

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 report on sentencing
9 trends and practices; requiring that the
10 Criminal Justice Estimating Conference make
11 certain estimates with respect to the prison
12 population; requiring the Criminal Justice
13 Estimating Conference to project the impact of
14 proposed changes to the Criminal Punishment
15 Code; authorizing the Department of Corrections
16 to collect scoresheets and report on
17 compliance; amending s. 921.0021, F.S.;
18 clarifying application of the code; amending s.
19 921.0022, F.S.; providing for ranking certain
20 offenses under the severity ranking chart of
21 the code; specifying the ranking of additional
22 offenses; amending s. 921.0023, F.S., relating
23 to the ranking of unlisted offenses; deleting
24 duplicative provisions; amending s. 921.0024,
25 F.S.; revising the arrangement of the
26 sentencing scoresheet; providing that domestic
27 violence in the presence of a child be included
28 as a multiplier on the offense score of the
29 Criminal Punishment Code; providing for
30 calculating the total sentence points and the
31 lowest permissible sentence; clarifying the

1 calculation of points for a prior capital
2 felony; requiring the imposition of the code
3 sentence when it exceeds the statutory maximum;
4 authorizing a life sentence when the total
5 sentence points equal or exceed a threshold
6 amount; prohibiting discretionary early release
7 for such offenders; requiring that the
8 Department of Corrections consult with certain
9 persons and entities and revise the scoresheet
10 as necessary; requiring the department to
11 distribute copies of scoresheets; creating s.
12 921.0025, F.S.; providing for the adoption and
13 implementation of sentencing scoresheets;
14 amending s. 921.0026, F.S.; prohibiting the
15 court from imposing a sentence below the lowest
16 permissible sentence unless there are
17 mitigating circumstances; creating s.
18 921.00265, F.S.; requiring that the court
19 delineate its reasons if the court decreases a
20 defendant's sentence below the lowest
21 permissible sentence; amending s. 775.082,
22 F.S.; providing for the applicability of
23 sentencing structures, based on the date of the
24 offense; amending s. 775.084, F.S.; providing
25 for community control without an adjudication
26 of guilt to be considered a prior conviction
27 under certain circumstances for purposes of
28 sentencing; requiring that the court submit a
29 report when the court finds it unnecessary to
30 sentence a given defendant as a habitual felony
31 offender, a habitual violent felony offender,

1 or a violent career criminal; amending s.
2 782.051, F.S.; revising the elements of the
3 offense of committing a felony that causes
4 bodily injury to provide that if a person who
5 perpetrates or attempts to perpetrate certain
6 enumerated felony offenses and who commits,
7 aids, or abets an intentional act that could,
8 but does not, cause the death of another, the
9 person commits a first-degree felony; providing
10 for ranking such offense under the Criminal
11 Punishment Code based on the felony offense
12 committed; amending s. 924.06, F.S.; providing
13 for an appeal of a sentence that exceeds the
14 maximum penalty under s. 775.082, F.S.;
15 amending s. 924.07, F.S.; authorizing the state
16 to appeal a sentence imposed below the lowest
17 sentence permitted under the Criminal
18 Punishment Code; amending s. 944.17, F.S.;
19 revising requirements for the sheriff or chief
20 correctional officer in preparing scoresheets
21 for a prisoner who is transferred to the state
22 correctional system; creating s. 944.70, F.S.;
23 specifying the conditions under which persons
24 convicted of crimes may be released from
25 incarceration; amending s. 944.705, F.S.,
26 relating to the release orientation program;
27 conforming cross-references to changes made by
28 the act; amending s. 948.015, F.S.; revising
29 requirements for the presentence investigation
30 report for certain defendants; amending s.
31 948.034, F.S., relating to probation for

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

14

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

16

17 Section 1. Section 2 of chapter 97-194, Laws of
18 Florida, is amended to read:19 Section 2. The Florida Criminal Punishment Code,
20 consisting of sections 921.002-921.0026, Florida Statutes, is
21 established effective October 1, 1998, and applies to any
22 felony committed on or after that date, excluding any capital
23 felony.24 Section 2. Section 921.002, Florida Statutes, as
25 created by section 3 of chapter 97-194, Laws of Florida, is
26 amended to read:27 921.002 The Criminal Punishment Code.--The Criminal
28 Punishment Code shall apply to all felony offenses, except
29 capital felonies, committed on or after October 1, 1998.30 (1) The provision of criminal penalties and of
31 limitations upon the application of such penalties is a matter

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

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

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

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

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

20 (e) The sentence imposed by the sentencing judge
21 reflects the length of actual time to be served, shortened
22 only by the application of incentive and meritorious gain-time
23 as provided by law, and may not be shortened if the defendant
24 would consequently serve less than 85 percent of his or her
25 term of imprisonment as provided in s. 944.275(4)(b)3. The
26 provisions of chapter 947, relating to parole, shall not apply
27 to persons sentenced under the Criminal Punishment Code.

28 (f) Departures below the lowest permissible sentence
29 ~~sentencing range~~ established by ~~in~~ the code must be
30 articulated in writing by the trial court judge and made only
31 when circumstances or factors reasonably justify the

1 ~~aggravation or~~ mitigation of the sentence. The level of proof
2 necessary to establish facts that support a departure from the
3 lowest permissible sentence ~~sentencing range~~ is a
4 preponderance of the evidence.

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

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

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

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

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

1 be upheld when at least one circumstance or factor justifies
2 the mitigation regardless of the presence of other
3 circumstances or factors found not to justify mitigation. Any
4 sentence imposed below the lowest permissible sentence
5 ~~sentencing range~~ must be explained in writing by the trial
6 court judge.

7 (4)(a) The Department of Corrections shall report on
8 trends in sentencing practices and sentencing score thresholds
9 and provide an analysis on the sentencing factors considered
10 by the courts and shall submit this information to the
11 Legislature by October 1 of each year, beginning in 1999.

12 (b) The Criminal Justice Estimating Conference, with
13 the assistance of the Department of Corrections, shall
14 estimate the impact of any proposed change to the Criminal
15 Punishment Code on future rates of incarceration and on the
16 prison population. The Criminal Justice Estimating Conference
17 shall base its projections on historical data concerning
18 sentencing practices which have been accumulated by the
19 Department of Corrections and other relevant data from other
20 state agencies and records of the Department of Corrections
21 which disclose the average time served for offenses covered by
22 any proposed changes to the Criminal Punishment Code.

23 (c) In order to produce projects that are either
24 required by law or requested by the Legislature to assist the
25 Legislature in making modifications to the Criminal Punishment
26 Code, the Department of Corrections is authorized to collect
27 and evaluate Criminal Punishment Code scoresheets from each of
28 the judicial circuits after sentencing. Beginning in 1999, by
29 October 1 of each year, the Department of Corrections shall
30 provide an annual report to the Legislature that shows the

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1 rate of compliance of each judicial circuit in providing
2 scoresheets to the department.

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

6 921.0021 Definitions.--As used in this chapter, for
7 any felony offense, except any capital felony, committed on or
8 after October 1, 1998,the term:

9 (1) "Additional offense" means any offense other than
10 the primary offense for which an offender is convicted and
11 which is pending before the court for sentencing at the time
12 of the primary offense.

13 (2) "Conviction" means a determination of guilt that
14 is the result of a plea or a trial, regardless of whether
15 adjudication is withheld.

16 (3) "Legal status" means an offender's status if the
17 offender:

18 (a) Escapes from incarceration;

19 (b) Flees to avoid prosecution;

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

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

22 (e) Is incarcerated;

23 (f) Is under any form of a pretrial intervention or
24 diversion program; or

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

27 (4) "Primary offense" means the offense at conviction
28 pending before the court for sentencing for which the total
29 sentence points recommend a sanction that is as severe as, or
30 more severe than, the sanction recommended for any other
31 offense committed by the offender and pending before the court

1 at sentencing. Only one count of one offense before the court
2 for sentencing shall be classified as the primary offense.

