

By the Committee on Criminal Justice

307-622B-98

1 A bill to be entitled
2 An act relating to sentencing; amending s. 2,
3 ch. 97-194, Laws of Florida; clarifying that
4 the Criminal Punishment Code does not apply to
5 capital felonies; amending s. 921.002, F.S.;
6 revising the principles embodied by the
7 Criminal Punishment Code; requiring that the
8 Department of Corrections make certain
9 estimates with respect to the prison population
10 and submit funding recommendations to the
11 Legislature; requiring the department to
12 project the impact of proposed changes to the
13 Criminal Punishment Code; amending s. 921.0021,
14 F.S.; clarifying application of the code;
15 amending s. 921.0022, F.S.; providing for
16 ranking certain offenses under the severity
17 ranking chart of the code; specifying the
18 ranking of additional offenses; amending s.
19 921.0023, F.S., relating to the ranking of
20 unlisted offenses; deleting duplicative
21 provisions; amending s. 921.0024, F.S.;
22 revising the arrangement of the sentencing
23 scoresheet; providing that domestic violence be
24 included as a multiplier on the offense score
25 of the Criminal Punishment Code; providing for
26 calculating the total sentence points and the
27 lowest permissible sentence; clarifying the
28 calculation of points for a prior capital
29 felony; revising requirements for preparing
30 scoresheets for a defendant sentenced under the
31 code; requiring that the Department of

1 Corrections revise the scoresheet annually;
2 authorizing the department to collect and
3 evaluate data from the judicial circuits;
4 creating s. 921.0025, F.S.; providing for the
5 adoption and implementation of sentencing
6 scoresheets; amending s. 921.0026, F.S.;
7 prohibiting the court from imposing a sentence
8 below the lowest permissible sentence unless
9 there are mitigating circumstances; providing
10 that the court may not consider the defendant's
11 diminished capacity due to the influence of
12 alcohol or controlled substances as
13 justification for departing from the
14 permissible sentence; creating s. 921.00265,
15 F.S.; requiring that the court delineate its
16 reasons if the court decreases a defendant's
17 sentence below the lowest permissible sentence;
18 amending s. 775.082, F.S.; providing for the
19 applicability of sentencing structures, based
20 on the date of the offense; amending s.
21 775.084, F.S.; providing for community control
22 without an adjudication of guilt to be
23 considered a prior conviction under certain
24 circumstances for purposes of sentencing;
25 requiring that the court report to the
26 Department of Corrections when the court finds
27 it unnecessary to sentence a given defendant as
28 a habitual felony offender, a habitual violent
29 felony offender, or a violent career criminal;
30 amending s. 782.051, F.S.; revising the
31 elements of the offense of committing a felony

1 that causes bodily injury to provide that if a
2 person who perpetrates or attempts to
3 perpetrate certain enumerated felony offenses
4 and who commits, aids, or abets an intentional
5 act that could, but does not, cause the death
6 of another, the person commits a first-degree
7 felony; providing for ranking such offense
8 under the Criminal Punishment Code based on the
9 felony offense committed; amending s. 924.06,
10 F.S.; providing for an appeal of a sentence
11 that exceeds the maximum sentence under s.
12 775.082, F.S.; amending s. 924.07, F.S.;
13 authorizing the state to appeal a sentence
14 imposed below the lowest sentence permitted
15 under the Criminal Punishment Code; amending s.
16 944.17, F.S.; revising requirements for the
17 sheriff or chief correctional officer in
18 preparing scoresheets for a prisoner who is
19 transferred to the state correctional system;
20 creating s. 944.70, F.S.; specifying the
21 conditions under which persons convicted of
22 crimes may be released from incarceration;
23 amending s. 944.705, F.S., relating to the
24 release orientation program; conforming
25 cross-references to changes made by the act;
26 amending s. 948.015, F.S.; revising
27 requirements for the presentence investigation
28 report for certain defendants; amending s.
29 948.034, F.S., relating to probation for
30 certain persons convicted of drug-related
31 offenses; conforming cross-references;

1 conforming provisions to reflect the
2 reorganization of the Department of Health and
3 Rehabilitative Services; amending s. 948.51,
4 F.S., relating to community corrections
5 assistance; conforming a cross-reference;
6 conforming a reference to sentencing scores to
7 reflect changes in sentencing requirements;
8 amending s. 958.04, F.S., relating to judicial
9 disposition of youthful offenders; providing
10 for a sentence imposed outside of the code to
11 be appealed; providing an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Section 2 of chapter 97-194, Laws of
16 Florida, is amended to read:

17 Section 2. The Florida Criminal Punishment Code,
18 consisting of sections 921.002-921.0026, Florida Statutes, is
19 established effective October 1, 1998, and applies to any
20 felony committed on or after that date, excluding any capital
21 felony.

22 Section 2. Section 921.002, Florida Statutes, as
23 created by section 3 of chapter 97-194, Laws of Florida, is
24 amended to read:

25 921.002 The Criminal Punishment Code.--The Criminal
26 Punishment Code shall apply to all felony offenses, except
27 capital felonies, committed on or after October 1, 1998.

28 (1) The provision of criminal penalties and of
29 limitations upon the application of such penalties is a matter
30 of predominantly substantive law and, as such, is a matter
31 properly addressed by the Legislature. The Legislature, in

1 the exercise of its authority and responsibility to establish
2 sentencing criteria, to provide for the imposition of criminal
3 penalties, and to make the best use of state prisons so that
4 violent criminal offenders are appropriately incarcerated, has
5 determined that it is in the best interest of the state to
6 develop, implement, and revise a sentencing policy. The
7 Criminal Punishment Code embodies the principles that:

8 (a) Sentencing is neutral with respect to race,
9 gender, and social and economic status.

10 (b) The primary purpose of sentencing is to punish the
11 offender. Rehabilitation is a desired goal of the criminal
12 justice system but is subordinate to the goal of punishment.

13 (c) The penalty imposed is commensurate with the
14 severity of the primary offense and the circumstances
15 surrounding the primary offense.

16 (d) The severity of the sentence increases with the
17 length and nature of the offender's prior record.

18 (e) The sentence imposed by the sentencing judge
19 reflects the length of actual time to be served, shortened
20 only by the application of incentive and meritorious gain-time
21 as provided by law, and may not be shortened if the defendant
22 would consequently serve less than 85 percent of his or her
23 term of imprisonment. The provisions of chapter 947, relating
24 to parole, shall not apply to persons sentenced under the
25 Criminal Punishment Code.

26 (f) Departures below the lowest permissible sentence
27 ~~sentencing range~~ established by ~~in~~ the code must be
28 articulated in writing by the trial court judge and made only
29 when circumstances or factors reasonably justify the
30 ~~aggravation or~~ mitigation of the sentence. The level of proof
31 necessary to establish facts that support a departure from the

1 lowest permissible sentence ~~sentencing range~~ is a
2 preponderance of the evidence.

3 (g) The trial court judge may impose a sentence up to
4 and including the statutory maximum for any offense, including
5 an offense that is before the court due to a violation of
6 probation or community control.

7 (h) A sentence may be appealed on the basis that it
8 departs from the Criminal Punishment Code only if the sentence
9 is below the lowest permissible sentence or as enumerated in
10 s. 924.06(1)~~sentencing range~~.

11 (i) Use of incarcerative sanctions is prioritized
12 toward offenders convicted of serious offenses and certain
13 offenders who have long prior records, in order to maximize
14 the finite capacities of state and local correctional
15 facilities.

16 (2) When a defendant is before the court for
17 sentencing for more than one felony and the felonies were
18 committed under more than one version or revision of the
19 former sentencing guidelines or the code, each felony shall be
20 sentenced under the guidelines or the code in effect at the
21 time the particular felony was committed. This subsection
22 does not apply to sentencing for any capital felony.

23 (3) A court may impose a departure below the lowest
24 permissible sentence ~~sentencing range~~ based upon circumstances
25 or factors that reasonably justify the mitigation of the
26 sentence in accordance with s. 921.0026. The level of proof
27 necessary to establish facts supporting the mitigation of a
28 sentence is a preponderance of the evidence. When multiple
29 reasons exist to support the mitigation, the mitigation shall
30 be upheld when at least one circumstance or factor justifies
31 the mitigation regardless of the presence of other

1 | circumstances or factors found not to justify mitigation. Any
2 | sentence imposed below the lowest permissible sentence
3 | ~~sentencing range~~ must be explained in writing by the trial
4 | court judge.

5 | (4)(a) The Department of Corrections shall estimate
6 | how sentencing score thresholds, trends in sentencing
7 | practices, and weights assigned to the sentencing factors
8 | considered by the court will affect the rates of incarceration
9 | and the levels of prison population, and shall submit to the
10 | Legislature, by October 1 of each year, a recommended
11 | appropriation for state correctional resources which is
12 | sufficient to fund the estimated prison population.

13 | (b) The Department of Corrections, with the aid of the
14 | office of the State Courts Administrator and the Parole
15 | Commission, shall estimate the impact of any proposed change
16 | to the Criminal Punishment Code on future rates of
17 | incarceration and on the prison population. The department
18 | shall base its projections on historical data concerning
19 | sentencing practices which have been accumulated by the Office
20 | of the State Courts Administrator and on records of the
21 | Department of Corrections which reflect the average time
22 | served for offenses covered by the proposed change to the
23 | Criminal Punishment Code. The department shall make its
24 | projections available to other appropriate state agencies,
25 | including the Legislature, by October 1 of each year.

26 | Section 3. Section 921.0021, Florida Statutes, as
27 | created by section 4 of chapter 97-194, Laws of Florida, is
28 | amended to read:

29 | 921.0021 Definitions.--As used in this chapter, for
30 | any felony offense, except any capital felony, committed on or
31 | after October 1, 1998, the term:

1 (1) "Additional offense" means any offense other than
2 the primary offense for which an offender is convicted and
3 which is pending before the court for sentencing at the time
4 of the primary offense.

5 (2) "Conviction" means a determination of guilt that
6 is the result of a plea or a trial, regardless of whether
7 adjudication is withheld.

8 (3) "Legal status" means an offender's status if the
9 offender:

10 (a) Escapes from incarceration;

11 (b) Flees to avoid prosecution;

12 (c) Fails to appear for a criminal proceeding;

13 (d) Violates any condition of a supersedeas bond;

14 (e) Is incarcerated;

15 (f) Is under any form of a pretrial intervention or
16 diversion program; or

17 (g) Is under any form of court-imposed or postprison
18 release community supervision.

19 (4) "Primary offense" means the offense at conviction
20 pending before the court for sentencing for which the total
21 sentence points recommend a sanction that is as severe as, or
22 more severe than, the sanction recommended for any other
23 offense committed by the offender and pending before the court
24 at sentencing. Only one count of one offense before the court
25 for sentencing shall be classified as the primary offense.

26 (5) "Prior record" means a conviction for a crime
27 committed by the offender, as an adult or a juvenile, prior to
28 the time of the primary offense. Convictions by federal,
29 out-of-state, military, or foreign courts, and convictions for
30 violations of county or municipal ordinances that incorporate
31 by reference a penalty under state law, are included in the

1 offender's prior record. Convictions for offenses committed
2 by the offender more than 10 years before the primary offense
3 are not included in the offender's prior record if the
4 offender has not been convicted of any other crime for a
5 period of 10 consecutive years from the most recent date of
6 release from confinement, supervision, or sanction, whichever
7 is later, to the date of the primary offense. Juvenile
8 dispositions of offenses committed by the offender within 3
9 years before the primary offense are included in the
10 offender's prior record when the offense would have been a
11 crime had the offender been an adult rather than a juvenile.
12 Juvenile dispositions of sexual offenses committed by the
13 offender which were committed 3 years or more before the
14 primary offense are included in the offender's prior record if
15 the offender has not maintained a conviction-free record,
16 either as an adult or a juvenile, for a period of 3
17 consecutive years from the most recent date of release from
18 confinement, supervision, or sanction, whichever is later, to
19 the date of the primary offense.

20 (6) "Community sanction" includes:

21 (a) Probation.

22 (b) Community control.

23 (c) Pretrial intervention or diversion.

24 (7)(a) "Victim injury" means the physical injury or
25 death suffered by a person as a direct result of the primary
26 offense, or any additional offense, for which an offender is
27 convicted and which is pending before the court for sentencing
28 at the time of the primary offense.

29 (b) Except as provided in paragraph (c) or paragraph

30 (d),

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1 1. If the conviction is for an offense involving
2 sexual contact that includes sexual penetration, the sexual
3 penetration must be scored in accordance with the sentence
4 points provided under s. 921.0024 for sexual penetration,
5 regardless of whether there is evidence of any physical
6 injury.

7 2. If the conviction is for an offense involving
8 sexual contact that does not include sexual penetration, the
9 sexual contact must be scored in accordance with the sentence
10 points provided under s. 921.0024 for sexual contact,
11 regardless of whether there is evidence of any physical
12 injury.

13
14 If the victim of an offense involving sexual contact suffers
15 any physical injury as a direct result of the primary offense
16 or any additional offense committed by the offender resulting
17 in conviction, such physical injury must be scored separately
18 and in addition to the points scored for the sexual contact or
19 the sexual penetration.

20 (c) The sentence points provided under s. 921.0024 for
21 sexual contact or sexual penetration may not be assessed for a
22 violation of s. 944.35(3)(b)2.

23 (d) If the conviction is for the offense described in
24 s. 872.06, the sentence points provided under s. 921.0024 for
25 sexual contact or sexual penetration may not be assessed.

26 Section 4. Section 921.0022, Florida Statutes, as
27 created by section 5 of chapter 97-194, Laws of Florida, is
28 amended to read:

29 291.0022 Criminal Punishment Code; offense severity
30 ranking chart.--

31

1 (1) The offense severity ranking chart must be used
2 with the Criminal Punishment Code worksheet to compute a
3 sentence score for each felony offender whose offense was
4 committed on or after October 1, 1998.

