | before the date it is imposed, but the court imposing a sentence
42 | shall allow a defendant credit for all of the time she or he
43 | spent in the county jail before sentence, except as provided in
44 | s. 775.082(11). The credit must be for a specified period of
45 | time and shall be provided for in the sentence.

46 | Section 3. For the purpose of incorporating the amendment
47 | made by this act to section 921.161, Florida Statutes, in a
48 | reference thereto, paragraph (j) of subsection (4) of section
49 | 907.041, Florida Statutes, is reenacted to read:

50 | 907.041 Pretrial detention and release.—

51 (4) PRETRIAL DETENTION.—

52 (j) A defendant convicted at trial following the issuance
53 of a pretrial detention order shall have credited to his or her
54 sentence, if imprisonment is imposed, the time the defendant was
55 held under the order, pursuant to s. 921.161.

56 Section 4. For the purpose of incorporating the amendment
57 made by this act to section 921.161, Florida Statutes, in a
58 reference thereto, subsection (6) of section 947.146, Florida
59 Statutes, is reenacted to read:

60 947.146 Control Release Authority.—

61 (6) For purpose of determining eligibility for control
62 release, the mandatory minimum portion of a concurrent sentence
63 will begin on the date the sentence begins to run as provided in
64 s. 921.161. The mandatory minimum portions of consecutive
65 sentences shall be served at the beginning of the maximum
66 sentence as established by the Department of Corrections. With
67 respect to offenders who have more than one sentence with a
68 mandatory minimum portion, each mandatory minimum portion of
69 consecutive sentences shall be served consecutively; provided,
70 that in no case shall a sentence begin to run before the date of
71 imposition of that sentence.

72 Section 5. For the purpose of incorporating the amendment
73 made by this act to section 921.161, Florida Statutes, in a
74 reference thereto, paragraph (g) of subsection (2) of section
75 947.16, Florida Statutes, is reenacted to read:

76 947.16 Eligibility for parole; initial parole interviews;
 77 powers and duties of commission.—

78 (2) The following special types of cases shall have their
 79 initial parole interview as follows:

80 (g) For purposes of determining eligibility for parole
 81 interview and release, the mandatory minimum portion of a
 82 concurrent sentence will begin on the date the sentence begins
 83 to run as provided in s. 921.161. The mandatory minimum portions
 84 of consecutive sentences shall be served at the beginning of the
 85 maximum sentence as established by the Department of
 86 Corrections. Each mandatory minimum portion of consecutive
 87 sentences shall be served consecutively; provided, that in no
 88 case shall a sentence begin to run before the date of
 89 imposition. The commission shall conduct an initial interview
 90 for an inmate serving a mandatory minimum sentence according to
 91 the following schedule:

92 1. An inmate serving a mandatory term of 7 years or less
 93 shall have an initial interview no sooner than 6 months prior to
 94 the expiration of the mandatory minimum portion of the sentence.

95 2. An inmate serving a mandatory term in excess of 7 years
 96 but of less than 15 years shall have an initial interview no
 97 sooner than 12 months prior to the expiration of the mandatory
 98 minimum portion of the sentence.

99 3. An inmate serving a mandatory term of 15 years or more
 100 shall have an initial interview no sooner than 18 months prior

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101 | to the expiration of the mandatory minimum portion of the
102 | sentence.

103 | Section 6. This act shall take effect July 1, 2017.