3 (5) "Prior record" means a conviction for a crime
4 committed by the offender, as an adult or a juvenile, prior to
5 the time of the primary offense. Convictions by federal,
6 out-of-state, military, or foreign courts, and convictions for
7 violations of county or municipal ordinances that incorporate
8 by reference a penalty under state law, are included in the
9 offender's prior record. Convictions for offenses committed
10 by the offender more than 10 years before the primary offense
11 are not included in the offender's prior record if the
12 offender has not been convicted of any other crime for a
13 period of 10 consecutive years from the most recent date of
14 release from confinement, supervision, or sanction, whichever
15 is later, to the date of the primary offense. Juvenile
16 dispositions of offenses committed by the offender within 3
17 years before the primary offense are included in the
18 offender's prior record when the offense would have been a
19 crime had the offender been an adult rather than a juvenile.
20 Juvenile dispositions of sexual offenses committed by the
21 offender which were committed 3 years or more before the
22 primary offense are included in the offender's prior record if
23 the offender has not maintained a conviction-free record,
24 either as an adult or a juvenile, for a period of 3
25 consecutive years from the most recent date of release from
26 confinement, supervision, or sanction, whichever is later, to
27 the date of the primary offense.

28 (6) "Community sanction" includes:

29 (a) Probation.

30 (b) Community control.

31 (c) Pretrial intervention or diversion.

1 (7)(a) "Victim injury" means the physical injury or
2 death suffered by a person as a direct result of the primary
3 offense, or any additional offense, for which an offender is
4 convicted and which is pending before the court for sentencing
5 at the time of the primary offense.

6 (b) Except as provided in paragraph (c) or paragraph
7 (d),

8 1. If the conviction is for an offense involving
9 sexual contact that includes sexual penetration, the sexual
10 penetration must be scored in accordance with the sentence
11 points provided under s. 921.0024 for sexual penetration,
12 regardless of whether there is evidence of any physical
13 injury.

14 2. If the conviction is for an offense involving
15 sexual contact that does not include sexual penetration, the
16 sexual contact must be scored in accordance with the sentence
17 points provided under s. 921.0024 for sexual contact,
18 regardless of whether there is evidence of any physical
19 injury.

20
21 If the victim of an offense involving sexual contact suffers
22 any physical injury as a direct result of the primary offense
23 or any additional offense committed by the offender resulting
24 in conviction, such physical injury must be scored separately
25 and in addition to the points scored for the sexual contact or
26 the sexual penetration.

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

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

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

7 921.0022 Criminal Punishment Code; offense severity
8 ranking chart.--

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

13 (2) The offense severity ranking chart has 10 offense
14 levels, ranked from least severe, which are level 1 offenses,
15 to most severe, which are level 10 offenses, and each felony
16 offense is assigned to a level according to the severity of
17 the offense. For purposes of determining which felony offenses
18 are specifically listed in the offense severity ranking chart
19 and which severity level has been assigned to each of these
20 offenses, the numerical statutory references in the left
21 column of the chart and the felony degree designations in the
22 middle column of the chart are controlling; the language in
23 the right column of the chart is provided solely for
24 descriptive purposes. Reclassification of the degree of the
25 felony through the application of s. 775.0845, s. 775.087, s.
26 775.0875, ~~or~~ s. 794.023, or any other law that provides an
27 enhanced penalty for a felony offense, to any offense listed
28 in the offense severity ranking chart in this section shall
29 not cause the offense to become unlisted and is not subject to
30 the provisions of s. 921.0023.

31 (3) OFFENSE SEVERITY RANKING CHART

1	2	3	4
5	6	7	8
9	10	11	12
13	14	15	16
17	18	19	20
21	22	23	24
25	26	27	28
29	30	31	
1	Florida	Felony	
2	Statute	Degree	Description
3			
4			(a) LEVEL 1
5	24.118(3)(a)	3rd	Counterfeit or altered state
6			lottery ticket.
7	212.054(2)(b)	3rd	Discretionary sales surtax;
8			limitations, administration, and
9			collection.
10	212.15(2)(b)	3rd	Failure to remit sales taxes,
11			amount greater than \$300 but less
12			than \$20,000.
13	319.30(5)	3rd	Sell, exchange, give away
14			certificate of title or
15			identification number plate.
16	319.35(1)(a)	3rd	Tamper, adjust, change, etc., an
17			odometer.
18	320.26(1)(a)	3rd	Counterfeit, manufacture, or sell
19			registration license plates or
20			validation stickers.
21	322.212(1)	3rd	Possession of forged, stolen,
22			counterfeit, or unlawfully issued
23			driver's license; <u>possession of</u>
24			<u>simulated identification</u> .
25	322.212(4)	3rd	Supply or aid in supplying
26			unauthorized driver's license <u>or</u>
27			<u>identification card</u> .
28	322.212(5)(a)	3rd	False application for driver's
29			license <u>or identification card</u> .
30			
31			

1	370.13(4)(a)	3rd	Molest any stone crab trap, line,
2			or buoy which is property of
3			licenseholder.
4	370.135(1)	3rd	Molest any blue crab trap, line,
5			or buoy which is property of
6			licenseholder.
7	372.663(1)	3rd	Poach any alligator or
8			crocodilia.
9	414.39(2)	3rd	Unauthorized use, possession,
10			forgery, or alteration of food
11			stamps, Medicaid ID, value
12			greater than \$200.
13	414.39(3)(a)	3rd	Fraudulent misappropriation of
14			public assistance funds by
15			employee/official, value more
16			than \$200.
17	443.071(1)	3rd	False statement or representation
18			to obtain or increase
19			unemployment compensation
20			benefits.
21	458.327(1)(a)	3rd	Unlicensed practice of medicine.
22	466.026(1)(a)	3rd	Unlicensed practice of dentistry
23			or dental hygiene.
24	509.151(1)	3rd	Defraud an innkeeper, food or
25			lodging value greater than \$300.
26	517.302(1)	3rd	Violation of the Florida
27			Securities and Investor
28			Protection Act.
29	562.27(1)	3rd	Possess still or still apparatus.
30			
31			

1	713.69	3rd	Tenant removes property upon
2			which lien has accrued, value
3			more than \$50.
4	812.014(3)(c)	3rd	Petit theft (3rd conviction);
5			theft of any property not
6			specified in subsection (2).
7	812.081(2)	3rd	Unlawfully makes or causes to be
8			made a reproduction of a trade
9			secret.
10	815.04(4)(a)	3rd	Offense against intellectual
11			property (i.e., computer
12			programs, data).
13	817.52(2)	3rd	Hiring with intent to defraud,
14			motor vehicle services.
15	826.01	3rd	Bigamy.
16	828.122(3)	3rd	Fighting or baiting animals.
17	831.04(1)	3rd	Any erasure, alteration, etc., of
18			any replacement deed, map, plat,
19			or other document listed in s.
20			92.28.
21	831.31(1)(a)	3rd	Sell, deliver, or possess
22			counterfeit controlled
23			substances, all but s. 893.03(5)
24			drugs.
25	832.041(1)	3rd	Stopping payment with intent to
26			defraud \$150 or more.
27	832.05		
28	(2)(b)&(4)(c)	3rd	Knowing, making, issuing
29			worthless checks \$150 or more or
30			obtaining property in return for
31			worthless check \$150 or more.

1	838.015(3)	3rd	Bribery.
2	838.016(1)	3rd	Public servant receiving unlawful
3			compensation.
4	838.15(2)	3rd	Commercial bribe receiving.
5	838.16	3rd	Commercial bribery.
6	843.18	3rd	Fleeing by boat to elude a law
7			enforcement officer.
8	847.011(1)(a)	3rd	Sell, distribute, etc., obscene,
9			lewd, etc., material (2nd
10			conviction).
11	849.01	3rd	Keeping gambling house.
12	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc.,
13			or assist therein, conduct or
14			advertise drawing for prizes, or
15			dispose of property or money by
16			means of lottery.
17	849.23	3rd	Gambling-related machines;
18			"common offender" as to property
19			rights.
20	849.25(2)	3rd	Engaging in bookmaking.
21	860.08	3rd	Interfere with a railroad signal.
22	860.13(1)(a)	3rd	Operate aircraft while under the
23			influence.
24	893.13(2)(a)2.	3rd	Purchase of cannabis.
25	893.13(6)(a)	3rd	Possession of cannabis (more than
26			20 grams).
27	893.13(7)(a)10.	3rd	Affix false or forged label to
28			package of controlled substance.
29	934.03(1)(a)	3rd	Intercepts, or procures any other
30			person to intercept, any wire or
31			oral communication.