5 (2) The offense severity ranking chart has 10 offense
6 levels, ranked from least severe, which are level 1 offenses,
7 to most severe, which are level 10 offenses, and each felony
8 offense is assigned to a level according to the severity of
9 the offense. For purposes of determining which felony offenses
10 are specifically listed in the offense severity ranking chart
11 and which severity level has been assigned to each of these
12 offenses, the numerical statutory references in the left
13 column of the chart and the felony degree designations in the
14 middle column of the chart are controlling; the language in
15 the right column of the chart is provided solely for
16 descriptive purposes. Reclassification of the degree of the
17 felony through the application of s. 775.0845, s. 775.087, s.
18 775.0875, ~~or~~ s. 794.023, or any other law that provides an
19 enhanced penalty for a felony offense, to any offense listed
20 in the offense severity ranking chart in this section shall
21 not cause the offense to become unlisted and is not subject to
22 the provisions of s. 921.0023.

23 (3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
		(a) LEVEL 1
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.

1	212.054(2)(b)	3rd	Discretionary sales surtax;
2			limitations, administration, and
3			collection.
4	212.15(2)(b)	3rd	Failure to remit sales taxes,
5			amount greater than \$300 but less
6			than \$20,000.
7	319.30(5)	3rd	Sell, exchange, give away
8			certificate of title or
9			identification number plate.
10	319.35(1)(a)	3rd	Tamper, adjust, change, etc., an
11			odometer.
12	320.26(1)(a)	3rd	Counterfeit, manufacture, or sell
13			registration license plates or
14			validation stickers.
15	322.212(1)	3rd	Possession of forged, stolen,
16			counterfeit, or unlawfully issued
17			driver's license; <u>possession of</u>
18			<u>simulated identification.</u>
19	322.212(4)	3rd	Supply or aid in supplying
20			unauthorized driver's license <u>or</u>
21			<u>identification card.</u>
22	322.212(5)(a)	3rd	False application for driver's
23			license <u>or identification card.</u>
24	370.13(4)(a)	3rd	Molest any stone crab trap, line,
25			or buoy which is property of
26			licenseholder.
27	370.135(1)	3rd	Molest any blue crab trap, line,
28			or buoy which is property of
29			licenseholder.
30	372.663(1)	3rd	Poach any alligator or
31			crocodilia.

1	414.39(2)	3rd	Unauthorized use, possession,
2			forgery, or alteration of food
3			stamps, Medicaid ID, value
4			greater than \$200.
5	414.39(3)(a)	3rd	Fraudulent misappropriation of
6			public assistance funds by
7			employee/official, value more
8			than \$200.
9	443.071(1)	3rd	False statement or representation
10			to obtain or increase
11			unemployment compensation
12			benefits.
13	458.327(1)(a)	3rd	Unlicensed practice of medicine.
14	466.026(1)(a)	3rd	Unlicensed practice of dentistry
15			or dental hygiene.
16	509.151(1)	3rd	Defraud an innkeeper, food or
17			lodging value greater than \$300.
18	517.302(1)	3rd	Violation of the Florida
19			Securities and Investor
20			Protection Act.
21	562.27(1)	3rd	Possess still or still apparatus.
22	713.69	3rd	Tenant removes property upon
23			which lien has accrued, value
24			more than \$50.
25	812.014(3)(c)	3rd	Petit theft (3rd conviction);
26			theft of any property not
27			specified in subsection (2).
28	812.081(2)	3rd	Unlawfully makes or causes to be
29			made a reproduction of a trade
30			secret.
31			

1	815.04(4)(a)	3rd	Offense against intellectual
2			property (i.e., computer
3			programs, data).
4	817.52(2)	3rd	Hiring with intent to defraud,
5			motor vehicle services.
6	826.01	3rd	Bigamy.
7	828.122(3)	3rd	Fighting or baiting animals.
8	831.04(1)	3rd	Any erasure, alteration, etc., of
9			any replacement deed, map, plat,
10			or other document listed in s.
11			92.28.
12	831.31(1)(a)	3rd	Sell, deliver, or possess
13			counterfeit controlled
14			substances, all but s. 893.03(5)
15			drugs.
16	832.041(1)	3rd	Stopping payment with intent to
17			defraud \$150 or more.
18	832.05		
19	(2)(b)&(4)(c)	3rd	Knowing, making, issuing
20			worthless checks \$150 or more or
21			obtaining property in return for
22			worthless check \$150 or more.
23	838.015(3)	3rd	Bribery.
24	838.016(1)	3rd	Public servant receiving unlawful
25			compensation.
26	838.15(2)	3rd	Commercial bribe receiving.
27	838.16	3rd	Commercial bribery.
28	843.18	3rd	Fleeing by boat to elude a law
29			enforcement officer.
30			
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1	847.011(1)(a)	3rd	Sell, distribute, etc., obscene,
2			lewd, etc., material (2nd
3			conviction).
4	849.01	3rd	Keeping gambling house.
5	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc.,
6			or assist therein, conduct or
7			advertise drawing for prizes, or
8			dispose of property or money by
9			means of lottery.
10	849.23	3rd	Gambling-related machines;
11			"common offender" as to property
12			rights.
13	849.25(2)	3rd	Engaging in bookmaking.
14	860.08	3rd	Interfere with a railroad signal.
15	860.13(1)(a)	3rd	Operate aircraft while under the
16			influence.
17	893.13(2)(a)2.	3rd	Purchase of cannabis.
18	893.13(6)(a)	3rd	Possession of cannabis (more than
19			20 grams).
20	893.13(7)(a)10.	3rd	Affix false or forged label to
21			package of controlled substance.
22	934.03(1)(a)	3rd	Intercepts, or procures any other
23			person to intercept, any wire or
24			oral communication.
25			(b) LEVEL 2
26	403.413(5)(c)	3rd	Dumps waste litter exceeding 500
27			lbs. in weight or 100 cubic feet
28			in volume or any quantity for
29			commercial purposes, or hazardous
30			waste.
31			

1	517.07	3rd	Registration of securities and
2			furnishing of prospectus
3			required.
4	590.28(1)	3rd	Willful, malicious, or
5			intentional burning.
6	784.05(3)	3rd	Storing or leaving a loaded
7			firearm within reach of minor who
8			uses it to inflict injury or
9			death.
10	787.04(1)	3rd	In violation of court order,
11			take, entice, etc., minor beyond
12			state limits.
13	806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000
14			or more to public communication
15			or any other public service.
16	810.09(2)(e)	3rd	Trespassing on posted commercial
17			horticulture property.
18	812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or
19			more but less than \$5,000.
20	812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or
21			more but less than \$300, taken
22			from unenclosed curtilage of
23			dwelling.
24	817.234(1)(a)2.	3rd	False statement in support of
25			insurance claim.
26	817.481(3)(a)	3rd	Obtain credit or purchase with
27			false, expired, counterfeit,
28			etc., credit card, value over
29			\$300.
30	817.52(3)	3rd	Failure to redeliver hired
31			vehicle.

1	817.54	3rd	With intent to defraud, obtain
2			mortgage note, etc., by false
3			representation.
4	817.60(5)	3rd	Dealing in credit cards of
5			another.
6	817.60(6)(a)	3rd	Forgery; purchase goods, services
7			with false card.
8	817.61	3rd	Fraudulent use of credit cards
9			over \$100 or more within 6
10			months.
11	826.04	3rd	Knowingly marries or has sexual
12			intercourse with person to whom
13			related.
14	831.01	3rd	Forgery.
15	831.02	3rd	Uttering forged instrument;
16			utters or publishes alteration
17			with intent to defraud.
18	831.07	3rd	Forging bank bills or promissory
19			note.
20	831.08	3rd	Possession of 10 or more forged
21			notes.
22	831.09	3rd	Uttering forged bills; passes as
23			bank bill or promissory note.
24	832.05(3)(a)	3rd	Cashing or depositing item with
25			intent to defraud.
26	843.08	3rd	Falsely impersonating an officer.
27	893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c),
28			(2)(c), (3), or (4) drugs other
29			than cannabis.
30	893.147(2)	3rd	Manufacture or delivery of drug
31			paraphernalia.

1			(c) LEVEL 3
2	39.061	3rd	Escapes from juvenile facility
3			(secure detention or residential
4			commitment facility).
5	319.30(4)	3rd	Possession by junkyard of motor
6			vehicle with identification
7			number plate removed.
8	319.33(1)(a)	3rd	Alter or forge any certificate of
9			title to a motor vehicle or
10			mobile home.
11	319.33(1)(c)	3rd	Procure or pass title on stolen
12			vehicle.
13	319.33(4)	3rd	With intent to defraud, possess,
14			sell, etc., a blank, forged, or
15			unlawfully obtained title or
16			registration.
17	328.05(2)	3rd	Possess, sell, or counterfeit
18			fictitious, stolen, or fraudulent
19			titles or bills of sale of
20			vessels.
21	328.07(4)	3rd	Manufacture, exchange, or possess
22			vessel with counterfeit or wrong
23			ID number.
24	376.302(5)	3rd	Fraud related to reimbursement
25			for cleanup expenses under the
26			Inland Protection Trust Fund.
27	501.001(2)(b)	2nd	Tampers with a consumer product
28			or the container using materially
29			false/misleading information.
30	697.08	3rd	Equity skimming.
31			

1	790.15(3)	3rd	Person directs another to
2			discharge firearm from a vehicle.
3	796.05(1)	3rd	Live on earnings of a prostitute.
4	806.10(1)	3rd	Maliciously injure, destroy, or
5			interfere with vehicles or
6			equipment used in firefighting.
7	806.10(2)	3rd	Interferes with or assaults
8			firefighter in performance of
9			duty.
10	810.09(2)(c)	3rd	Trespass on property other than
11			structure or conveyance armed
12			with firearm or dangerous weapon.
13	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
14			less than \$10,000.
15	815.04(4)(b)	2nd	Computer offense devised to
16			defraud or obtain property.
17	817.034(4)(a)3.	3rd	Engages in scheme to defraud
18			(Florida Communications Fraud
19			Act), property valued at less
20			than \$20,000.
21	817.233	3rd	Burning to defraud insurer.
22	828.12(2)	3rd	Tortures any animal with intent
23			to inflict intense pain, serious
24			physical injury, or death.
25	831.29	2nd	Possession of instruments for
26			counterfeiting drivers' licenses
27			<u>or identification cards.</u>
28	838.021(3)(b)	3rd	Threatens unlawful harm to public
29			servant.
30	843.19	3rd	Injure, disable, or kill police
31			dog or horse.

1	870.01(2)	3rd	Riot; inciting or encouraging.
2	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
3			cannabis (or other s.
4			893.03(1)(c), (2)(c), (3), or (4)
5			drugs).
6	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
7			893.03(1)(c), (2)(c), (3), or (4)
8			drugs within 200 feet of
9			university, public housing
10			facility, or public park.
11	893.13(6)(a)	3rd	Possession of any controlled
12			substance other than felony
13			possession of cannabis.
14	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
15			controlled substance by fraud,
16			forgery, misrepresentation, etc.
17	893.13(7)(a)11.	3rd	Furnish false or fraudulent
18			material information on any
19			document or record required by
20			chapter 893.
21	918.13(1)(a)	3rd	Alter, destroy, or conceal
22			investigation evidence.
23	<u>944.401</u>	<u>3rd</u>	<u>Escapes from a juvenile facility</u>
24			<u>(secure detention or residential</u>
25			<u>commitment facility).</u>
26	944.47		
27	(1)(a)1.-2.	3rd	Introduce contraband to
28			correctional facility.
29	944.47(1)(c)	2nd	Possess contraband while upon the
30			grounds of a correctional
31			institution.

1			(d) LEVEL 4
2	316.1935(2)	3rd	Fleeing or attempting to elude
3			law enforcement officer resulting
4			in high-speed pursuit.
5	784.07(2)(b)	3rd	Battery of law enforcement
6			officer, firefighter, intake
7			officer, etc.
8	784.075	3rd	Battery on detention or
9			commitment facility staff.
10	784.08(2)(c)	3rd	Battery on a person 65 years of
11			age or older.
12	784.081(3)	3rd	Battery on specified official or
13			employee.
14	784.082(3)	3rd	Battery by detained person on
15			visitor or other detainee.
16	787.03(1)	3rd	Interference with custody;
17			wrongly takes child from
18			appointed guardian.
19	787.04(2)	3rd	Take, entice, or remove child
20			beyond state limits with criminal
21			intent pending custody
22			proceedings.
23	787.04(3)	3rd	Carrying child beyond state lines
24			with criminal intent to avoid
25			producing child at custody
26			hearing or delivering to
27			designated person.
28	790.115(1)	3rd	Exhibiting firearm or weapon
29			within 1,000 feet of a school.
30			
31			

1	790.115(2)(b)	3rd	Possessing electric weapon or
2			device, destructive device, or
3			other weapon on school property.
4	790.115(2)(c)	3rd	Possessing firearm on school
5			property.
6	810.02(4)(a)	3rd	Burglary, or attempted burglary,
7			of an unoccupied structure;
8			unarmed; no assault or battery.
9	810.02(4)(b)	3rd	Burglary, or attempted burglary,
10			of an unoccupied conveyance;
11			unarmed; no assault or battery.
12	810.06	3rd	Burglary; possession of tools.
13	810.08(2)(c)	3rd	Trespass on property, armed with
14			firearm or dangerous weapon.
15	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000
16			or more but less than \$20,000.
17	812.014		
18	(2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will,
19			firearm, motor vehicle,
20			livestock, etc.
21	817.563(1)	3rd	Sell or deliver substance other
22			than controlled substance agreed
23			upon, excluding s. 893.03(5)
24			drugs.
25	828.125(1)	2nd	Kill, maim, or cause great bodily
26			harm or permanent breeding
27			disability to any registered
28			horse or cattle.
29	837.02(1)	3rd	Perjury in official proceedings.
30	837.021(1)	3rd	Make contradictory statements in
31			official proceedings.

