

By Representatives Crist, Ball, Futch, Arnall, Bainter,
Wiles, Valdes and Fuller

1 A bill to be entitled
2 An act relating to sentencing; amending s.
3 921.001, F.S.; authorizing the court to
4 sentence a defendant to a specified term of
5 incarceration if the defendant is convicted of
6 a felony committed on or after a certain date,
7 the defendant has previously been convicted of
8 a felony, and the sentence recommended under
9 the sentencing guidelines is not a state prison
10 sanction; providing that a determination of
11 guilt is a conviction for purposes of imposing
12 such sentence, regardless of whether
13 adjudication is withheld; providing that the
14 sentence may not be appealed except upon
15 grounds of illegality; providing an effective
16 date.

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

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20 Section 1. Subsection (5) of section 921.001, Florida
21 Statutes, is amended to read:

22 921.001 Sentencing Commission and sentencing
23 guidelines generally.--

24 (5)(a) Except as provided in paragraph (b),sentences
25 imposed by trial court judges under the 1994 revised
26 sentencing guidelines on or after January 1, 1994, must be
27 within the 1994 guidelines unless there is a departure
28 sentence with written findings. If a recommended sentence
29 under the guidelines exceeds the maximum sentence otherwise
30 authorized by s. 775.082, the sentence under the guidelines
31 must be imposed, absent a departure. If a departure sentence,

1 with written findings, is imposed, such sentence must be
2 within any relevant maximum sentence limitations provided in
3 s. 775.082. The failure of a trial court to impose a sentence
4 within the sentencing guidelines is subject to appellate
5 review pursuant to chapter 924. However, the extent of a
6 departure from a guidelines sentence is not subject to
7 appellate review.

8 (b) If a defendant is convicted of a felony committed
9 on or after July 1, 1997, has prior to that conviction been
10 convicted of a felony, and has a recommended sentence under
11 the guidelines which is not a state prison sanction, the court
12 may sentence the defendant to a term of incarceration not to
13 exceed 22 months. As used in this paragraph, the term
14 "convicted" means a determination of guilt which is the result
15 of a plea or a trial, regardless of whether adjudication is
16 withheld. A sentence imposed under this paragraph is not
17 subject to appeal by the defendant, except as provided in s.
18 924.06(1)(d).

19 Section 2. This act shall take effect July 1, 1997.

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22 SENATE SUMMARY

23 Provides that with respect to a defendant convicted of a
24 felony committed on or after July 1, 1997, if the
25 defendant has previously been convicted of a felony and
26 the recommended sentence under the sentencing guidelines
27 is not a state prison sanction, the court may impose a
28 sentence of not more than 22 months' incarceration.
29 Provides that for purposes of imposing such sentence, a
30 conviction includes any determination of guilt,
31 regardless of whether adjudication is withheld. Provides
that the sentence may be appealed only upon the ground
that it is an illegal sentence.