1			(b) LEVEL 2
2	403.413(5)(c)	3rd	Dumps waste litter exceeding 500
3			lbs. in weight or 100 cubic feet
4			in volume or any quantity for
5			commercial purposes, or hazardous
6			waste.
7	517.07	3rd	Registration of securities and
8			furnishing of prospectus
9			required.
10	590.28(1)	3rd	Willful, malicious, or
11			intentional burning.
12	784.05(3)	3rd	Storing or leaving a loaded
13			firearm within reach of minor who
14			uses it to inflict injury or
15			death.
16	787.04(1)	3rd	In violation of court order,
17			take, entice, etc., minor beyond
18			state limits.
19	806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000
20			or more to public communication
21			or any other public service.
22	810.09(2)(e)	3rd	Trespassing on posted commercial
23			horticulture property.
24	812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or
25			more but less than \$5,000.
26	812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or
27			more but less than \$300, taken
28			from unenclosed curtilage of
29			dwelling.
30	817.234(1)(a)2.	3rd	False statement in support of
31			insurance claim.

1	817.481(3)(a)	3rd	Obtain credit or purchase with
2			false, expired, counterfeit,
3			etc., credit card, value over
4			\$300.
5	817.52(3)	3rd	Failure to redeliver hired
6			vehicle.
7	817.54	3rd	With intent to defraud, obtain
8			mortgage note, etc., by false
9			representation.
10	817.60(5)	3rd	Dealing in credit cards of
11			another.
12	817.60(6)(a)	3rd	Forgery; purchase goods, services
13			with false card.
14	817.61	3rd	Fraudulent use of credit cards
15			over \$100 or more within 6
16			months.
17	826.04	3rd	Knowingly marries or has sexual
18			intercourse with person to whom
19			related.
20	831.01	3rd	Forgery.
21	831.02	3rd	Uttering forged instrument;
22			utters or publishes alteration
23			with intent to defraud.
24	831.07	3rd	Forging bank bills or promissory
25			note.
26	831.08	3rd	Possession of 10 or more forged
27			notes.
28	831.09	3rd	Uttering forged bills; passes as
29			bank bill or promissory note.
30	832.05(3)(a)	3rd	Cashing or depositing item with
31			intent to defraud.

1	843.08	3rd	Falsely impersonating an officer.
2	893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c),
3			(2)(c), (3), or (4) drugs other
4			than cannabis.
5	893.147(2)	3rd	Manufacture or delivery of drug
6			paraphernalia.
7			(c) LEVEL 3
8	39.061	3rd	Escapes from juvenile facility
9			(secure detention or residential
10			commitment facility).
11	319.30(4)	3rd	Possession by junkyard of motor
12			vehicle with identification
13			number plate removed.
14	319.33(1)(a)	3rd	Alter or forge any certificate of
15			title to a motor vehicle or
16			mobile home.
17	319.33(1)(c)	3rd	Procure or pass title on stolen
18			vehicle.
19	319.33(4)	3rd	With intent to defraud, possess,
20			sell, etc., a blank, forged, or
21			unlawfully obtained title or
22			registration.
23	328.05(2)	3rd	Possess, sell, or counterfeit
24			fictitious, stolen, or fraudulent
25			titles or bills of sale of
26			vessels.
27	328.07(4)	3rd	Manufacture, exchange, or possess
28			vessel with counterfeit or wrong
29			ID number.
30			
31			

1	376.302(5)	3rd	Fraud related to reimbursement
2			for cleanup expenses under the
3			Inland Protection Trust Fund.
4	501.001(2)(b)	2nd	Tampers with a consumer product
5			or the container using materially
6			false/misleading information.
7	697.08	3rd	Equity skimming.
8	790.15(3)	3rd	Person directs another to
9			discharge firearm from a vehicle.
10	796.05(1)	3rd	Live on earnings of a prostitute.
11	806.10(1)	3rd	Maliciously injure, destroy, or
12			interfere with vehicles or
13			equipment used in firefighting.
14	806.10(2)	3rd	Interferes with or assaults
15			firefighter in performance of
16			duty.
17	810.09(2)(c)	3rd	Trespass on property other than
18			structure or conveyance armed
19			with firearm or dangerous weapon.
20	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but
21			less than \$10,000.
22	815.04(4)(b)	2nd	Computer offense devised to
23			defraud or obtain property.
24	817.034(4)(a)3.	3rd	Engages in scheme to defraud
25			(Florida Communications Fraud
26			Act), property valued at less
27			than \$20,000.
28	817.233	3rd	Burning to defraud insurer.
29	828.12(2)	3rd	Tortures any animal with intent
30			to inflict intense pain, serious
31			physical injury, or death.

1	831.29	2nd	Possession of instruments for
2			counterfeiting drivers' licenses
3			<u>or identification cards.</u>
4	838.021(3)(b)	3rd	Threatens unlawful harm to public
5			servant.
6	843.19	3rd	Injure, disable, or kill police
7			dog or horse.
8	870.01(2)	3rd	Riot; inciting or encouraging.
9	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver
10			cannabis (or other s.
11			893.03(1)(c), (2)(c), (3), or (4)
12			drugs).
13	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s.
14			893.03(1)(c), (2)(c), (3), or (4)
15			drugs within 200 feet of
16			university, public housing
17			facility, or public park.
18	893.13(6)(a)	3rd	Possession of any controlled
19			substance other than felony
20			possession of cannabis.
21	893.13(7)(a)9.	3rd	Obtain or attempt to obtain
22			controlled substance by fraud,
23			forgery, misrepresentation, etc.
24	893.13(7)(a)11.	3rd	Furnish false or fraudulent
25			material information on any
26			document or record required by
27			chapter 893.
28	918.13(1)(a)	3rd	Alter, destroy, or conceal
29			investigation evidence.
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1	<u>944.401</u>	<u>3rd</u>	<u>Escapes from a juvenile facility</u>
2			<u>(secure detention or residential</u>
3			<u>commitment facility).</u>
4	944.47		
5	(1)(a)1.-2.	3rd	Introduce contraband to
6			correctional facility.
7	944.47(1)(c)	2nd	Possess contraband while upon the
8			grounds of a correctional
9			institution.
10			(d) LEVEL 4
11	316.1935(2)	3rd	Fleeing or attempting to elude
12			law enforcement officer resulting
13			in high-speed pursuit.
14	784.07(2)(b)	3rd	Battery of law enforcement
15			officer, firefighter, intake
16			officer, etc.
17	784.075	3rd	Battery on detention or
18			commitment facility staff.
19	784.08(2)(c)	3rd	Battery on a person 65 years of
20			age or older.
21	784.081(3)	3rd	Battery on specified official or
22			employee.
23	784.082(3)	3rd	Battery by detained person on
24			visitor or other detainee.
25	787.03(1)	3rd	Interference with custody;
26			wrongly takes child from
27			appointed guardian.
28	787.04(2)	3rd	Take, entice, or remove child
29			beyond state limits with criminal
30			intent pending custody
31			proceedings.

1	787.04(3)	3rd	Carrying child beyond state lines
2			with criminal intent to avoid
3			producing child at custody
4			hearing or delivering to
5			designated person.
6	790.115(1)	3rd	Exhibiting firearm or weapon
7			within 1,000 feet of a school.
8	790.115(2)(b)	3rd	Possessing electric weapon or
9			device, destructive device, or
10			other weapon on school property.
11	790.115(2)(c)	3rd	Possessing firearm on school
12			property.
13	810.02(4)(a)	3rd	Burglary, or attempted burglary,
14			of an unoccupied structure;
15			unarmed; no assault or battery.
16	810.02(4)(b)	3rd	Burglary, or attempted burglary,
17			of an unoccupied conveyance;
18			unarmed; no assault or battery.
19	810.06	3rd	Burglary; possession of tools.
20	810.08(2)(c)	3rd	Trespass on property, armed with
21			firearm or dangerous weapon.
22	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000
23			or more but less than \$20,000.
24	812.014		
25	(2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will,
26			firearm, motor vehicle,
27			livestock, etc.
28	817.563(1)	3rd	Sell or deliver substance other
29			than controlled substance agreed
30			upon, excluding s. 893.03(5)
31			drugs.