1	843.025	3rd	Deprive law enforcement,
2			correctional, or correctional
3			probation officer of means of
4			protection or communication.
5	843.15(1)(a)	3rd	Failure to appear while on bail
6			for felony (bond estreatment or
7			bond jumping).
8	874.05(1)	3rd	Encouraging or recruiting another
9			to join a criminal street gang.
10	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s.
11			893.03(1)(a), (b), or (d), or
12			(2)(a) or (b) drugs).
13	914.14(2)	3rd	Witnesses accepting bribes.
14	914.22(1)	3rd	Force, threaten, etc., witness,
15			victim, or informant.
16	914.23(2)	3rd	Retaliation against a witness,
17			victim, or informant, no bodily
18			injury.
19	918.12	3rd	Tampering with jurors.
20			(e) LEVEL 5
21	316.027(1)(a)	3rd	Accidents involving personal
22			injuries, failure to stop;
23			leaving scene.
24	316.1935(3)	3rd	Aggravated fleeing or eluding.
25	322.34(3)	3rd	Careless operation of motor
26			vehicle with suspended license,
27			resulting in death or serious
28			bodily injury.
29	327.30(5)	3rd	Vessel accidents involving
30			personal injury; leaving scene.
31			

1	381.0041(11)(b)	3rd	Donate blood, plasma, or organs
2			knowing HIV positive.
3	790.01(2)	3rd	Carrying a concealed firearm.
4	790.162	2nd	Threat to throw or discharge
5			destructive device.
6	790.163	2nd	False report of deadly explosive.
7	790.165(2)	3rd	Manufacture, sell, possess, or
8			deliver hoax bomb.
9	790.221(1)	2nd	Possession of short-barreled
10			shotgun or machine gun.
11	790.23	2nd	Felons in possession of firearms
12			or electronic weapons or devices.
13	806.111(1)	3rd	Possess, manufacture, or dispense
14			fire bomb with intent to damage
15			any structure or property.
16	812.019(1)	2nd	Stolen property; dealing in or
17			trafficking in.
18	812.16(2)	3rd	Owning, operating, or conducting
19			a chop shop.
20	817.034(4)(a)2.	2nd	Communications fraud, value
21			\$20,000 to \$50,000.
22	825.1025(4)	3rd	Lewd or lascivious exhibition in
23			the presence of an elderly person
24			or disabled adult.
25	827.071(4)	2nd	Possess with intent to promote
26			any photographic material, motion
27			picture, etc., which includes
28			sexual conduct by a child.
29	843.01	3rd	Resist officer with violence to
30			person; resist arrest with
31			violence.

1	874.05(2)	2nd	Encouraging or recruiting another
2			to join a criminal street gang;
3			second or subsequent offense.
4	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
5			cocaine (or other s.
6			893.03(1)(a), (1)(b), (1)(d),
7			(2)(a), or (2)(b) drugs).
8	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
9			cannabis (or other s.
10			893.03(1)(c), (2)(c), (3), or (4)
11			drugs) within 1,000 feet of a
12			<u>child care facility or school.</u>
13	893.13(1)(d)1.	1st	Sell, manufacture, or deliver
14			cocaine (or other s.
15			893.03(1)(a), (1)(b), (1)(d),
16			(2)(a), or (2)(b) drugs) within
17			200 feet of university, public
18			housing facility, or public park.
19	<u>893.13(1)(e)</u>	<u>2nd</u>	<u>Sell, manufacture, or deliver</u>
20			<u>cannabis or other drug prohibited</u>
21			<u>under s. 893.03(1)(c), (2)(c),</u>
22			<u>(3), or (4) within 1,000 feet of</u>
23			<u>property used for religious</u>
24			<u>services or a specified business</u>
25			<u>site.</u>
26	893.13(4)(b)	2nd	Deliver to minor cannabis (or
27			other s. 893.03(1)(c), (2)(c),
28			(3), or (4) drugs).
29			(f) LEVEL 6
30	316.027(1)(b)	2nd	Accident involving death, failure
31			to stop; leaving scene.

1	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent
2			conviction.
3	775.0875(1)	3rd	Taking firearm from law
4			enforcement officer.
5	<u>775.21(9)</u>	<u>3rd</u>	<u>Sexual predators; failure to</u>
6			<u>register; failure to renew</u>
7			<u>driver's license or</u>
8			<u>identification card.</u>
9	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
10			without intent to kill.
11	784.021(1)(b)	3rd	Aggravated assault; intent to
12			commit felony.
13	<u>784.041</u>	<u>3rd</u>	<u>Felony battery.</u>
14	784.048(3)	3rd	Aggravated stalking; credible
15			threat.
16	<u>784.048(5)</u>	<u>3rd</u>	<u>Aggravated stalking of person</u>
17			<u>under 16.</u>
18	784.07(2)(c)	2nd	Aggravated assault on law
19			enforcement officer.
20	784.08(2)(b)	2nd	Aggravated assault on a person 65
21			years of age or older.
22	784.081(2)	2nd	Aggravated assault on specified
23			official or employee.
24	784.082(2)	2nd	Aggravated assault by detained
25			person on visitor or other
26			detainee.
27	787.02(2)	3rd	False imprisonment; restraining
28			with purpose other than those in
29			s. 787.01.
30	790.115(2)(d)	2nd	Discharging firearm or weapon on
31			school property.

1	790.161(2)	2nd	Make, possess, or throw
2			destructive device with intent to
3			do bodily harm or damage
4			property.
5	790.164(1)	2nd	False report of deadly explosive
6			or act of arson or violence to
7			state property.
8	790.19	2nd	Shooting or throwing deadly
9			missiles into dwellings, vessels,
10			or vehicles.
11	794.011(8)(a)	3rd	Solicitation of minor to
12			participate in sexual activity by
13			custodial adult.
14	794.05(1)	2nd	Unlawful sexual activity with
15			specified minor.
16	806.031(2)	2nd	Arson resulting in great bodily
17			harm to firefighter or any other
18			person.
19	810.02(3)(c)	2nd	Burglary of occupied structure;
20			unarmed; no assault or battery.
21	812.014(2)(b)	2nd	Property stolen \$20,000 or more,
22			but less than \$100,000, grand
23			theft in 2nd degree.
24	812.13(2)(c)	2nd	Robbery, no firearm or other
25			weapon (strong-arm robbery).
26	817.034(4)(a)1.	1st	Communications fraud, value
27			greater than \$50,000.
28	817.4821(5)	2nd	Possess cloning paraphernalia
29			with intent to create cloned
30			cellular telephones.
31			

1	825.102(1)	3rd	Abuse of an elderly person or
2			disabled adult.
3	825.102(3)(c)	3rd	Neglect of an elderly person or
4			disabled adult.
5	825.1025(3)	3rd	Lewd or lascivious molestation of
6			an elderly person or disabled
7			adult.
8	825.103(2)(c)	3rd	Exploiting an elderly person or
9			disabled adult and property is
10			valued at \$100 or more, but less
11			than \$20,000.
12	827.03(1)	3rd	Abuse of a child.
13	827.03(3)(c)	3rd	Neglect of a child.
14	827.071(2)&(3)	2nd	Use or induce a child in a sexual
15			performance, or promote or direct
16			such performance.
17	836.05	2nd	Threats; extortion.
18	836.10	2nd	Written threats to kill or do
19			bodily injury.
20	843.12	3rd	Aids or assists person to escape.
21	914.23	2nd	Retaliation against a witness,
22			victim, or informant, with bodily
23			injury.
24	<u>943.0435(6)</u>	<u>3rd</u>	<u>Sex offenders; failure to comply</u>
25			<u>with reporting requirements.</u>
26	944.35(3)(a)2.	3rd	Committing malicious battery upon
27			or inflicting cruel or inhuman
28			treatment on an inmate or
29			offender on community
30			supervision, resulting in great
31			bodily harm.

1	944.40	2nd	Escapes.
2	944.46	3rd	Harboring, concealing, aiding
3			escaped prisoners.
4	944.47(1)(a)5.	2nd	Introduction of contraband
5			(firearm, weapon, or explosive)
6			into correctional facility.
7	951.22(1)	3rd	Intoxicating drug, firearm, or
8			weapon introduced into county
9			facility.
10			(g) LEVEL 7
11	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
12			injury.
13	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
14			bodily injury.
15	409.920(2)	3rd	Medicaid provider fraud.
16	494.0018(2)	1st	Conviction of any violation of
17			ss. 494.001-494.0077 in which the
18			total money and property
19			unlawfully obtained exceeded
20			\$50,000 and there were five or
21			more victims.
22	<u>782.051(3)</u>	<u>2nd</u>	<u>Attempted felony murder of a</u>
23			<u>person by a person other than the</u>
24			<u>perpetrator or the perpetrator of</u>
25			<u>an attempted felony.</u>
26	782.07(1)	2nd	Killing of a human being by the
27			act, procurement, or culpable
28			negligence of another
29			(manslaughter).
30			
31			

1	782.071	3rd	Killing of human being by the
2			operation of a motor vehicle in a
3			reckless manner (vehicular
4			homicide).
5	782.072	3rd	Killing of a human being by the
6			operation of a vessel in a
7			reckless manner (vessel
8			homicide).
9	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
10			causing great bodily harm or
11			disfigurement.
12	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
13			weapon.
14	784.045(1)(b)	2nd	Aggravated battery; perpetrator
15			aware victim pregnant.
16	784.048(4)	3rd	Aggravated stalking; violation of
17			injunction or court order.
18	784.07(2)(d)	1st	Aggravated battery on law
19			enforcement officer.
20	784.08(2)(a)	1st	Aggravated battery on a person 65
21			years of age or older.
22	784.081(1)	1st	Aggravated battery on specified
23			official or employee.
24	784.082(1)	1st	Aggravated battery by detained
25			person on visitor or other
26			detainee.
27	790.07(4)	1st	Specified weapons violation
28			subsequent to previous conviction
29			of s. 790.07(1) or (2).
30	790.16(1)	1st	Discharge of a machine gun under
31			specified circumstances.

1	796.03	2nd	Procuring any person under 16
2			years for prostitution.
3	800.04	2nd	Handle, fondle, or assault child
4			under 16 years in lewd,
5			lascivious, or indecent manner.
6	806.01(2)	2nd	Maliciously damage structure by
7			fire or explosive.
8	810.02(3)(a)	2nd	Burglary of occupied dwelling;
9			unarmed; no assault or battery.
10	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
11			unarmed; no assault or battery.
12	810.02(3)(d)	2nd	Burglary of occupied conveyance;
13			unarmed; no assault or battery.
14	812.014(2)(a)	1st	Property stolen, valued at
15			\$100,000 or more; property stolen
16			while causing other property
17			damage; 1st degree grand theft.
18	812.019(2)	1st	Stolen property; initiates,
19			organizes, plans, etc., the theft
20			of property and traffics in
21			stolen property.
22	812.133(2)(b)	1st	Carjacking; no firearm, deadly
23			weapon, or other weapon.
24	825.102(3)(b)	2nd	Neglecting an elderly person or
25			disabled adult causing great
26			bodily harm, disability, or
27			disfigurement.
28	825.1025(2)	2nd	Lewd or lascivious battery upon
29			an elderly person or disabled
30			adult.
31			

1	825.103(2)(b)	2nd	Exploiting an elderly person or
2			disabled adult and property is
3			valued at \$20,000 or more, but
4			less than \$100,000.
5	827.03(3)(b)	2nd	Neglect of a child causing great
6			bodily harm, disability, or
7			disfigurement.
8	827.04(4)	3rd	Impregnation of a child under 16
9			years of age by person 21 years
10			of age or older.
11	<u>837.05(2)</u>	<u>3rd</u>	<u>Giving false information about</u>
12			<u>alleged capital felony to a law</u>
13			<u>enforcement officer.</u>
14	872.06	2nd	Abuse of a dead human body.
15	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
16			cocaine (or other <u>drug prohibited</u>
17			<u>under</u> s. 893.03(1)(a), (1)(b),
18			(1)(d), (2)(a), or (2)(b) drugs)
19			within 1,000 feet of a <u>child care</u>
20			<u>facility or school.</u>
21	<u>893.13(1)(e)</u>	<u>1st</u>	<u>Sell, manufacture, or deliver</u>
22			<u>cocaine or other drug prohibited</u>
23			<u>under</u> s. 893.03(1)(a), (1)(b),
24			<u>(1)(d), (2)(a), or (2)(b), within</u>
25			<u>1,000 feet of property used for</u>
26			<u>religious services or a specified</u>
27			<u>business site.</u>
28	893.13(4)(a)	1st	Deliver to minor cocaine (or
29			other s. 893.03(1)(a), (1)(b),
30			(1)(d), (2)(a), or (2)(b) drugs).
31			

1	893.135(1)(a)1.	1st	Trafficking in cannabis, more
2			than 50 lbs., less than 2,000
3			lbs.
4	893.135		
5	(1)(b)1.a.	1st	Trafficking in cocaine, more than
6			28 grams, less than 200 grams.
7	893.135		
8	(1)(c)1.a.	1st	Trafficking in illegal drugs,
9			more than 4 grams, less than 14
10			grams.
11	893.135		
12	(1)(d)1.	1st	Trafficking in phencyclidine,
13			more than 28 grams, less than 200
14			grams.
15	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
16			than 200 grams, less than 5
17			kilograms.
18	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
19			than 14 grams, less than 28
20			grams.
21	<u>893.135(1)(g)1.a.</u>	<u>1st</u>	<u>Trafficking in flunitrazepam, 4</u>
22			<u>grams or more, less than 14</u>
23			<u>grams.</u>
24			(h) LEVEL 8
25	316.193		
26	(3)(c)3.a.	2nd	DUI manslaughter.
27	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
28	777.03(2)(a)	1st	Accessory after the fact, capital
29			felony.
30			
31			