1	828.125(1)	2nd	Kill, maim, or cause great bodily
2			harm or permanent breeding
3			disability to any registered
4			horse or cattle.
5	837.02(1)	3rd	Perjury in official proceedings.
6	837.021(1)	3rd	Make contradictory statements in
7			official proceedings.
8	843.025	3rd	Deprive law enforcement,
9			correctional, or correctional
10			probation officer of means of
11			protection or communication.
12	843.15(1)(a)	3rd	Failure to appear while on bail
13			for felony (bond estreature or
14			bond jumping).
15	874.05(1)	3rd	Encouraging or recruiting another
16			to join a criminal street gang.
17	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s.
18			893.03(1)(a), (b), or (d), or
19			(2)(a) or (b) drugs).
20	914.14(2)	3rd	Witnesses accepting bribes.
21	914.22(1)	3rd	Force, threaten, etc., witness,
22			victim, or informant.
23	914.23(2)	3rd	Retaliation against a witness,
24			victim, or informant, no bodily
25			injury.
26	918.12	3rd	Tampering with jurors.
27			(e) LEVEL 5
28	316.027(1)(a)	3rd	Accidents involving personal
29			injuries, failure to stop;
30			leaving scene.
31	316.1935(3)	3rd	Aggravated fleeing or eluding.

1	322.34(3)	3rd	Careless operation of motor
2			vehicle with suspended license,
3			resulting in death or serious
4			bodily injury.
5	327.30(5)	3rd	Vessel accidents involving
6			personal injury; leaving scene.
7	381.0041(11)(b)	3rd	Donate blood, plasma, or organs
8			knowing HIV positive.
9	790.01(2)	3rd	Carrying a concealed firearm.
10	790.162	2nd	Threat to throw or discharge
11			destructive device.
12	790.163	2nd	False report of deadly explosive.
13	790.165(2)	3rd	Manufacture, sell, possess, or
14			deliver hoax bomb.
15	790.221(1)	2nd	Possession of short-barreled
16			shotgun or machine gun.
17	790.23	2nd	Felons in possession of firearms
18			or electronic weapons or devices.
19	806.111(1)	3rd	Possess, manufacture, or dispense
20			fire bomb with intent to damage
21			any structure or property.
22	812.019(1)	2nd	Stolen property; dealing in or
23			trafficking in.
24	812.16(2)	3rd	Owning, operating, or conducting
25			a chop shop.
26	817.034(4)(a)2.	2nd	Communications fraud, value
27			\$20,000 to \$50,000.
28	825.1025(4)	3rd	Lewd or lascivious exhibition in
29			the presence of an elderly person
30			or disabled adult.
31			

1	827.071(4)	2nd	Possess with intent to promote
2			any photographic material, motion
3			picture, etc., which includes
4			sexual conduct by a child.
5	843.01	3rd	Resist officer with violence to
6			person; resist arrest with
7			violence.
8	874.05(2)	2nd	Encouraging or recruiting another
9			to join a criminal street gang;
10			second or subsequent offense.
11	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver
12			cocaine (or other s.
13			893.03(1)(a), (1)(b), (1)(d),
14			(2)(a), or (2)(b) drugs).
15	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver
16			cannabis (or other s.
17			893.03(1)(c), (2)(c), (3), or (4)
18			drugs) within 1,000 feet of a
19			<u>child care facility or school.</u>
20	893.13(1)(d)1.	1st	Sell, manufacture, or deliver
21			cocaine (or other s.
22			893.03(1)(a), (1)(b), (1)(d),
23			(2)(a), or (2)(b) drugs) within
24			200 feet of university, public
25			housing facility, or public park.
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1	<u>893.13(1)(e)</u>	<u>2nd</u>	<u>Sell, manufacture, or deliver</u>
2			<u>cannabis or other drug prohibited</u>
3			<u>under s. 893.03(1)(c), (2)(c),</u>
4			<u>(3), or (4) within 1,000 feet of</u>
5			<u>property used for religious</u>
6			<u>services or a specified business</u>
7			<u>site.</u>
8	893.13(4)(b)	2nd	Deliver to minor cannabis (or
9			other s. 893.03(1)(c), (2)(c),
10			(3), or (4) drugs).
11			(f) LEVEL 6
12	316.027(1)(b)	2nd	Accident involving death, failure
13			to stop; leaving scene.
14	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent
15			conviction.
16	775.0875(1)	3rd	Taking firearm from law
17			enforcement officer.
18	<u>775.21(9)</u>	<u>3rd</u>	<u>Sexual predators; failure to</u>
19			<u>register; failure to renew</u>
20			<u>driver's license or</u>
21			<u>identification card.</u>
22	784.021(1)(a)	3rd	Aggravated assault; deadly weapon
23			without intent to kill.
24	784.021(1)(b)	3rd	Aggravated assault; intent to
25			commit felony.
26	<u>784.041</u>	<u>3rd</u>	<u>Felony battery.</u>
27	784.048(3)	3rd	Aggravated stalking; credible
28			threat.
29	<u>784.048(5)</u>	<u>3rd</u>	<u>Aggravated stalking of person</u>
30			<u>under 16.</u>
31			

1	784.07(2)(c)	2nd	Aggravated assault on law
2			enforcement officer.
3	784.08(2)(b)	2nd	Aggravated assault on a person 65
4			years of age or older.
5	784.081(2)	2nd	Aggravated assault on specified
6			official or employee.
7	784.082(2)	2nd	Aggravated assault by detained
8			person on visitor or other
9			detainee.
10	787.02(2)	3rd	False imprisonment; restraining
11			with purpose other than those in
12			s. 787.01.
13	790.115(2)(d)	2nd	Discharging firearm or weapon on
14			school property.
15	790.161(2)	2nd	Make, possess, or throw
16			destructive device with intent to
17			do bodily harm or damage
18			property.
19	790.164(1)	2nd	False report of deadly explosive
20			or act of arson or violence to
21			state property.
22	790.19	2nd	Shooting or throwing deadly
23			missiles into dwellings, vessels,
24			or vehicles.
25	794.011(8)(a)	3rd	Solicitation of minor to
26			participate in sexual activity by
27			custodial adult.
28	794.05(1)	2nd	Unlawful sexual activity with
29			specified minor.
30			
31			

1	806.031(2)	2nd	Arson resulting in great bodily
2			harm to firefighter or any other
3			person.
4	810.02(3)(c)	2nd	Burglary of occupied structure;
5			unarmed; no assault or battery.
6	812.014(2)(b)	2nd	Property stolen \$20,000 or more,
7			but less than \$100,000, grand
8			theft in 2nd degree.
9	812.13(2)(c)	2nd	Robbery, no firearm or other
10			weapon (strong-arm robbery).
11	817.034(4)(a)1.	1st	Communications fraud, value
12			greater than \$50,000.
13	817.4821(5)	2nd	Possess cloning paraphernalia
14			with intent to create cloned
15			cellular telephones.
16	825.102(1)	3rd	Abuse of an elderly person or
17			disabled adult.
18	825.102(3)(c)	3rd	Neglect of an elderly person or
19			disabled adult.
20	825.1025(3)	3rd	Lewd or lascivious molestation of
21			an elderly person or disabled
22			adult.
23	825.103(2)(c)	3rd	Exploiting an elderly person or
24			disabled adult and property is
25			valued at \$100 or more , but less
26			than \$20,000.
27	827.03(1)	3rd	Abuse of a child.
28	827.03(3)(c)	3rd	Neglect of a child.
29	827.071(2)&(3)	2nd	Use or induce a child in a sexual
30			performance, or promote or direct
31			such performance.

1	836.05	2nd	Threats; extortion.
2	836.10	2nd	Written threats to kill or do
3			bodily injury.
4	843.12	3rd	Aids or assists person to escape.
5	<u>847.0135(3)</u>	<u>3rd</u>	<u>Solicitation of a child, via a</u>
6			<u>computer service, to commit an</u>
7			<u>unlawful sex act.</u>
8	914.23	2nd	Retaliation against a witness,
9			victim, or informant, with bodily
10			injury.
11	<u>943.0435(6)</u>	<u>3rd</u>	<u>Sex offenders; failure to comply</u>
12			<u>with reporting requirements.</u>
13	944.35(3)(a)2.	3rd	Committing malicious battery upon
14			or inflicting cruel or inhuman
15			treatment on an inmate or
16			offender on community
17			supervision, resulting in great
18			bodily harm.
19	944.40	2nd	Escapes.
20	944.46	3rd	Harboring, concealing, aiding
21			escaped prisoners.
22	944.47(1)(a)5.	2nd	Introduction of contraband
23			(firearm, weapon, or explosive)
24			into correctional facility.
25	951.22(1)	3rd	Intoxicating drug, firearm, or
26			weapon introduced into county
27			facility.
28			(g) LEVEL 7
29	316.193(3)(c)2.	3rd	DUI resulting in serious bodily
30			injury.
31			