1	782.04(4)	2nd	Killing of human without design
2			when engaged in act or attempt of
3			any felony other than arson,
4			sexual battery, robbery,
5			burglary, kidnapping, aircraft
6			piracy, or unlawfully discharging
7			bomb.
8	<u>782.051(2)</u>	<u>1st</u>	<u>Attempted felony murder while</u>
9			<u>perpetrating or attempting to</u>
10			<u>perpetrate a felony not</u>
11			<u>enumerated in s. 782.04(3).</u>
12	782.071(2)	2nd	Committing vehicular homicide and
13			failing to render aid or give
14			information.
15	782.072(2)	2nd	Committing vessel homicide and
16			failing to render aid or give
17			information.
18	790.161(3)	1st	Discharging a destructive device
19			which results in bodily harm or
20			property damage.
21	794.011(5)	2nd	Sexual battery, victim 12 years
22			or over, offender does not use
23			physical force likely to cause
24			serious injury.
25	806.01(1)	1st	Maliciously damage dwelling or
26			structure by fire or explosive,
27			believing person in structure.
28	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
29	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
30			or dangerous weapon.
31			

1	810.02(2)(c)	1st	Burglary of a dwelling or
2			structure causing structural
3			damage or \$1,000 or more property
4			damage.
5	812.13(2)(b)	1st	Robbery with a weapon.
6	812.135(2)	1st	Home-invasion robbery.
7	825.102(2)	2nd	Aggravated abuse of an elderly
8			person or disabled adult.
9	825.103(2)(a)	1st	Exploiting an elderly person or
10			disabled adult and property is
11			valued at \$100,000 or more.
12	827.03(2)	2nd	Aggravated child abuse.
13	<u>837.02(2)</u>	<u>2nd</u>	<u>Perjury in official proceedings</u>
14			<u>relating to prosecution of a</u>
15			<u>capital felony.</u>
16	<u>837.021(2)</u>	<u>2nd</u>	<u>Making contradictory statements</u>
17			<u>in official proceedings relating</u>
18			<u>to prosecution of a capital</u>
19			<u>felony.</u>
20	860.121(2)(c)	1st	Shooting at or throwing any
21			object in path of railroad
22			vehicle resulting in great bodily
23			harm.
24	860.16	1st	Aircraft piracy.
25	893.13(1)(b)	1st	Sell or deliver in excess of 10
26			grams of any substance specified
27			in s. 893.03(1)(a) or (b).
28	893.13(2)(b)	1st	Purchase in excess of 10 grams of
29			any substance specified in s.
30			893.03(1)(a) or (b).
31			

1	893.13(6)(c)	1st	Possess in excess of 10 grams of
2			any substance specified in s.
3			893.03(1)(a) or (b).
4	893.135(1)(a)2.	1st	Trafficking in cannabis, more
5			than 2,000 lbs., less than 10,000
6			lbs.
7	893.135		
8	(1)(b)1.b.	1st	Trafficking in cocaine, more than
9			200 grams, less than 400 grams.
10	893.135		
11	(1)(c)1.b.	1st	Trafficking in illegal drugs,
12			more than 14 grams, less than 28
13			grams.
14	893.135		
15	(1)(d)1.b.	1st	Trafficking in phencyclidine,
16			more than 200 grams, less than
17			400 grams.
18	893.135		
19	(1)(e)1.b.	1st	Trafficking in methaqualone, more
20			than 5 kilograms, less than 25
21			kilograms.
22	893.135		
23	(1)(f)1.b.	1st	Trafficking in amphetamine, more
24			than 28 grams, less than 200
25			grams.
26	<u>893.135(1)(g)1.b.</u>	<u>1st</u>	<u>Trafficking in flunitrazepam, 14</u>
27			<u>grams or more, less than 28</u>
28			<u>grams.</u>
29	895.03(1)	1st	Use or invest proceeds derived
30			from pattern of racketeering
31			activity.

1	895.03(2)	1st	Acquire or maintain through
2			racketeering activity any
3			interest in or control of any
4			enterprise or real property.
5	895.03(3)	1st	Conduct or participate in any
6			enterprise through pattern of
7			racketeering activity.
8			(i) LEVEL 9
9	316.193		
10	(3)(c)3.b.	1st	DUI manslaughter; failing to
11			render aid or give information.
12	782.04(1)	1st	Attempt, conspire, or solicit to
13			commit premeditated murder.
14	782.04(3)	1st,PBL	Accomplice to murder in
15			connection with arson, sexual
16			battery, robbery, burglary, and
17			other specified felonies.
18	<u>782.051(1)</u>	<u>1st</u>	<u>Attempted felony murder while</u>
19			<u>perpetrating or attempting to</u>
20			<u>perpetrate a felony enumerated in</u>
21			<u>s. 782.04(3).</u>
22	782.07(2)	1st	Aggravated manslaughter of an
23			elderly person or disabled adult.
24	782.07(3)	1st	Aggravated manslaughter of a
25			child.
26	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
27			reward or as a shield or hostage.
28	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
29			or facilitate commission of any
30			felony.
31			

1	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
2			interfere with performance of any
3			governmental or political
4			function.
5	787.02(3)(a)	1st	False imprisonment; child under
6			age 13; perpetrator also commits
7			child abuse, sexual battery,
8			lewd, or lascivious act, etc.
9	790.161	1st	Attempted capital destructive
10			device offense.
11	794.011(2)	1st	Attempted sexual battery; victim
12			less than 12 years of age.
13	794.011(2)	Life	Sexual battery; offender younger
14			than 18 years and commits sexual
15			battery on a person less than 12
16			years.
17	794.011(4)	1st	Sexual battery; victim 12 years
18			or older, certain circumstances.
19	794.011(8)(b)	1st	Sexual battery; engage in sexual
20			conduct with minor 12 to 18 years
21			by person in familial or
22			custodial authority.
23	812.13(2)(a)	1st,PBL	Robbery with firearm or other
24			deadly weapon.
25	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
26			deadly weapon.
27	847.0145(1)	1st	Selling, or otherwise
28			transferring custody or control,
29			of a minor.
30			
31			

1	847.0145(2)	1st	Purchasing, or otherwise
2			obtaining custody or control, of
3			a minor.
4	859.01	1st	Poisoning food, drink, medicine,
5			or water with intent to kill or
6			injure another person.
7	893.135	1st	Attempted capital trafficking
8			offense.
9	893.135(1)(a)3.	1st	Trafficking in cannabis, more
10			than 10,000 lbs.
11	893.135		
12	(1)(b)1.c.	1st	Trafficking in cocaine, more than
13			400 grams, less than 150
14			kilograms.
15	893.135		
16	(1)(c)1.c.	1st	Trafficking in illegal drugs,
17			more than 28 grams, less than 30
18			kilograms.
19	893.135		
20	(1)(d)1.c.	1st	Trafficking in phencyclidine,
21			more than 400 grams.
22	893.135		
23	(1)(e)1.c.	1st	Trafficking in methaqualone, more
24			than 25 kilograms.
25	893.135		
26	(1)(f)1.c.	1st	Trafficking in amphetamine, more
27			than 200 grams.
28			(j) LEVEL 10
29	782.04(2)	1st,PBL	Unlawful killing of human; act is
30			homicide, unpremeditated.
31			

1 787.01(1)(a)3. 1st,PBL Kidnapping; inflict bodily harm
2 upon or terrorize victim.
3 787.01(3)(a) Life Kidnapping; child under age 13,
4 perpetrator also commits child
5 abuse, sexual battery, lewd, or
6 lascivious act, etc.
7 794.011(3) Life Sexual battery; victim 12 years
8 or older, offender uses or
9 threatens to use deadly weapon or
10 physical force to cause serious
11 injury.
12 876.32 1st Treason against the state.
13 Section 5. Section 921.0023, Florida Statutes, as
14 created by section 6 of chapter 97-194, Laws of Florida, is
15 amended to read:
16 921.0023 Criminal Punishment Code; ranking unlisted
17 felony offenses.--A felony offense committed on or after
18 October 1, 1998, that is not listed in s. 921.0022 is ranked
19 with respect to offense severity level by the Legislature,
20 commensurate with the harm or potential harm that is caused by
21 the offense to the community. Until the Legislature
22 specifically assigns an offense to a severity level in the
23 offense severity ranking chart, the severity level is within
24 the following parameters:
25 (1) A felony of the third degree within offense level
26 1.
27 (2) A felony of the second degree within offense level
28 4.
29 (3) A felony of the first degree within offense level
30 7.
31

1 (4) A felony of the first degree punishable by life
2 within offense level 9.

3 (5) A life felony within offense level 10.

4
5 ~~For purposes of determining whether a felony offense has been~~
6 ~~specifically listed in the offense ranking chart provided in~~
7 ~~s. 921.0022(3), and the severity level that has been assigned~~
8 ~~to an offense listed in the chart, the numerical statutory~~
9 ~~reference in the left column of the chart, and the felony~~
10 ~~degree designation in the middle column of the chart, are~~
11 ~~controlling; the language in the right column of the chart is~~
12 ~~provided solely for descriptive purposes.~~

13 Section 6. Section 921.0024, Florida Statutes, as
14 created by section 7 of chapter 97-194, Laws of Florida, is
15 amended to read:

16 921.0024 Criminal Punishment Code; worksheet
17 computations; scoresheets.--

18 (1)(a) The Criminal Punishment Code worksheet is used
19 to compute the subtotal and total sentence points as follows:

20

21 FLORIDA CRIMINAL PUNISHMENT CODE

22 WORKSHEET

23

24 OFFENSE SCORE

25

26 Primary Offense

27 Level	Sentence Points		Total
28 .....			.....
29 10	116	=	....
30 9	92	=	....
31 8	74	=	....

1	7	56	=	....
2	6	36	=	....
3	5	28	=	....
4	4	22	=	....
5	3	16	=	....
6	2	10	=	....
7	1	4	=	....

8
9

10 Total

12 Additional Offenses

13 Level	Sentence Points		Counts	Total
14	.....		
15	10	58	x =
16	9	46	x =
17	8	37	x =
18	7	28	x =
19	6	18	x =
20	5	5.4	x =
21	4	3.6	x =
22	3	2.4	x =
23	2	1.2	x =
24	1	0.7	x =
25	M	0.2	x =

26
27

28 Total

29
30
31

Victim Injury						
Level	Sentence Points		Number		Total	
.....						
2nd degree						
murder-						
death	240	x	.....	=	.....
Death	120	x	.....	=	.....
Severe	40	x	.....	=	.....
<u>Moderate</u>	<u>18</u>	<u>x</u>	<u>.....</u>	=	<u>.....</u>	
<u>Slight</u>	<u>4</u>	<u>x</u>	<u>.....</u>	=	<u>.....</u>	
Sexual						
penetration	80	x	.....	=	.....
Moderate	18	x	.....	=	.....
Sexual						
contact	40	x	.....	=	.....
Slight	4	x	.....	=	.....
.....						
					<u>Total</u>	
Primary Offense + Additional Offenses + Victim Injury =						
TOTAL OFFENSE SCORE						
PRIOR RECORD SCORE						
Prior Record						
Level	Sentence Points		Number		Total	
.....						
10	29	x	.....	=	.....
9	23	x	.....	=	.....
8	19	x	.....	=	.....

1	7	14	x	....	=	....
2	6	9	x	....	=	....
3	5	3.6	x	....	=	....
4	4	2.4	x	....	=	....
5	3	1.6	x	....	=	....
6	2	0.8	x	....	=	....
7	1	0.5	x	....	=	....
8	M	0.2	x	....	=	....
9						
10	.....				
11					Total	_____
12						
13	TOTAL OFFENSE SCORE.....					
14	TOTAL PRIOR RECORD SCORE.....					
15						
16	LEGAL STATUS.....					
17	COMMUNITY SANCTION VIOLATION.....					
18	PRIOR SERIOUS FELONY.....					
19	PRIOR CAPITAL FELONY.....					
20	FIREARM OR SEMIAUTOMATIC WEAPON.....					
21					SUBTOTAL.....	
22						
23	<u>PRISON RELEASEE REOFFENDER (no)(yes).....</u>					
24	VIOLENT CAREER CRIMINAL (no)(yes).....					
25	VIOLENT HABITUAL OFFENDER (no)(yes).....					
26	HABITUAL OFFENDER (no)(yes).....					
27	DRUG TRAFFICKER (no)(yes) (x multiplier).....					
28	LAW ENF. PROTECT. (no)(yes) (x multiplier).....					
29	MOTOR VEHICLE THEFT (no)(yes) (x multiplier).....					
30	CRIMINAL STREET GANG MEMBER (no)(yes) (x multiplier).....					
31	<u>DOMESTIC VIOLENCE (no)(yes) (x multiplier).....</u>					

1
2 TOTAL SENTENCE POINTS.....

3
4 (b) WORKSHEET KEY:

5
6 Legal status points are assessed when any form of legal status
7 existed at the time the offender committed an offense before
8 the court for sentencing. Four (4) sentence points are
9 assessed for an offender's legal status.