1	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious
2			bodily injury.
3	409.920(2)	3rd	Medicaid provider fraud.
4	494.0018(2)	1st	Conviction of any violation of
5			ss. 494.001-494.0077 in which the
6			total money and property
7			unlawfully obtained exceeded
8			\$50,000 and there were five or
9			more victims.
10	<u>782.051(3)</u>	<u>2nd</u>	<u>Attempted felony murder of a</u>
11			<u>person by a person other than the</u>
12			<u>perpetrator or the perpetrator of</u>
13			<u>an attempted felony.</u>
14	782.07(1)	2nd	Killing of a human being by the
15			act, procurement, or culpable
16			negligence of another
17			(manslaughter).
18	782.071	3rd	Killing of human being by the
19			operation of a motor vehicle in a
20			reckless manner (vehicular
21			homicide).
22	782.072	3rd	Killing of a human being by the
23			operation of a vessel in a
24			reckless manner (vessel
25			homicide).
26	784.045(1)(a)1.	2nd	Aggravated battery; intentionally
27			causing great bodily harm or
28			disfigurement.
29	784.045(1)(a)2.	2nd	Aggravated battery; using deadly
30			weapon.
31			

1	784.045(1)(b)	2nd	Aggravated battery; perpetrator
2			aware victim pregnant.
3	784.048(4)	3rd	Aggravated stalking; violation of
4			injunction or court order.
5	784.07(2)(d)	1st	Aggravated battery on law
6			enforcement officer.
7	784.08(2)(a)	1st	Aggravated battery on a person 65
8			years of age or older.
9	784.081(1)	1st	Aggravated battery on specified
10			official or employee.
11	784.082(1)	1st	Aggravated battery by detained
12			person on visitor or other
13			detainee.
14	790.07(4)	1st	Specified weapons violation
15			subsequent to previous conviction
16			of s. 790.07(1) or (2).
17	790.16(1)	1st	Discharge of a machine gun under
18			specified circumstances.
19	796.03	2nd	Procuring any person under 16
20			years for prostitution.
21	800.04	2nd	Handle, fondle, or assault child
22			under 16 years in lewd,
23			lascivious, or indecent manner.
24	806.01(2)	2nd	Maliciously damage structure by
25			fire or explosive.
26	810.02(3)(a)	2nd	Burglary of occupied dwelling;
27			unarmed; no assault or battery.
28	810.02(3)(b)	2nd	Burglary of unoccupied dwelling;
29			unarmed; no assault or battery.
30	810.02(3)(d)	2nd	Burglary of occupied conveyance;
31			unarmed; no assault or battery.

1	812.014(2)(a)	1st	Property stolen, valued at
2			\$100,000 or more; property stolen
3			while causing other property
4			damage; 1st degree grand theft.
5	812.019(2)	1st	Stolen property; initiates,
6			organizes, plans, etc., the theft
7			of property and traffics in
8			stolen property.
9	812.133(2)(b)	1st	Carjacking; no firearm, deadly
10			weapon, or other weapon.
11	825.102(3)(b)	2nd	Neglecting an elderly person or
12			disabled adult causing great
13			bodily harm, disability, or
14			disfigurement.
15	825.1025(2)	2nd	Lewd or lascivious battery upon
16			an elderly person or disabled
17			adult.
18	825.103(2)(b)	2nd	Exploiting an elderly person or
19			disabled adult and property is
20			valued at \$20,000 or more, but
21			less than \$100,000.
22	827.03(3)(b)	2nd	Neglect of a child causing great
23			bodily harm, disability, or
24			disfigurement.
25	827.04(4)	3rd	Impregnation of a child under 16
26			years of age by person 21 years
27			of age or older.
28	<u>837.05(2)</u>	<u>3rd</u>	<u>Giving false information about</u>
29			<u>alleged capital felony to a law</u>
30			<u>enforcement officer.</u>
31	872.06	2nd	Abuse of a dead human body.

1	893.13(1)(c)1.	1st	Sell, manufacture, or deliver
2			cocaine (or other <u>drug prohibited</u>
3			<u>under</u> s. 893.03(1)(a), (1)(b),
4			(1)(d), (2)(a), or (2)(b) drugs)
5			within 1,000 feet of a <u>child care</u>
6			<u>facility or school</u> .
7	<u>893.13(1)(e)</u>	<u>1st</u>	<u>Sell, manufacture, or deliver</u>
8			<u>cocaine or other drug prohibited</u>
9			<u>under s. 893.03(1)(a), (1)(b),</u>
10			<u>(1)(d), (2)(a), or (2)(b), within</u>
11			<u>1,000 feet of property used for</u>
12			<u>religious services or a specified</u>
13			<u>business site</u> .
14	893.13(4)(a)	1st	Deliver to minor cocaine (or
15			other s. 893.03(1)(a), (1)(b),
16			(1)(d), (2)(a), or (2)(b) drugs).
17	893.135(1)(a)1.	1st	Trafficking in cannabis, more
18			than 50 lbs., less than 2,000
19			lbs.
20	893.135		
21	(1)(b)1.a.	1st	Trafficking in cocaine, more than
22			28 grams, less than 200 grams.
23	893.135		
24	(1)(c)1.a.	1st	Trafficking in illegal drugs,
25			more than 4 grams, less than 14
26			grams.
27	893.135		
28	(1)(d)1.	1st	Trafficking in phencyclidine,
29			more than 28 grams, less than 200
30			grams.
31			

1	893.135(1)(e)1.	1st	Trafficking in methaqualone, more
2			than 200 grams, less than 5
3			kilograms.
4	893.135(1)(f)1.	1st	Trafficking in amphetamine, more
5			than 14 grams, less than 28
6			grams.
7	<u>893.135(1)(g)1.a.</u>	<u>1st</u>	<u>Trafficking in flunitrazepam, 4</u>
8			<u>grams or more, less than 14</u>
9			<u>grams.</u>
10			(h) LEVEL 8
11	316.193		
12	(3)(c)3.a.	2nd	DUI manslaughter.
13	327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
14	777.03(2)(a)	1st	Accessory after the fact, capital
15			felony.
16	782.04(4)	2nd	Killing of human without design
17			when engaged in act or attempt of
18			any felony other than arson,
19			sexual battery, robbery,
20			burglary, kidnapping, aircraft
21			piracy, or unlawfully discharging
22			bomb.
23	<u>782.051(2)</u>	<u>1st</u>	<u>Attempted felony murder while</u>
24			<u>perpetrating or attempting to</u>
25			<u>perpetrate a felony not</u>
26			<u>enumerated in s. 782.04(3).</u>
27	782.071(2)	2nd	Committing vehicular homicide and
28			failing to render aid or give
29			information.
30			
31			

1	782.072(2)	2nd	Committing vessel homicide and
2			failing to render aid or give
3			information.
4	790.161(3)	1st	Discharging a destructive device
5			which results in bodily harm or
6			property damage.
7	794.011(5)	2nd	Sexual battery, victim 12 years
8			or over, offender does not use
9			physical force likely to cause
10			serious injury.
11	806.01(1)	1st	Maliciously damage dwelling or
12			structure by fire or explosive,
13			believing person in structure.
14	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
15	810.02(2)(b)	1st,PBL	Burglary; armed with explosives
16			or dangerous weapon.
17	810.02(2)(c)	1st	Burglary of a dwelling or
18			structure causing structural
19			damage or \$1,000 or more property
20			damage.
21	812.13(2)(b)	1st	Robbery with a weapon.
22	812.135(2)	1st	Home-invasion robbery.
23	825.102(2)	2nd	Aggravated abuse of an elderly
24			person or disabled adult.
25	825.103(2)(a)	1st	Exploiting an elderly person or
26			disabled adult and property is
27			valued at \$100,000 or more.
28	827.03(2)	2nd	Aggravated child abuse.
29	<u>837.02(2)</u>	<u>2nd</u>	<u>Perjury in official proceedings</u>
30			<u>relating to prosecution of a</u>
31			<u>capital felony.</u>

1	<u>837.021(2)</u>	<u>2nd</u>	<u>Making contradictory statements</u>
2			<u>in official proceedings relating</u>
3			<u>to prosecution of a capital</u>
4			<u>felony.</u>
5	860.121(2)(c)	1st	Shooting at or throwing any
6			object in path of railroad
7			vehicle resulting in great bodily
8			harm.
9	860.16	1st	Aircraft piracy.
10	893.13(1)(b)	1st	Sell or deliver in excess of 10
11			grams of any substance specified
12			in s. 893.03(1)(a) or (b).
13	893.13(2)(b)	1st	Purchase in excess of 10 grams of
14			any substance specified in s.
15			893.03(1)(a) or (b).
16	893.13(6)(c)	1st	Possess in excess of 10 grams of
17			any substance specified in s.
18			893.03(1)(a) or (b).
19	893.135(1)(a)2.	1st	Trafficking in cannabis, more
20			than 2,000 lbs., less than 10,000
21			lbs.
22	893.135		
23	(1)(b)1.b.	1st	Trafficking in cocaine, more than
24			200 grams, less than 400 grams.
25	893.135		
26	(1)(c)1.b.	1st	Trafficking in illegal drugs,
27			more than 14 grams, less than 28
28			grams.
29			
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1	893.135		
2	(1)(d)1.b.	1st	Trafficking in phencyclidine,
3			more than 200 grams, less than
4			400 grams.
5	893.135		
6	(1)(e)1.b.	1st	Trafficking in methaqualone, more
7			than 5 kilograms, less than 25
8			kilograms.
9	893.135		
10	(1)(f)1.b.	1st	Trafficking in amphetamine, more
11			than 28 grams, less than 200
12			grams.
13	<u>893.135(1)(g)1.b.</u>	<u>1st</u>	<u>Trafficking in flunitrazepam, 14</u>
14			<u>grams or more, less than 28</u>
15			<u>grams.</u>
16	895.03(1)	1st	Use or invest proceeds derived
17			from pattern of racketeering
18			activity.
19	895.03(2)	1st	Acquire or maintain through
20			racketeering activity any
21			interest in or control of any
22			enterprise or real property.
23	895.03(3)	1st	Conduct or participate in any
24			enterprise through pattern of
25			racketeering activity.
26			(i) LEVEL 9
27	316.193		
28	(3)(c)3.b.	1st	DUI manslaughter; failing to
29			render aid or give information.
30	782.04(1)	1st	Attempt, conspire, or solicit to
31			commit premeditated murder.

1	782.04(3)	1st,PBL	Accomplice to murder in
2			connection with arson, sexual
3			battery, robbery, burglary, and
4			other specified felonies.
5	<u>782.051(1)</u>	<u>1st</u>	<u>Attempted felony murder while</u>
6			<u>perpetrating or attempting to</u>
7			<u>perpetrate a felony enumerated in</u>
8			<u>s. 782.04(3).</u>
9	782.07(2)	1st	Aggravated manslaughter of an
10			elderly person or disabled adult.
11	782.07(3)	1st	Aggravated manslaughter of a
12			child.
13	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or
14			reward or as a shield or hostage.
15	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit
16			or facilitate commission of any
17			felony.
18	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to
19			interfere with performance of any
20			governmental or political
21			function.
22	787.02(3)(a)	1st	False imprisonment; child under
23			age 13; perpetrator also commits
24			child abuse, sexual battery,
25			lewd, or lascivious act, etc.
26	790.161	1st	Attempted capital destructive
27			device offense.
28	794.011(2)	1st	Attempted sexual battery; victim
29			less than 12 years of age.
30			
31			

1	794.011(2)	Life	Sexual battery; offender younger
2			than 18 years and commits sexual
3			battery on a person less than 12
4			years.
5	794.011(4)	1st	Sexual battery; victim 12 years
6			or older, certain circumstances.
7	794.011(8)(b)	1st	Sexual battery; engage in sexual
8			conduct with minor 12 to 18 years
9			by person in familial or
10			custodial authority.
11	812.13(2)(a)	1st,PBL	Robbery with firearm or other
12			deadly weapon.
13	812.133(2)(a)	1st,PBL	Carjacking; firearm or other
14			deadly weapon.
15	847.0145(1)	1st	Selling, or otherwise
16			transferring custody or control,
17			of a minor.
18	847.0145(2)	1st	Purchasing, or otherwise
19			obtaining custody or control, of
20			a minor.
21	859.01	1st	Poisoning food, drink, medicine,
22			or water with intent to kill or
23			injure another person.
24	893.135	1st	Attempted capital trafficking
25			offense.
26	893.135(1)(a)3.	1st	Trafficking in cannabis, more
27			than 10,000 lbs.
28	893.135		
29	(1)(b)1.c.	1st	Trafficking in cocaine, more than
30			400 grams, less than 150
31			kilograms.

1 893.135
2 (1)(c)1.c. 1st Trafficking in illegal drugs,
3 more than 28 grams, less than 30
4 kilograms.
5 893.135
6 (1)(d)1.c. 1st Trafficking in phencyclidine,
7 more than 400 grams.
8 893.135
9 (1)(e)1.c. 1st Trafficking in methaqualone, more
10 than 25 kilograms.
11 893.135
12 (1)(f)1.c. 1st Trafficking in amphetamine, more
13 than 200 grams.
14 (j) LEVEL 10
15 782.04(2) 1st,PBL Unlawful killing of human; act is
16 homicide, unpremeditated.
17 787.01(1)(a)3. 1st,PBL Kidnapping; inflict bodily harm
18 upon or terrorize victim.
19 787.01(3)(a) Life Kidnapping; child under age 13,
20 perpetrator also commits child
21 abuse, sexual battery, lewd, or
22 lascivious act, etc.
23 794.011(3) Life Sexual battery; victim 12 years
24 or older, offender uses or
25 threatens to use deadly weapon or
26 physical force to cause serious
27 injury.
28 876.32 1st Treason against the state.
29 Section 5. Section 921.0023, Florida Statutes, as
30 created by section 6 of chapter 97-194, Laws of Florida, is
31 amended to read:

1 921.0023 Criminal Punishment Code; ranking unlisted
2 felony offenses.--A felony offense committed on or after
3 October 1, 1998, that is not listed in s. 921.0022 is ranked
4 with respect to offense severity level by the Legislature,
5 commensurate with the harm or potential harm that is caused by
6 the offense to the community. Until the Legislature
7 specifically assigns an offense to a severity level in the
8 offense severity ranking chart, the severity level is within
9 the following parameters:

10 (1) A felony of the third degree within offense level
11 1.

12 (2) A felony of the second degree within offense level
13 4.

14 (3) A felony of the first degree within offense level
15 7.

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

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

19
20 ~~For purposes of determining whether a felony offense has been~~
21 ~~specifically listed in the offense ranking chart provided in~~
22 ~~s. 921.0022(3), and the severity level that has been assigned~~
23 ~~to an offense listed in the chart, the numerical statutory~~
24 ~~reference in the left column of the chart, and the felony~~
25 ~~degree designation in the middle column of the chart, are~~
26 ~~controlling; the language in the right column of the chart is~~
27 ~~provided solely for descriptive purposes.~~

28 Section 6. Section 921.0024, Florida Statutes, as
29 created by section 7 of chapter 97-194, Laws of Florida, is
30 amended to read:

31

1 921.0024 Criminal Punishment Code; worksheet
2 computations; scoresheets.--

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

5
6 FLORIDA CRIMINAL PUNISHMENT CODE
7 WORKSHEET

8
9 OFFENSE SCORE

10
11 Primary Offense

12 Level	Sentence Points		Total
13			
14 10	116	=	....
15 9	92	=	....
16 8	74	=	....
17 7	56	=	....
18 6	36	=	....
19 5	28	=	....
20 4	22	=	....
21 3	16	=	....
22 2	10	=	....
23 1	4	=	....
24			
25			
26			<u>Total</u>

27
28 Additional Offenses

29 Level	Sentence Points	Counts	Total
30			
31 10	58	x	=

CS for SB 1522

First Engrossed (ntc)

1	9	46	x	....	=	....
2	8	37	x	....	=	....
3	7	28	x	....	=	....
4	6	18	x	....	=	....
5	5	5.4	x	....	=	....
6	4	3.6	x	....	=	....
7	3	2.4	x	....	=	....
8	2	1.2	x	....	=	....
9	1	0.7	x	....	=	....
10	M	0.2	x	....	=	....