10
11 Community sanction violation points are assessed when a
12 community sanction violation is before the court for
13 sentencing. Six (6) sentence points are assessed for each
14 community sanction violation, and each successive community
15 sanction violation; however, if the community sanction
16 violation includes a new felony conviction before the
17 sentencing court, twelve (12) community sanction violation
18 points are assessed for such violation, and for each
19 successive community sanction violation involving a new felony
20 conviction. Multiple counts of community sanction violations
21 before the sentencing court shall not be a basis for
22 multiplying the assessment of community sanction violation
23 points.

24
25 Prior serious felony points: If the offender has a primary
26 offense or any additional offense ranked in level 8, level 9,
27 or level 10, and one or more prior serious felonies, a single
28 assessment of 30 points shall be added. For purposes of this
29 section, a prior serious felony is an offense in the
30 offender's prior record that is ranked in level 8, level 9, or
31 level 10 under s. 921.0022 or s. 921.0023 and for which the

1 offender is serving a sentence of confinement, supervision, or
2 other sanction or for which the offender's date of release
3 from confinement, supervision, or other sanction, whichever is
4 later, is within 3 years before the date the primary offense
5 or any additional offense was committed.

6
7 Prior capital felony points: If the offender has one or more
8 prior capital felonies in the offender's criminal record,
9 points shall be added to the subtotal sentence points of the
10 offender equal to twice the number of points the offender
11 receives for the primary offense and any additional offense.
12 A prior capital felony in the offender's criminal record is a
13 previous capital felony offense for which the offender has
14 entered a plea of nolo contendere or guilty to or has been
15 found guilty; or a felony in another jurisdiction which is a
16 capital felony in that jurisdiction, or would be a capital
17 felony if the offense were committed in this state.

18
19 Possession of a firearm, semiautomatic firearm, or machine
20 gun: If the offender is convicted of committing or attempting
21 to commit any felony other than those enumerated in s.
22 775.087(2) while having in his possession: a firearm as
23 defined in s. 790.001(6), an additional 18 sentence points are
24 assessed; or if the offender is convicted of committing or
25 attempting to commit any felony other than those enumerated in
26 s. 775.087(3) while having in his possession a semiautomatic
27 firearm as defined in s. 775.087(3) or a machine gun as
28 defined in s. 790.001(9), an additional 25 sentence points are
29 assessed.

30
31 Sentencing multipliers:

1
2 Drug trafficking: If the primary offense is drug trafficking
3 under s. 893.135, the subtotal sentence points are multiplied,
4 at the discretion of the court, for a level 7 or level 8
5 offense, by 1.5. The state attorney may move the sentencing
6 court to reduce or suspend the sentence of a person convicted
7 of a level 7 or level 8 offense, if the offender provides
8 substantial assistance as described in s. 893.135(4).

9
10 Law enforcement protection: If the primary offense is a
11 violation of the Law Enforcement Protection Act under s.
12 775.0823(2), the subtotal sentence points are multiplied by
13 2.5. If the primary offense is a violation of s. 775.0823(3),
14 (4), (5), (6), (7), or (8), the subtotal sentence points are
15 multiplied by 2.0. If the primary offense is a violation of s.
16 784.07(3) or s. 775.0875(1), or of the Law Enforcement
17 Protection Act under s. 775.0823(9) or (10), the subtotal
18 sentence points are multiplied by 1.5.

19
20 Grand theft of a motor vehicle: If the primary offense is
21 grand theft of the third degree involving a motor vehicle and
22 in the offender's prior record, there are three or more grand
23 thefts of the third degree involving a motor vehicle, the
24 subtotal sentence points are multiplied by 1.5.

25
26 Criminal street gang member: If the offender is convicted of
27 the primary offense and is found to have been a member of a
28 criminal street gang at the time of the commission of the
29 primary offense pursuant to s. 874.04, the subtotal sentence
30 points are multiplied by 1.5.

31

1 Domestic violence in the presence of a child: If the offender
2 is convicted of the primary offense and the primary offense is
3 a crime of domestic violence, as defined in s. 741.28, which
4 was committed in the presence of a child under 16 years of age
5 who is related by blood or marriage to the victim or
6 perpetrator, the subtotal sentence points are multiplied, at
7 the discretion of the court, by 1.5.

8 (2) The lowest permissible sentence is the minimum
9 sentence that may be imposed by the trial court, absent a
10 valid reason for departure in prison months that may be
11 imposed by the court, absent a valid reason to depart, shall
12 be calculated by subtracting 28 points from the total sentence
13 points and decreasing the remaining total by 25 percent. If
14 The lowest permissible sentence is any in prison months is
15 less than or equal to 12, a nonstate prison sanction in which
16 the total sentence points equals or is less than 44 points,
17 unless the court determines within its discretion that a
18 prison sentence, which may be up to the statutory maximums for
19 the offenses committed, is appropriate may be imposed. When
20 the total sentence points exceeds 44 points, the lowest
21 permissible sentence in prison months shall be calculated by
22 subtracting 28 points from the total sentence points and
23 decreasing the remaining total by 25 percent.The total
24 sentence points shall be calculated only as a means of
25 determining the lowest permissible sentence. The permissible
26 range for sentencing shall be the lowest permissible sentence
27 up to and including the statutory maximum, as defined in s.
28 775.082, for the primary offense and any additional offenses
29 before the court for sentencing. The sentencing court may
30 impose such sentences concurrently or consecutively. However,
31 any sentence to state prison must exceed 1 year.

1 (3) A single scoresheet shall be prepared for each
2 defendant to determine the permissible range for the sentence
3 that the court may impose, except that if the defendant is
4 before the court for sentencing for more than one felony and
5 the felonies were committed under more than one version or
6 revision of the guidelines or the code, separate scoresheets
7 must be prepared. The scoresheet or scoresheets must cover all
8 the defendant's offenses pending before the court for
9 sentencing. However, if the defendant's total sentence points
10 are equal to or less than 44 points, a scoresheet need not be
11 submitted subsequent to its preparation. Either the office of
12 the state attorney or the Department of Corrections, or both
13 where appropriate, shall prepare the scoresheet or scoresheets
14 in all other cases, which must be presented to the defense
15 counsel for review for accuracy in all cases unless the judge
16 directs otherwise. The defendant's scoresheet or scoresheets
17 must be approved and signed by the sentencing judge.

18 (4) The Department of Corrections must develop and
19 submit the revised Criminal Punishment Code scoresheet to the
20 Supreme Court for approval by June 15 of each year, as
21 necessary. Upon the Supreme Court's approval of the revised
22 scoresheet, the Department of Corrections shall produce and
23 provide sufficient copies of the revised scoresheets to the
24 clerks of the circuit courts by September 30 of each year, as
25 necessary. Scoresheets must include item entries for the
26 scoresheet preparer's use in indicating whether any prison
27 sentence imposed includes a mandatory minimum sentence or the
28 sentence imposed was a downward departure from the minimum
29 recommended sentence under the Criminal Punishment Code.

30 (5) To assist the Legislature in making future
31 modifications to the Criminal Punishment Code, the Department

1 of Corrections shall collect and evaluate data on sentencing
2 practices in the state from each of the judicial circuits and
3 provide technical assistance to the Legislature. Beginning in
4 1999, by October 1 of each year, the Department of Corrections
5 shall provide an annual report to the Legislature which shows
6 the rate of compliance of each judicial circuit in providing
7 scoresheets to the department.

8 (6)~~(4)~~ The clerks of the circuit courts for the
9 individual counties shall distribute sufficient copies of the
10 Criminal Punishment Code scoresheets to those persons charged
11 with the responsibility for preparing scoresheets, either the
12 office of the state attorney or the Department of Corrections,
13 or both where appropriate.

14 (7)~~(5)~~ The clerk of the circuit court shall transmit a
15 complete, accurate, and legible copy of the Criminal
16 Punishment Code scoresheet used in each guidelines sentencing
17 proceeding to the Department of Corrections. Scoresheets must
18 be transmitted no less frequently than monthly, by the first
19 of each month, and may be sent collectively.

20 (8)~~(6)~~ A sentencing scoresheet must be prepared for
21 every defendant who is sentenced for a felony offense. A copy
22 of the individual offender's Criminal Punishment Code
23 scoresheet and any attachments thereto prepared pursuant to
24 Rule 3.701, Rule 3.702, or Rule 3.703, Florida Rules of
25 Criminal Procedure, or any other rule pertaining to the
26 preparation and submission of felony sentencing scoresheets,
27 must be attached to the copy of the uniform judgment and
28 sentence form provided to the Department of Corrections,
29 except for an offender who scores 44 points or less as
30 provided in this section.

31

1 Section 7. Section 921.0025, Florida Statutes, is
2 created to read:

3 921.0025 Adoption and implementation of revised
4 sentencing scoresheets.--Rules 3.701, 3.702, 3.703, and 3.988,
5 Florida Rules of Criminal Procedure, as revised by the Supreme
6 Court, and any other rule pertaining to the preparation and
7 submission of felony sentencing scoresheets, are adopted and
8 implemented in accordance with chapter 921 for application to
9 the Criminal Punishment Code.

10 Section 8. Section 921.0026, Florida Statutes, as
11 created by section 8 of chapter 97-194, Laws of Florida, is
12 amended to read:

13 921.0026 Mitigating circumstances.--This section
14 applies to any felony offense, except any capital felony,
15 committed on or after October 1, 1998.

16 (1) A downward departure from the lowest permissible
17 sentence, as calculated according to the total sentence points
18 pursuant to s. 921.0024, is prohibited ~~discouraged~~ unless
19 there are circumstances or factors that reasonably justify the
20 downward departure. Mitigating factors to be considered
21 include, but are not limited to, those listed in subsection
22 (2). The imposition of a sentence below the lowest
23 permissible sentence ~~sentencing range~~ is subject to appellate
24 review under chapter 924, but the extent of downward departure
25 is not subject to appellate review.

26 (2) Mitigating circumstances under which a departure
27 from the lowest permissible sentence ~~sentencing range~~ is
28 reasonably justified include, but are not limited to:

29 (a) The departure results from a legitimate, uncoerced
30 plea bargain.

31

1 (b) The defendant was an accomplice to the offense and
2 was a relatively minor participant in the criminal conduct.

3 (c) The capacity of the defendant to appreciate the
4 criminal nature of the conduct or to conform that conduct to
5 the requirements of law was substantially impaired. However, a
6 defendant's capacity, if diminished by the influence of
7 alcohol or a controlled substance at the time of the offense,
8 may not in any manner be considered a reason to impose a
9 sentence below the lowest permissible sentence that is
10 calculated from the total sentence points pursuant to s.
11 921.0024.

12 (d) The defendant requires specialized treatment for a
13 mental disorder that is unrelated to substance abuse or
14 addiction or for a physical disability, and the defendant is
15 amenable to treatment.

16 (e) The need for payment of restitution to the victim
17 outweighs the need for a prison sentence.

18 (f) The victim was an initiator, willing participant,
19 aggressor, or provoker of the incident.

20 (g) The defendant acted under extreme duress or under
21 the domination of another person.

22 (h) Before the identity of the defendant was
23 determined, the victim was substantially compensated.

24 (i) The defendant cooperated with the state to resolve
25 the current offense or any other offense.

26 (j) The offense was committed in an unsophisticated
27 manner and was an isolated incident for which the defendant
28 has shown remorse.

29 (k) At the time of the offense the defendant was too
30 young to appreciate the consequences of the offense.

31

1 (1) The defendant is to be sentenced as a youthful
2 offender.

3 (3) The defendant's substance abuse or addiction,
4 including intoxication at the time of the offense, is not a
5 mitigating factor under subsection (2) and does not, under any
6 circumstances, justify a downward departure from the
7 permissible sentencing range.

8 Section 9. Section 921.00265, Florida Statutes, is
9 created to read:

10 921.00265 Recommended sentences; departure sentences;
11 mandatory minimum sentences.--This section applies to any
12 felony offense, except any capital felony, committed on or
13 after October 1, 1998.

14 (1) The lowest permissible sentence provided by
15 calculations from the total sentence points pursuant to s.
16 921.0024(2) is assumed to be the lowest appropriate sentence
17 for the offender being sentenced. A departure sentence is
18 prohibited unless there are mitigating circumstances or
19 factors present as provided in s. 921.0026 which reasonably
20 justify a departure.

21 (2) A sentence that decreases an offender's sentence
22 below the lowest permissible sentence is a departure sentence
23 and must be accompanied by a written statement by the
24 sentencing court delineating the reasons for the departure,
25 filed within 7 days after the date of sentencing. A written
26 transcription of orally stated reasons for departure from the
27 guidelines at sentencing is permissible if it is filed by the
28 court within 7 days after the date of sentencing. A scoresheet
29 shall be submitted for each felony case in which the trial
30 court departs from the lowest permissible sentence.

31

1 (3) Any offender who is sentenced to a departure
2 sentence or any offender who is subject to a minimum mandatory
3 sentence must have the departure sentence and any minimum
4 mandatory sentence so noted on the sentencing scoresheet.

5 Section 10. Section 775.082, Florida Statutes, is
6 amended to read:

7 775.082 Penalties; applicability of sentencing
8 structures; mandatory minimum sentences for certain
9 reoffenders previously released from prison.--

10 (1) A person who has been convicted of a capital
11 felony shall be punished by death if the proceeding held to
12 determine sentence according to the procedure set forth in s.
13 921.141 results in findings by the court that such person
14 shall be punished by death, otherwise such person shall be
15 punished by life imprisonment and shall be ineligible for
16 parole.

17 (2) In the event the death penalty in a capital felony
18 is held to be unconstitutional by the Florida Supreme Court or
19 the United States Supreme Court, the court having jurisdiction
20 over a person previously sentenced to death for a capital
21 felony shall cause such person to be brought before the court,
22 and the court shall sentence such person to life imprisonment
23 as provided in subsection (1).