11
 12
 13 Total

Victim Injury

Level	Sentence Points		Number		Total
17	.....			
18	2nd degree				
19	murder-				
20	death	240	x	....	= ....
21	Death	120	x	....	= ....
22	Severe	40	x	....	= ....
23	<u>Moderate</u>	<u>18</u>	<u>x</u>	<u>....</u>	<u>=</u>
24	<u>Slight</u>	<u>4</u>	<u>x</u>	<u>....</u>	<u>=</u>
25	Sexual				
26	penetration	80	x	....	= ....
27	Moderate	18	x	....	= ....
28	Sexual				
29	contact	40	x	....	= ....
30	Slight	4	x	....	= ....

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

1	
2	.....
3	<u>Total</u>
4	
5	Primary Offense + Additional Offenses + Victim Injury =
6	TOTAL OFFENSE SCORE
7	
8	PRIOR RECORD SCORE
9	
10	Prior Record
11	Level Sentence Points Number Total
12	.....
13	10 29 x =
14	9 23 x =
15	8 19 x =
16	7 14 x =
17	6 9 x =
18	5 3.6 x =
19	4 2.4 x =
20	3 1.6 x =
21	2 0.8 x =
22	1 0.5 x =
23	M 0.2 x =
24	
25	.....
26	<u>Total</u>
27	
28	TOTAL OFFENSE SCORE.....
29	TOTAL PRIOR RECORD SCORE.....
30	
31	LEGAL STATUS.....

1	COMMUNITY SANCTION VIOLATION.....
2	PRIOR SERIOUS FELONY.....
3	PRIOR CAPITAL FELONY.....
4	FIREARM OR SEMIAUTOMATIC WEAPON.....
5	SUBTOTAL.....
6	
7	<u>PRISON RELEASEE REOFFENDER (no)(yes).....</u>
8	VIOLENT CAREER CRIMINAL (no)(yes).....
9	<u>HABITUAL</u> VIOLENT HABITUAL OFFENDER (no)(yes).....
10	HABITUAL OFFENDER (no)(yes).....
11	DRUG TRAFFICKER (no)(yes) (x multiplier).....
12	LAW ENF. PROTECT. (no)(yes) (x multiplier).....
13	MOTOR VEHICLE THEFT (no)(yes) (x multiplier).....
14	CRIMINAL STREET GANG MEMBER (no)(yes) (x multiplier).....
15	<u>DOMESTIC VIOLENCE IN THE PRESENCE OF RELATED CHILD</u>
16	<u>(no)(yes) (x multiplier).....</u>
17	.....
18	TOTAL SENTENCE POINTS.....

(b) WORKSHEET KEY:

22 Legal status points are assessed when any form of legal status
23 existed at the time the offender committed an offense before
24 the court for sentencing. Four (4) sentence points are
25 assessed for an offender's legal status.

27 Community sanction violation points are assessed when a
28 community sanction violation is before the court for
29 sentencing. Six (6) sentence points are assessed for each
30 community sanction violation, and each successive community
31 sanction violation; however, if the community sanction

1 violation includes a new felony conviction before the
2 sentencing court, twelve (12) community sanction violation
3 points are assessed for such violation, and for each
4 successive community sanction violation involving a new felony
5 conviction. Multiple counts of community sanction violations
6 before the sentencing court shall not be a basis for
7 multiplying the assessment of community sanction violation
8 points.

9
10 Prior serious felony points: If the offender has a primary
11 offense or any additional offense ranked in level 8, level 9,
12 or level 10, and one or more prior serious felonies, a single
13 assessment of 30 points shall be added. For purposes of this
14 section, a prior serious felony is an offense in the
15 offender's prior record that is ranked in level 8, level 9, or
16 level 10 under s. 921.0022 or s. 921.0023 and for which the
17 offender is serving a sentence of confinement, supervision, or
18 other sanction or for which the offender's date of release
19 from confinement, supervision, or other sanction, whichever is
20 later, is within 3 years before the date the primary offense
21 or any additional offense was committed.

22
23 Prior capital felony points: If the offender has one or more
24 prior capital felonies in the offender's criminal record,
25 points shall be added to the subtotal sentence points of the
26 offender equal to twice the number of points the offender
27 receives for the primary offense and any additional offense.
28 A prior capital felony in the offender's criminal record is a
29 previous capital felony offense for which the offender has
30 entered a plea of nolo contendere or guilty to or has been
31 found guilty; or a felony in another jurisdiction which is a

1 capital felony in that jurisdiction, or would be a capital
2 felony if the offense were committed in this state.

3
4 Possession of a firearm, semiautomatic firearm, or machine
5 gun: If the offender is convicted of committing or attempting
6 to commit any felony other than those enumerated in s.
7 775.087(2) while having in his possession: a firearm as
8 defined in s. 790.001(6), an additional 18 sentence points are
9 assessed; or if the offender is convicted of committing or
10 attempting to commit any felony other than those enumerated in
11 s. 775.087(3) while having in his possession a semiautomatic
12 firearm as defined in s. 775.087(3) or a machine gun as
13 defined in s. 790.001(9), an additional 25 sentence points are
14 assessed.

15
16 Sentencing multipliers:

17
18 Drug trafficking: If the primary offense is drug trafficking
19 under s. 893.135, the subtotal sentence points are multiplied,
20 at the discretion of the court, for a level 7 or level 8
21 offense, by 1.5. The state attorney may move the sentencing
22 court to reduce or suspend the sentence of a person convicted
23 of a level 7 or level 8 offense, if the offender provides
24 substantial assistance as described in s. 893.135(4).

25
26 Law enforcement protection: If the primary offense is a
27 violation of the Law Enforcement Protection Act under s.
28 775.0823(2), the subtotal sentence points are multiplied by
29 2.5. If the primary offense is a violation of s. 775.0823(3),
30 (4), (5), (6), (7), or (8), the subtotal sentence points are
31 multiplied by 2.0. If the primary offense is a violation of s.

1 784.07(3) or s. 775.0875(1), or of the Law Enforcement
2 Protection Act under s. 775.0823(9) or (10), the subtotal
3 sentence points are multiplied by 1.5.

4
5 Grand theft of a motor vehicle: If the primary offense is
6 grand theft of the third degree involving a motor vehicle and
7 in the offender's prior record, there are three or more grand
8 thefts of the third degree involving a motor vehicle, the
9 subtotal sentence points are multiplied by 1.5.

10
11 Criminal street gang member: If the offender is convicted of
12 the primary offense and is found to have been a member of a
13 criminal street gang at the time of the commission of the
14 primary offense pursuant to s. 874.04, the subtotal sentence
15 points are multiplied by 1.5.

16
17 Domestic violence in the presence of a child: If the offender
18 is convicted of the primary offense and the primary offense is
19 a crime of domestic violence, as defined in s. 741.28, which
20 was committed in the presence of a child under 16 years of age
21 who is a family household member as defined in s. 741.28(2)
22 with the victim or perpetrator, the subtotal sentence points
23 are multiplied, at the discretion of the court, by 1.5.

24 (2) The lowest permissible sentence is the minimum
25 sentence that may be imposed by the trial court, absent a
26 valid reason for departure in prison months that may be
27 imposed by the court, absent a valid reason to depart, shall
28 be calculated by subtracting 28 points from the total sentence
29 points and decreasing the remaining total by 25 percent. If
30 The lowest permissible sentence is any in prison months is
31 less than or equal to 12, a nonstate prison sanction in which

1 the total sentence points equals or is less than 44 points,
2 unless the court determines within its discretion that a
3 prison sentence, which may be up to the statutory maximums for
4 the offenses committed, is appropriate ~~may be imposed~~. When
5 the total sentence points exceeds 44 points, the lowest
6 permissible sentence in prison months shall be calculated by
7 subtracting 28 points from the total sentence points and
8 decreasing the remaining total by 25 percent.The total
9 sentence points shall be calculated only as a means of
10 determining the lowest permissible sentence. The permissible
11 range for sentencing shall be the lowest permissible sentence
12 up to and including the statutory maximum, as defined in s.
13 775.082, for the primary offense and any additional offenses
14 before the court for sentencing. The sentencing court may
15 impose such sentences concurrently or consecutively. However,
16 any sentence to state prison must exceed 1 year. If the lowest
17 permissible sentence under the code exceeds the statutory
18 maximum sentence as provided in s. 775.082, the sentence
19 required by the code must be imposed. If the total sentence
20 points are greater than or equal to 363, the court may
21 sentence the offender to life imprisonment. An offender
22 sentenced to life imprisonment under this section is not
23 eligible for any form of discretionary early release, except
24 executive clemency or conditional medical release under s.
25 947.149.