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

26 (a)1. For a life felony committed prior to October 1,
27 1983, by a term of imprisonment for life or for a term of
28 years not less than 30.

29 2. For a life felony committed on or after October 1,
30 1983, by a term of imprisonment for life or by a term of
31 imprisonment not exceeding 40 years.

1 3. For a life felony committed on or after July 1,
2 1995, by a term of imprisonment for life or by imprisonment
3 for a term of years not exceeding life imprisonment.

4 (b) For a felony of the first degree, by a term of
5 imprisonment not exceeding 30 years or, when specifically
6 provided by statute, by imprisonment for a term of years not
7 exceeding life imprisonment.

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

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

12 (4) A person who has been convicted of a designated
13 misdemeanor may be sentenced as follows:

14 (a) For a misdemeanor of the first degree, by a
15 definite term of imprisonment not exceeding 1 year;

16 (b) For a misdemeanor of the second degree, by a
17 definite term of imprisonment not exceeding 60 days.

18 (5) Any person who has been convicted of a noncriminal
19 violation may not be sentenced to a term of imprisonment nor
20 to any other punishment more severe than a fine, forfeiture,
21 or other civil penalty, except as provided in chapter 316 or
22 by ordinance of any city or county.

23 (6) Nothing in this section shall be construed to
24 alter the operation of any statute of this state authorizing a
25 trial court, in its discretion, to impose a sentence of
26 imprisonment for an indeterminate period within minimum and
27 maximum limits as provided by law, except as provided in
28 subsection (1).

29 (7) This section does not deprive the court of any
30 authority conferred by law to decree a forfeiture of property,
31 suspend or cancel a license, remove a person from office, or

1 impose any other civil penalty. Such a judgment or order may
2 be included in the sentence.

3 (8)(a) The sentencing guidelines that were effective
4 October 1, 1983, and any revisions thereto, apply to all
5 felonies, except capital felonies, committed on or after
6 October 1, 1983, and before January 1, 1994, and to all
7 felonies, except capital felonies and life felonies, committed
8 before October 1, 1983, when the defendant affirmatively
9 selects to be sentenced pursuant to such provisions.

10 (b) The 1994 sentencing guidelines, that were
11 effective January 1, 1994, and any revisions thereto, apply to
12 all felonies, except capital felonies, committed on or after
13 January 1, 1994, and before October 1, 1995.

14 (c) The 1995 sentencing guidelines that were effective
15 October 1, 1995, and any revisions thereto, apply to all
16 felonies, except capital felonies, committed on or after
17 October 1, 1995, and before October 1, 1998.

18 (d) The Criminal Punishment Code applies to all
19 felonies, except capital felonies, committed on or after
20 October 1, 1998. Any revision to the Criminal Punishment Code
21 applies to sentencing for all felonies, except capital
22 felonies, committed on or after the effective date of the
23 revision.

24 (e) Felonies, except capital felonies, with continuing
25 dates of enterprise shall be sentenced under the sentencing
26 guidelines or the Criminal Punishment Code in effect on the
27 beginning date of the criminal activity.

28 (9)(8)(a)1. "Prison releasee reoffender" means any
29 defendant who commits, or attempts to commit:

- 30 a. Treason;
31 b. Murder;

- 1 c. Manslaughter;
- 2 d. Sexual battery;
- 3 e. Carjacking;
- 4 f. Home-invasion robbery;
- 5 g. Robbery;
- 6 h. Arson;
- 7 i. Kidnapping;
- 8 j. Aggravated assault;
- 9 k. Aggravated battery;
- 10 l. Aggravated stalking;
- 11 m. Aircraft piracy;
- 12 n. Unlawful throwing, placing, or discharging of a
- 13 destructive device or bomb;
- 14 o. Any felony that involves the use or threat of
- 15 physical force or violence against an individual;
- 16 p. Armed burglary;
- 17 q. Burglary of an occupied structure or dwelling; or
- 18 r. Any felony violation of s. 790.07, s. 800.04, s.
- 19 827.03, or s. 827.071;
- 20
- 21 within 3 years of being released from a state correctional
- 22 facility operated by the Department of Corrections or a
- 23 private vendor.
- 24 2. If the state attorney determines that a defendant
- 25 is a prison releasee reoffender as defined in subparagraph 1.,
- 26 the state attorney may seek to have the court sentence the
- 27 defendant as a prison releasee reoffender. Upon proof from the
- 28 state attorney that establishes by a preponderance of the
- 29 evidence that a defendant is a prison releasee reoffender as
- 30 defined in this section, such defendant is not eligible for
- 31

1 sentencing under the sentencing guidelines and must be
2 sentenced as follows:

3 a. For a felony punishable by life, by a term of
4 imprisonment for life;

5 b. For a felony of the first degree, by a term of
6 imprisonment of 30 years;

7 c. For a felony of the second degree, by a term of
8 imprisonment of 15 years; and

9 d. For a felony of the third degree, by a term of
10 imprisonment of 5 years.

11 (b) A person sentenced under paragraph (a) shall be
12 released only by expiration of sentence and shall not be
13 eligible for parole, control release, or any form of early
14 release. Any person sentenced under paragraph (a) must serve
15 100 percent of the court-imposed sentence.

16 (c) Nothing in this subsection shall prevent a court
17 from imposing a greater sentence of incarceration as
18 authorized by law, pursuant to s. 775.084 or any other
19 provision of law.

20 (d)1. It is the intent of the Legislature that
21 offenders previously released from prison who meet the
22 criteria in paragraph (a) be punished to the fullest extent of
23 the law and as provided in this subsection, unless any of the
24 following circumstances exist:

25 a. The prosecuting attorney does not have sufficient
26 evidence to prove the highest charge available;

27 b. The testimony of a material witness cannot be
28 obtained;

29 c. The victim does not want the offender to receive
30 the mandatory prison sentence and provides a written statement
31 to that effect; or

1 d. Other extenuating circumstances exist which
2 preclude the just prosecution of the offender.

3 2. For every case in which the offender meets the
4 criteria in paragraph (a) and does not receive the mandatory
5 minimum prison sentence, the state attorney must explain the
6 sentencing deviation in writing and place such explanation in
7 the case file maintained by the state attorney. On a quarterly
8 basis, each state attorney shall submit copies of deviation
9 memoranda regarding offenses committed on or after the
10 effective date of this subsection, to the president of the
11 Florida Prosecuting Attorneys Association, Inc. The
12 association must maintain such information, and make such
13 information available to the public upon request, for at least
14 a 10-year period.

15 ~~(10)~~⁽⁹⁾ The purpose of this section is to provide
16 uniform punishment for those crimes made punishable under this
17 section and, to this end, a reference to this section
18 constitutes a general reference under the doctrine of
19 incorporation by reference.

20 Section 11. Subsection (2) and paragraphs (a) and (b)
21 of subsection (3) of section 775.084, Florida Statutes, as
22 amended by section 12 of chapter 97-194, Laws of Florida, are
23 amended to read:

24 775.084 Violent career criminals; habitual felony
25 offenders and habitual violent felony offenders; definitions;
26 procedure; enhanced penalties.--

27 (2) For the purposes of this section, the placing of a
28 person on probation or community control without an
29 adjudication of guilt shall be treated as a prior conviction
30 if the subsequent offense for which the person is to be
31

1 sentenced was committed during such ~~probationary~~ period of
2 probation or community control.

3 (3)(a) In a separate proceeding, the court shall
4 determine if the defendant is a habitual felony offender or a
5 habitual violent felony offender. The procedure shall be as
6 follows:

7 1. The court shall obtain and consider a presentence
8 investigation prior to the imposition of a sentence as a
9 habitual felony offender or a habitual violent felony
10 offender.

11 2. Written notice shall be served on the defendant and
12 the defendant's attorney a sufficient time prior to the entry
13 of a plea or prior to the imposition of sentence in order to
14 allow the preparation of a submission on behalf of the
15 defendant.

16 3. Except as provided in subparagraph 1., all evidence
17 presented shall be presented in open court with full rights of
18 confrontation, cross-examination, and representation by
19 counsel.

20 4. Each of the findings required as the basis for such
21 sentence shall be found to exist by a preponderance of the
22 evidence and shall be appealable to the extent normally
23 applicable to similar findings.

24 5. For the purpose of identification of a habitual
25 felony offender or a habitual violent felony offender, the
26 court shall fingerprint the defendant pursuant to s. 921.241.

27 6. For an offense committed on or after October 1,
28 1995, if the state attorney pursues a habitual felony offender
29 sanction or a habitual violent felony offender sanction
30 against the defendant and the court, in a separate proceeding
31 pursuant to this paragraph, determines that the defendant

1 meets the criteria under subsection (1) for imposing such
2 sanction, the court must sentence the defendant as a habitual
3 felony offender or a habitual violent felony offender, subject
4 to imprisonment pursuant to this section unless the court
5 finds that such sentence is not necessary for the protection
6 of the public. If the court finds that it is not necessary
7 for the protection of the public to sentence the defendant as
8 a habitual felony offender or a habitual violent felony
9 offender, the court shall provide written reasons; a written
10 transcript of orally stated reasons is permissible, if filed
11 by the court within 7 days after the date of sentencing. Each
12 month, the court shall submit to the Department of Corrections
13 the written reasons or transcripts in each case in which the
14 court determines not to sentence a defendant as a habitual
15 felony offender or a habitual violent felony offender as
16 provided in this subparagraph.

17 (b) In a separate proceeding, the court shall
18 determine whether the defendant is a violent career criminal
19 with respect to a primary offense committed on or after
20 October 1, 1995. The procedure shall be as follows:

21 1. Written notice shall be served on the defendant and
22 the defendant's attorney a sufficient time prior to the entry
23 of a plea or prior to the imposition of sentence in order to
24 allow the preparation of a submission on behalf of the
25 defendant.

26 2. All evidence presented shall be presented in open
27 court with full rights of confrontation, cross-examination,
28 and representation by counsel.

29 3. Each of the findings required as the basis for such
30 sentence shall be found to exist by a preponderance of the
31

1 evidence and shall be appealable only as provided in paragraph
2 (c).

3 4. For the purpose of identification, the court shall
4 fingerprint the defendant pursuant to s. 921.241.

5 5. For an offense committed on or after October 1,
6 1995, if the state attorney pursues a violent career criminal
7 sanction against the defendant and the court, in a separate
8 proceeding pursuant to this paragraph, determines that the
9 defendant meets the criteria under subsection (1) for imposing
10 such sanction, the court must sentence the defendant as a
11 violent career criminal, subject to imprisonment pursuant to
12 this section unless the court finds that such sentence is not
13 necessary for the protection of the public. If the court
14 finds that it is not necessary for the protection of the
15 public to sentence the defendant as a violent career criminal,
16 the court shall provide written reasons; a written transcript
17 of orally stated reasons is permissible, if filed by the court
18 within 7 days after the date of sentencing. Each month, the
19 court shall submit to the Department of Corrections the
20 written reasons or transcripts in each case in which the court
21 determines not to sentence a defendant as a violent career
22 criminal as provided in this subparagraph.

23 Section 12. Section 782.051, Florida Statutes, as
24 amended by section 18 of chapter 97-194, Laws of Florida, is
25 amended to read:

26 782.051 Attempted felony murder ~~causing bodily~~
27 ~~injury.~~--

28 (1) Any person who perpetrates or attempts to
29 perpetrate any felony enumerated in s. 782.04(3) and who
30 commits, aids, or abets an intentional act that is not an
31 essential element of the felony and that could, but does not,

1 cause the death of ~~causes bodily injury to~~ another commits a
2 felony of the first degree, punishable by imprisonment for a
3 term of years not exceeding life, or as provided in s.
4 775.082, s. 775.083, or s. 775.084, which is an offense ranked
5 in level 9 of the Criminal Punishment Code. Victim injury
6 points shall be scored under this subsection.

7 (2) Any person who perpetrates or attempts to
8 perpetrate any felony other than a felony enumerated in s.
9 782.04(3) and who commits, aids, or abets an intentional act
10 that is not an essential element of the felony and that could,
11 but does not, cause the death of ~~causes bodily injury to~~
12 another commits a felony of the first degree, punishable as
13 provided in s. 775.082, s. 775.083, or s. 775.084, which is an
14 offense ranked in level 8 of the Criminal Punishment Code.
15 Victim injury points shall be scored under this subsection.

16 (3) When a person is injured during the perpetration
17 of or the attempt to perpetrate any felony enumerated in s.
18 782.04(3) by a person other than the person engaged in the
19 perpetration of or the attempt to perpetrate such felony, the
20 person perpetrating or attempting to perpetrate such felony
21 commits a felony of the second degree, punishable as provided
22 in s. 775.082, s. 775.083, or s. 775.084, which is an offense
23 ranked in level 7 of the Criminal Punishment Code. Victim
24 injury points shall be scored under this subsection.

25 Section 13. Subsection (1) of section 924.06, Florida
26 Statutes, as amended by section 27 of chapter 97-194, Laws of
27 Florida, is amended to read:

28 924.06 Appeal by defendant.--

29 (1) A defendant may appeal from:
30
31

1 (a) A final judgment of conviction when probation has
2 not been granted under chapter 948, except as provided in
3 subsection (3);

4 (b) An order granting probation under chapter 948;

5 (c) An order revoking probation under chapter 948; ~~or~~

6 (d) A sentence, on the ground that it is illegal; or;

7 (e) A sentence imposed under s. 921.0024 of the
8 Criminal Punishment Code which exceeds the consecutive
9 statutory maximum sentences permitted for the offenses
10 committed as provided under s. 775.082, unless otherwise
11 provided by law.

12 Section 14. Present paragraphs (j), (k), and (l) of
13 subsection (1) of section 924.07, Florida Statutes, as amended
14 by section 28 of chapter 97-194, Laws of Florida, are
15 redesignated as paragraphs (k), (l), and (m), respectively,
16 and a new paragraph (j) is added to that subsection, to read:

17 924.07 Appeal by state.--

18 (1) The state may appeal from:

19 (j) A sentence imposed below the lowest permissible
20 sentence pursuant to the Criminal Punishment Code as provided
21 in chapter 921.

22 Section 15. Paragraph (e) of subsection (5) of section
23 944.17, Florida Statutes, as amended by section 29 of chapter
24 97-194, Laws of Florida, is amended to read:

25 944.17 Commitments and classification; transfers.--

26 (5) The department shall also refuse to accept a
27 person into the state correctional system unless the following
28 documents are presented in a completed form by the sheriff or
29 chief correctional officer, or a designated representative, to
30 the officer in charge of the reception process:

31

1 (e) A copy of the Criminal Punishment Code scoresheet
2 and any attachments thereto prepared pursuant to Rule 3.701,
3 Rule 3.702, or Rule 3.703, Florida Rules of Criminal
4 Procedure, or any other rule pertaining to the preparation of
5 felony sentencing scoresheets.

6
7 In addition, the sheriff or other officer having such person
8 in charge shall also deliver with the foregoing documents any
9 available presentence investigation reports as described in s.
10 921.231 and any attached documents. After a prisoner is
11 admitted into the state correctional system, the department
12 may request such additional records relating to the prisoner
13 as it considers necessary from the clerk of the court, the
14 Department of Health and Rehabilitative Services, or any other
15 state or county agency for the purpose of determining the
16 prisoner's proper custody classification, gain-time
17 eligibility, or eligibility for early release programs. An
18 agency that receives such a request from the department must
19 provide the information requested.

20 Section 16. Section 944.70, Florida Statutes, is
21 created to read:

22 944.70 Conditions for release from incarceration.--

23 (1)(a) A person who is convicted of a crime committed
24 on or after October 1, 1983, but before January 1, 1994, may
25 be released from incarceration only:

- 26 1. Upon expiration of the person's sentence;
- 27 2. Upon expiration of the person's sentence as reduced
28 by accumulated gain-time;
- 29 3. As directed by an executive order granting
30 clemency;
- 31 4. Upon attaining the provisional release date;

1 5. Upon placement in a conditional release program
2 pursuant to s. 947.1405; or

3 6. Upon the granting of control release pursuant to s.
4 947.146.

5 (b) A person who is convicted of a crime committed on
6 or after January 1, 1994, may be released from incarceration
7 only:

8 1. Upon expiration of the person's sentence;

9 2. Upon expiration of the person's sentence as reduced
10 by accumulated meritorious or incentive gain-time;

11 3. As directed by an executive order granting
12 clemency;

13 4. Upon placement in a conditional release program
14 pursuant to s. 947.1405 or a conditional medical release
15 program pursuant to s. 947.149; or

16 5. Upon the granting of control release, including
17 emergency control release, pursuant to s. 947.146.

18 (2) A person who is convicted of a crime committed on
19 or after December 1, 1990, and who receives a control release
20 date may not refuse to accept the terms or conditions of
21 control release.

22 Section 17. Subsection (6) of section 944.705, Florida
23 Statutes, is amended to read:

24 944.705 Release orientation program.--

25 (6)(a) The department shall notify every inmate, in no
26 less than 18-point type in the inmate's release documents,
27 that the inmate may be sentenced pursuant to s. 775.082(9)~~s.~~
28 ~~775.082(8)~~if the inmate commits any felony offense described
29 in s. 775.082(9)~~s. 775.082(8)~~within 3 years after the
30 inmate's release. This notice must be prefaced by the word
31 "WARNING" in boldfaced type.

1 (b) Nothing in this section precludes the sentencing
2 of a person pursuant to s. 775.082(9)~~s. 775.082(8)~~, nor shall
3 evidence that the department failed to provide this notice
4 prohibit a person from being sentenced pursuant to s.
5 775.082(9)~~s. 775.082(8)~~. The state shall not be required to
6 demonstrate that a person received any notice from the
7 department in order for the court to impose a sentence
8 pursuant to s. 775.082(9)~~s. 775.082(8)~~.

9 Section 18. Section 948.015, Florida Statutes, as
10 amended by section 33 of chapter 97-194, Laws of Florida, is
11 amended to read:

12 948.015 Presentence investigation reports.--The
13 circuit court, when the defendant in a criminal case has been
14 found guilty or has entered a plea of nolo contendere or
15 guilty and has a lowest permissible sentence ~~recommended~~
16 ~~sentence~~ under the Criminal Punishment Code of any nonstate
17 prison sanction, may refer the case to the department for
18 investigation or recommendation. Upon such referral, the
19 department shall make the following report in writing at a
20 time specified by the court prior to sentencing. The full
21 report shall include:

22 (1) A complete description of the situation
23 surrounding the criminal activity with which the offender has
24 been charged, including a synopsis of the trial transcript, if
25 one has been made; nature of the plea agreement, including the
26 number of counts waived, the pleas agreed upon, the sentence
27 agreed upon, and any additional terms of agreement; and, at
28 the offender's discretion, his or her version and explanation
29 of the criminal activity.

30 (2) The offender's sentencing status, including
31 whether the offender is a first offender, a habitual or

1 violent offender, a youthful offender, or is currently on
2 probation.

3 (3) The offender's prior record of arrests and
4 convictions.

5 (4) The offender's educational background.

6 (5) The offender's employment background, including
7 any military record, present employment status, and
8 occupational capabilities.

9 (6) The offender's financial status, including total
10 monthly income and estimated total debts.

11 (7) The social history of the offender, including his
12 or her family relationships, marital status, interests, and
13 activities.

14 (8) The residence history of the offender.

15 (9) The offender's medical history and, as
16 appropriate, a psychological or psychiatric evaluation.

17 (10) Information about the environments to which the
18 offender might return or to which the offender could be sent
19 should a sentence of nonincarceration or community supervision
20 be imposed by the court, and consideration of the offender's
21 plan concerning employment supervision and treatment.

22 (11) Information about any resources available to
23 assist the offender, such as:

24 (a) Treatment centers.

25 (b) Residential facilities.

26 (c) Vocational training programs.

27 (d) Special education programs.

28 (e) Services that may preclude or supplement
29 commitment to the department.

30 (12) The views of the person preparing the report as
31 to the offender's motivations and ambitions and an assessment

1 of the offender's explanations for his or her criminal
2 activity.

3 (13) An explanation of the offender's criminal record,
4 if any, including his or her version and explanation of any
5 previous offenses.

6 (14) A statement regarding the extent of any victim's
7 loss or injury.

8 (15) A recommendation as to disposition by the court.
9 The department shall make a written determination as to the
10 reasons for its recommendation, and shall include an
11 evaluation of the following factors:

12 (a) The appropriateness or inappropriateness of
13 community facilities, programs, or services for treatment or
14 supervision for the offender.

15 (b) The ability or inability of the department to
16 provide an adequate level of supervision for the offender in
17 the community and a statement of what constitutes an adequate
18 level of supervision.

19 (c) The existence of other treatment modalities which
20 the offender could use but which do not exist at present in
21 the community.

22 Section 19. Subsections (1), (2), (3), and (5) of
23 section 948.034, Florida Statutes, as amended by section 34 of
24 chapter 97-194, Laws of Florida, are amended to read:

25 948.034 Terms and conditions of probation; community
26 residential drug punishment centers.--

27 (1) On or after October 1, 1993, any person who
28 violates s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or
29 (5)(a) may, in the discretion of the trial court, be required
30 to successfully complete a term of probation in lieu of
31

1 serving a term of imprisonment as required or authorized by s.
2 775.084, former s. 921.001, or s. 921.002, as follows:

3 (a) If the person has not previously been convicted of
4 violating s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or
5 (5)(a), adjudication may be withheld and the offender may be
6 placed on probation for not less than 18 months, as a
7 condition of which the court shall require the offender to
8 reside at a community residential drug punishment center for
9 90 days. The offender must comply with all rules and
10 regulations of the center and must pay a fee for the costs of
11 room and board and residential supervision. Placement of an
12 offender into a community residential drug punishment center
13 is subject to budgetary considerations and availability of bed
14 space. If the court requires the offender to reside at a
15 community residential drug punishment center, the court shall
16 also require the offender to comply with one or more of the
17 other following terms and conditions:

18 1. Pay a fine of not less than \$500 nor more than
19 \$10,000 pursuant to s. 775.083(1)(c).

20 2. Enter, regularly attend, and successfully complete
21 a substance abuse education program of at least 40 hours or a
22 prescribed substance abuse treatment program provided by a
23 treatment resource licensed pursuant to ~~chapter 396~~ or chapter
24 397 or by a hospital licensed pursuant to chapter 395, as
25 specified by the court. In addition, the court may refer the
26 offender to a licensed agency for substance abuse evaluation
27 and, if appropriate, substance abuse treatment subject to the
28 ability of the offender to pay for such evaluation and
29 treatment. If such referral is made, the offender must comply
30 and must pay for the reasonable cost of the evaluation and
31 treatment.

1 3. Perform at least 100 hours of public service.

2 4. Submit to routine and random drug testing which may
3 be conducted during the probationary period, with the
4 reasonable costs thereof borne by the offender.

5 5. Participate, at his or her own expense, in an
6 appropriate self-help group, such as Narcotics Anonymous,
7 Alcoholics Anonymous, or Cocaine Anonymous, if available.

8 (b) If the person has been previously convicted of one
9 felony violation of s. 893.13(1)(a)1., (1)(c)2., (1)(d)2.,
10 (2)(a)1., or (5)(a), adjudication may not be withheld and the
11 offender may be placed on probation for not less than 24
12 months, as a condition of which the court shall require the
13 offender to reside at a community residential drug punishment
14 center for 180 days. The offender must comply with all rules
15 and regulations of the center and must pay a fee for the costs
16 of room and board and residential supervision. Placement of an
17 offender into a community residential drug punishment center
18 is subject to budgetary considerations and availability of bed
19 space. If the court requires the offender to reside at a
20 community residential drug punishment center, the court shall
21 also require the offender to comply with one or more of the
22 other following terms and conditions:

23 1. Pay a fine of not less than \$1,000 nor more than
24 \$10,000 pursuant to s. 775.083(1)(c).

25 2. Enter, regularly attend, and successfully complete
26 a substance abuse education program of at least 40 hours or a
27 prescribed substance abuse treatment program provided by a
28 treatment resource licensed pursuant to ~~chapter 396~~ or chapter
29 397 or by a hospital licensed pursuant to chapter 395, as
30 specified by the court. In addition, the court may refer the
31 offender to a licensed agency for substance abuse evaluation

1 and, if appropriate, substance abuse treatment subject to the
2 ability of the offender to pay for such evaluation and
3 treatment. If such referral is made, the offender must comply
4 and must pay for the reasonable cost of the evaluation and
5 treatment.

6 3. Perform at least 200 hours of public service.

7 4. Submit to routine and random drug testing which may
8 be conducted during the probationary period, with the
9 reasonable costs thereof borne by the offender.

10 5. Participate, at his or her own expense, in an
11 appropriate self-help group, such as Narcotics Anonymous,
12 Alcoholics Anonymous, or Cocaine Anonymous, if available.

13 (c) If the person has been previously convicted of two
14 felony violations of s. 893.13(1)(a)1., (1)(c)2., (1)(d)2.,
15 (2)(a)1., or (5)(a), adjudication may not be withheld and the
16 offender may be placed on probation for not less than 36
17 months, as a condition of which the court shall require the
18 offender to reside at a community residential drug punishment
19 center for 360 days. The offender must comply with all rules
20 and regulations of the center and must pay a fee for the costs
21 of room and board and residential supervision. Placement of an
22 offender into a community residential drug punishment center
23 is subject to budgetary considerations and availability of bed
24 space. If the court requires the offender to reside at a
25 community residential drug punishment center, the court shall
26 also require the offender to comply with one or more of the
27 other following terms and conditions:

28 1. Pay a fine of not less than \$1,500 nor more than
29 \$10,000 pursuant to s. 775.083(1)(c).

30 2. Enter, regularly attend, and successfully complete
31 a substance abuse education program of at least 40 hours or a

1 prescribed substance abuse treatment program provided by a
2 treatment resource licensed pursuant to ~~chapter 396~~ or chapter
3 397 or by a hospital licensed pursuant to chapter 395, as
4 specified by the court. In addition, the court may refer the
5 offender to a licensed agency for substance abuse evaluation
6 and, if appropriate, substance abuse treatment subject to the
7 ability of the offender to pay for such evaluation and
8 treatment. If such referral is made, the offender must comply
9 and must pay for the reasonable cost of the evaluation and
10 treatment.

11 3. Perform at least 300 hours of public service.

12 4. Submit to routine and random drug testing which may
13 be conducted during the probationary period, with the
14 reasonable costs thereof borne by the offender.

15 5. Participate, at his or her own expense, in an
16 appropriate self-help group, such as Narcotics Anonymous,
17 Alcoholics Anonymous, or Cocaine Anonymous, if available.

18 (d) An offender who violates probation imposed
19 pursuant to this section shall be sentenced in accordance with
20 s. 921.002.

21 (2) On or after October 1, 1993, any person who
22 violates s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a) may,
23 in the discretion of the trial court, be required to
24 successfully complete a term of probation in lieu of serving a
25 term of imprisonment as required or authorized by s. 775.084,
26 former s. 921.001, or s. 921.002, as follows:

27 (a) If the person has not previously been convicted of
28 violating s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a),
29 adjudication may be withheld and the offender shall be placed
30 on probation for not less than 12 months, as a condition of
31

1 | which the court may require the offender to comply with one or
2 | more of the following terms and conditions:

3 | 1. Pay a fine of not less than \$250 nor more than
4 | \$5,000 pursuant to s. 775.083(1)(c).

5 | 2. Enter, regularly attend, and successfully complete
6 | a substance abuse education program of at least 40 hours or a
7 | prescribed substance abuse treatment program provided by a
8 | treatment resource licensed pursuant to ~~chapter 396~~ or chapter
9 | 397 or by a hospital licensed pursuant to chapter 395, as
10 | specified by the court. In addition, the court may refer the
11 | offender to a licensed agency for substance abuse evaluation
12 | and, if appropriate, substance abuse treatment subject to the
13 | ability of the offender to pay for such evaluation and
14 | treatment. If such referral is made, the offender must comply
15 | and must pay for the reasonable cost of the evaluation and
16 | treatment.

17 | 3. Perform at least 50 hours of public service.

18 | 4. Submit to routine and random drug testing which may
19 | be conducted during the probationary period, with the
20 | reasonable costs thereof borne by the offender.

21 | 5. Participate, at his or her own expense, in an
22 | appropriate self-help group, such as Narcotics Anonymous,
23 | Alcoholics Anonymous, or Cocaine Anonymous, if available.

24 | (b) If the person has been previously convicted of one
25 | felony violation of s. 893.13(1)(a)2., (2)(a)2., (5)(b), or
26 | (6)(a), adjudication may not be withheld and the offender may
27 | be placed on probation for not less than 18 months, as a
28 | condition of which the court shall require the offender to
29 | reside at a community residential drug punishment center for
30 | 90 days. The offender must comply with all rules and
31 | regulations of the center and must pay a fee for the costs of

1 room and board and residential supervision. Placement of an
2 offender into a community residential drug punishment center
3 is subject to budgetary considerations and availability of bed
4 space. If the court requires the offender to reside at a
5 community residential drug punishment center, the court shall
6 also require the offender to comply with one or more of the
7 other following terms and conditions:

8 1. Pay a fine of not less than \$500 nor more than
9 \$5,000 pursuant to s. 775.083(1)(c).

10 2. Enter, regularly attend, and successfully complete
11 a substance abuse intervention program of a least 80 hours
12 provided by a treatment resource licensed pursuant to ~~chapter~~
13 ~~396~~ or chapter 397 or by a hospital licensed pursuant to
14 chapter 395, as specified by the court. In addition, the court
15 may refer the offender to a licensed agency for substance
16 abuse evaluation and, if appropriate, substance abuse
17 treatment subject to the ability of the offender to pay for
18 such evaluation and treatment. If such referral is made, the
19 offender must comply and must pay for the reasonable cost of
20 the evaluation and treatment.

21 3. Perform at least 100 hours of public service.

22 4. Submit to routine and random drug testing which may
23 be conducted during the probationary period, with the
24 reasonable costs thereof borne by the offender.

25 5. Participate, at his or her own expense, in an
26 appropriate self-help group, such as Narcotics Anonymous,
27 Alcoholics Anonymous, or Cocaine Anonymous, if available.

28 (c) If the person has been previously convicted of two
29 felony violations of s. 893.13(1)(a)2., (2)(a)2., (5)(b), or
30 (6)(a), adjudication may not be withheld and the offender may
31 be placed on probation for not less than 24 months, as a

1 condition of which the court shall require the offender to
2 reside at a community residential drug punishment center for
3 120 days. The offender must comply with all rules and
4 regulations of the center and must pay a fee for the costs of
5 room and board and residential supervision. Placement of an
6 offender into a community residential drug punishment center
7 is subject to budgetary considerations and availability of bed
8 space. If the court requires the offender to reside at a
9 community residential drug punishment center, the court shall
10 also require the offender to comply with one or more of the
11 other following terms and conditions:

12 1. Pay a fine of not less than \$1,000 nor more than
13 \$5,000 pursuant to s. 775.083(1)(c).

14 2. Enter, regularly attend, and successfully complete
15 a prescribed substance abuse treatment program provided by a
16 treatment resource licensed pursuant to ~~chapter 396~~ or chapter
17 397 or by a hospital licensed pursuant to chapter 395, as
18 specified by the court. In addition, the court may refer the
19 offender to a licensed agency for substance abuse evaluation
20 and, if appropriate, substance abuse treatment subject to the
21 ability of the offender to pay for such evaluation and
22 treatment. If such referral is made, the offender must comply
23 and must pay for the reasonable cost of the evaluation and
24 treatment.

25 3. Perform at least 150 hours of public service.

26 4. Submit to routine and random drug testing which may
27 be conducted during the probationary period, with the
28 reasonable costs thereof borne by the offender.

29 5. Participate, at his or her own expense, in an
30 appropriate self-help group, such as Narcotics Anonymous,
31 Alcoholics Anonymous, or Cocaine Anonymous, if available.

1 (d) If the person has been previously convicted of
2 three felony violations of s. 893.13(1)(a)2., (2)(a)2.,
3 (5)(b), or (6)(a), adjudication may not be withheld and the
4 offender may be placed on probation for not less than 30
5 months, as a condition of which the court shall require the
6 offender to reside at a community residential drug punishment
7 center for 200 days. The offender must comply with all rules
8 and regulations of the center and must pay a fee for the costs
9 of room and board and residential supervision. Placement of an
10 offender into a community residential drug punishment center
11 is subject to budgetary considerations and availability of bed
12 space. If the court requires the offender to reside at a
13 community residential drug punishment center, the court shall
14 also require the offender to comply with one or more of the
15 other following terms and conditions:

16 1. Pay a fine of not less than \$1,500 nor more than
17 \$5,000 pursuant to s. 775.083(1)(c).

18 2. Enter, regularly attend, and successfully complete
19 a prescribed substance abuse treatment program provided by a
20 treatment resource licensed pursuant to ~~chapter 396~~ or chapter
21 397 or by a hospital licensed pursuant to chapter 395, as
22 specified by the court. In addition, the court may refer the
23 offender to a licensed agency for substance abuse evaluation
24 and, if appropriate, substance abuse treatment subject to the
25 ability of the offender to pay for such evaluation and
26 treatment. If such referral is made, the offender must comply
27 and must pay for the reasonable cost of the evaluation and
28 treatment.

29 3. Perform at least 200 hours of public service.
30
31

1 4. Submit to routine and random drug testing which may
2 be conducted during the probationary period, with the
3 reasonable costs thereof borne by the offender.

4 5. Participate, at his or her own expense, in an
5 appropriate self-help group, such as Narcotics Anonymous,
6 Alcoholics Anonymous, or Cocaine Anonymous, if available.

7 (e) If the person has been previously convicted of
8 four felony violations of s. 893.13(1)(a)2., (2)(a)2., (5)(b),
9 or (6)(a), adjudication may not be withheld and the offender
10 may be placed on probation for not less than 36 months, as a
11 condition of which the court shall require the offender to
12 reside at a community residential drug punishment center for
13 360 days. The offender must comply with all rules and
14 regulations of the center and must pay a fee for the costs of
15 room and board and residential supervision. Placement of an
16 offender into a community residential drug punishment center
17 is subject to budgetary considerations and availability of bed
18 space. If the court requires the offender to reside at a
19 community residential drug punishment center, the court shall
20 also require the offender to comply with one or more of the
21 other following terms and conditions:

22 1. Pay a fine of not less than \$2,000 nor more than
23 \$5,000 pursuant to s. 775.083(1)(c).

24 2. Enter, regularly attend, and successfully complete
25 a prescribed substance abuse treatment program provided by a
26 treatment resource licensed pursuant to ~~chapter 396~~ or chapter
27 397 or by a hospital licensed pursuant to chapter 395, as
28 specified by the court. In addition, the court may refer the
29 offender to a licensed agency for substance abuse evaluation
30 and, if appropriate, substance abuse treatment subject to the
31 ability of the offender to pay for such evaluation and

1 treatment. If such referral is made, the offender must comply
2 and must pay for the reasonable cost of the evaluation and
3 treatment.

4 3. Perform at least 250 hours of public service.

5 4. Submit to routine and random drug testing which may
6 be conducted during the probationary period, with the
7 reasonable costs thereof borne by the offender.

8 5. Participate, at his or her own expense, in an
9 appropriate self-help group, such as Narcotics Anonymous,
10 Alcoholics Anonymous, or Cocaine Anonymous, if available.

11 (f) An offender who violates probation imposed
12 pursuant to this section shall be sentenced in accordance with
13 s. 921.002.

14 (3) Whenever the authorized provider for substance
15 abuse treatment pursuant to this section is the same provider
16 that ~~which~~ conducts the substance abuse evaluations, that
17 provider must submit a quarterly statistical report that ~~which~~
18 shall be reviewed by the Department of Children and Family
19 ~~Health and Rehabilitative~~ Services to ensure that excessive
20 referrals to treatment have not been made. A programmatic and
21 statistical report must be submitted annually to the
22 Department of Children and Family ~~Health and Rehabilitative~~
23 Services by each provider authorized to provide services under
24 this section.

25 (5) The Department of Corrections, in consultation
26 with the Department of Children and Family ~~Health and~~
27 ~~Rehabilitative~~ Services, shall adopt rules as necessary to
28 implement the provisions of this section relating to program
29 standards and performance objectives of community residential
30 drug punishment centers.

31

1 Section 20. Subsection (2) of section 948.51, Florida
2 Statutes, as amended by section 35 of chapter 97-194, Laws of
3 Florida, is amended to read:

4 948.51 Community corrections assistance to counties or
5 county consortiums.--

6 (2) ELIGIBILITY OF COUNTIES AND COUNTY CONSORTIUMS.--A
7 county, or a consortium of two or more counties, may contract
8 with the Department of Corrections for community corrections
9 funds as provided in this section. In order to enter into a
10 community corrections partnership contract, a county or county
11 consortium must have a public safety coordinating council
12 established under s. 951.26 and must designate a county
13 officer or agency to be responsible for administering
14 community corrections funds received from the state. The
15 public safety coordinating council shall prepare, develop, and
16 implement a comprehensive public safety plan for the county,
17 or the geographic area represented by the county consortium,
18 and shall submit an annual report to the Department of
19 Corrections concerning the status of the program. In preparing
20 the comprehensive public safety plan, the public safety
21 coordinating council shall cooperate with the district
22 juvenile justice board and the county juvenile justice
23 council, established under s. 985.413 ~~s. 39.025~~, in order to
24 include programs and services for juveniles in the plan. To be
25 eligible for community corrections funds under the contract,
26 the initial public safety plan must be approved by the
27 governing board of the county, or the governing board of each
28 county within the consortium, and the Secretary of Corrections
29 based on the requirements of this section. If one or more
30 other counties develop a unified public safety plan, the
31 public safety coordinating council shall submit a single

1 application to the department for funding. Continued contract
2 funding shall be pursuant to subsection (5)~~subsection (6)~~.
3 The plan for a county or county consortium must cover at least
4 a 5-year period and must include:
5 (a) A description of programs offered for the job
6 placement and treatment of offenders in the community.
7 (b) A specification of community-based intermediate
8 sentencing options to be offered and the types and number of
9 offenders to be included in each program.
10 (c) Specific goals and objectives for reducing the
11 projected percentage of commitments to the state prison system
12 of persons with low total sentencing scores ~~of 40 to 52~~
13 ~~points, inclusive,~~ pursuant to the Criminal Punishment Code.
14 (d) Specific evidence of the population status of all
15 programs which are part of the plan, which evidence
16 establishes that such programs do not include offenders who
17 otherwise would have been on a less intensive form of
18 community supervision.
19 (e) The assessment of population status by the public
20 safety coordinating council of all correctional facilities
21 owned or contracted for by the county or by each county within
22 the consortium.
23 (f) The assessment of bed space that is available for
24 substance abuse intervention and treatment programs and the
25 assessment of offenders in need of treatment who are committed
26 to each correctional facility owned or contracted for by the
27 county or by each county within the consortium.
28 (g) A description of program costs and sources of
29 funds for each community corrections program, including
30 community corrections funds, loans, state assistance, and
31 other financial assistance.

1 Section 21. Subsection (3) of section 958.04, Florida
2 Statutes, as amended by section 36 of chapter 97-194, Laws of
3 Florida, is amended to read:

4 958.04 Judicial disposition of youthful offenders.--

5 (3) The provisions of this section shall not be used
6 to impose a greater sentence than the permissible sentence
7 ~~maximum recommended~~ range as established by the Criminal
8 Punishment Code pursuant to chapter 921 unless reasons are
9 explained in writing by the trial court judge which reasonably
10 justify departure. A sentence imposed outside of the code is
11 subject to appeal pursuant to s. 924.06 or s. 924.07.

12 Section 22. This act shall take effect October 1,
13 1998.

14
15 *****

16 SENATE SUMMARY

17 Revises various provisions of the Criminal Punishment
18 Code to clarify that the code applies to felony offenses
19 committed on or after October 1, 1998, and is
20 inapplicable to capital felonies. Provides additional
21 duties for the Department of Corrections with respect to
22 estimating the prison population and projecting the
23 impact of any change to the Criminal Punishment Code.
24 Includes certain additional offenses within the offense
25 severity ranking chart. Includes the offense of domestic
26 violence as a multiplier for the offense score under the
27 code. Requires that the Department of Corrections revise
28 the scoresheets used in calculating sentences under the
29 code. Prohibits the court from imposing a sentence below
30 the lowest permissible sentence unless the sentence is
31 justified by mitigating circumstances. Prohibits the
court from departing from a permissible sentence based on
the defendant's diminished capacity due to alcohol or
drugs. Provides that a sentence that exceeds a specified
maximum sentence may be appealed. Provides for the state
to appeal a sentence that is below the lowest sentence
permitted under the code. (See bill for details.)