26 (3) A single scoresheet shall be prepared for each
27 defendant to determine the permissible range for the sentence
28 that the court may impose, except that if the defendant is
29 before the court for sentencing for more than one felony and
30 the felonies were committed under more than one version or
31 revision of the guidelines or the code, separate scoresheets

1 must be prepared. The scoresheet or scoresheets must cover all
2 the defendant's offenses pending before the court for
3 sentencing. Either the office of the state attorney or the
4 Department of Corrections, or both where appropriate, shall
5 prepare the scoresheet or scoresheets, which must be presented
6 to the defense counsel for review for accuracy in all cases
7 unless the judge directs otherwise. The defendant's
8 scoresheet or scoresheets must be approved and signed by the
9 sentencing judge.

10 (4) The Department of Corrections, in consultation
11 with the Office of the State Courts Administrator, state
12 attorneys, and public defenders, must develop and submit the
13 revised Criminal Punishment Code scoresheet to the Supreme
14 Court for approval by June 15 of each year, as necessary. Upon
15 the Supreme Court's approval of the revised scoresheet, the
16 Department of Corrections shall produce and provide sufficient
17 copies of the revised scoresheets by September 30 of each
18 year, as necessary. Scoresheets must include item entries for
19 the scoresheet preparer's use in indicating whether any prison
20 sentence imposed includes a mandatory minimum sentence or the
21 sentence imposed was a downward departure from the lowest
22 permissible sentence under the Criminal Punishment Code.

23 ~~(5)(4) The Department of Corrections~~ clerks of the
24 ~~circuit courts for the individual counties~~ shall distribute
25 sufficient copies of the Criminal Punishment Code scoresheets
26 to those persons charged with the responsibility for preparing
27 scoresheets, ~~either the office of the state attorney or the~~
28 ~~Department of Corrections, or both where appropriate.~~

29 ~~(6)(5)~~ The clerk of the circuit court shall transmit a
30 complete, accurate, and legible copy of the Criminal
31 Punishment Code scoresheet used in each ~~guidelines~~ sentencing

1 proceeding to the Department of Corrections. Scoresheets must
2 be transmitted no less frequently than monthly, by the first
3 of each month, and may be sent collectively.

4 (7)(6) A sentencing scoresheet must be prepared for
5 every defendant who is sentenced for a felony offense.A copy
6 of the individual offender's Criminal Punishment Code
7 scoresheet and any attachments thereto prepared pursuant to
8 Rule 3.701, Rule 3.702, or Rule 3.703,Florida Rules of
9 Criminal Procedure, or any other rule pertaining to the
10 preparation and submission of felony sentencing scoresheets,
11 must be attached to the copy of the uniform judgment and
12 sentence form provided to the Department of Corrections.

13 Section 7. Section 921.0025, Florida Statutes, is
14 created to read:

15 921.0025 Adoption and implementation of revised
16 sentencing scoresheets.--Rules 3.701, 3.702, 3.703, and 3.988,
17 Florida Rules of Criminal Procedure, as revised by the Supreme
18 Court, and any other rule pertaining to the preparation and
19 submission of felony sentencing scoresheets, are adopted and
20 implemented in accordance with chapter 921 for application to
21 the Criminal Punishment Code.

22 Section 8. Section 921.0026, Florida Statutes, as
23 created by section 8 of chapter 97-194, Laws of Florida, is
24 amended to read:

25 921.0026 Mitigating circumstances.--This section
26 applies to any felony offense, except any capital felony,
27 committed on or after October 1, 1998.

28 (1) A downward departure from the lowest permissible
29 sentence, as calculated according to the total sentence points
30 pursuant to s. 921.0024,is prohibited ~~discouraged~~ unless
31 there are circumstances or factors that reasonably justify the

1 downward departure. Mitigating factors to be considered
2 include, but are not limited to, those listed in subsection
3 (2). The imposition of a sentence below the lowest
4 permissible sentence ~~sentencing range~~ is subject to appellate
5 review under chapter 924, but the extent of downward departure
6 is not subject to appellate review.

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

10 (a) The departure results from a legitimate, uncoerced
11 plea bargain.

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

14 (c) The capacity of the defendant to appreciate the
15 criminal nature of the conduct or to conform that conduct to
16 the requirements of law was substantially impaired.

17 (d) The defendant requires specialized treatment for a
18 mental disorder that is unrelated to substance abuse or
19 addiction or for a physical disability, and the defendant is
20 amenable to treatment.

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

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

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

27 (h) Before the identity of the defendant was
28 determined, the victim was substantially compensated.

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

31

1 (j) The offense was committed in an unsophisticated
2 manner and was an isolated incident for which the defendant
3 has shown remorse.

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

6 (l) The defendant is to be sentenced as a youthful
7 offender.

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

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

15 921.00265 Recommended sentences; departure sentences;
16 mandatory minimum sentences.--This section applies to any
17 felony offense, except any capital felony, committed on or
18 after October 1, 1998.

19 (1) The lowest permissible sentence provided by
20 calculations from the total sentence points pursuant to s.
21 921.0024(2) is assumed to be the lowest appropriate sentence
22 for the offender being sentenced. A departure sentence is
23 prohibited unless there are mitigating circumstances or
24 factors present as provided in s. 921.0026 which reasonably
25 justify a departure.

26 (2) A sentence that decreases an offender's sentence
27 below the lowest permissible sentence is a departure sentence
28 and must be accompanied by a written statement by the
29 sentencing court delineating the reasons for the departure,
30 filed within 7 days after the date of sentencing. A written
31 transcription of reasons stated orally at sentencing for

1 departure from the lowest permissible sentence is permissible
2 if it is filed by the court within 7 days after the date of
3 sentencing.

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

8 Section 10. Section 775.082, Florida Statutes, is
9 amended to read:

10 775.082 Penalties; applicability of sentencing
11 structures; mandatory minimum sentences for certain
12 reoffenders previously released from prison.--

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

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

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

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

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

4 3. For a life felony committed on or after July 1,
5 1995, by a term of imprisonment for life or by imprisonment
6 for a term of years not exceeding life imprisonment.

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

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

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

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

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

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

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

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

1 (7) This section does not deprive the court of any
2 authority conferred by law to decree a forfeiture of property,
3 suspend or cancel a license, remove a person from office, or
4 impose any other civil penalty. Such a judgment or order may
5 be included in the sentence.

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

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

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

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

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

31

- 1 (9)~~(8)~~(a)1. "Prison releasee reoffender" means any
2 defendant who commits, or attempts to commit:
- 3 a. Treason;
 - 4 b. Murder;
 - 5 c. Manslaughter;
 - 6 d. Sexual battery;
 - 7 e. Carjacking;
 - 8 f. Home-invasion robbery;
 - 9 g. Robbery;
 - 10 h. Arson;
 - 11 i. Kidnapping;
 - 12 j. Aggravated assault;
 - 13 k. Aggravated battery;
 - 14 l. Aggravated stalking;
 - 15 m. Aircraft piracy;
 - 16 n. Unlawful throwing, placing, or discharging of a
17 destructive device or bomb;
 - 18 o. Any felony that involves the use or threat of
19 physical force or violence against an individual;
 - 20 p. Armed burglary;
 - 21 q. Burglary of an occupied structure or dwelling; or
 - 22 r. Any felony violation of s. 790.07, s. 800.04, s.
23 827.03, or s. 827.071;
 - 24
 - 25 within 3 years of being released from a state correctional
26 facility operated by the Department of Corrections or a
27 private vendor.
- 28 2. If the state attorney determines that a defendant
29 is a prison releasee reoffender as defined in subparagraph 1.,
30 the state attorney may seek to have the court sentence the
31 defendant as a prison releasee reoffender. Upon proof from the

1 state attorney that establishes by a preponderance of the
2 evidence that a defendant is a prison releasee reoffender as
3 defined in this section, such defendant is not eligible for
4 sentencing under the sentencing guidelines and must be
5 sentenced as follows:

6 a. For a felony punishable by life, by a term of
7 imprisonment for life;

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

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

12 d. For a felony of the third degree, by a term of
13 imprisonment of 5 years.

14 (b) A person sentenced under paragraph (a) shall be
15 released only by expiration of sentence and shall not be
16 eligible for parole, control release, or any form of early
17 release. Any person sentenced under paragraph (a) must serve
18 100 percent of the court-imposed sentence.

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

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

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

30 b. The testimony of a material witness cannot be
31 obtained;

1 c. The victim does not want the offender to receive
2 the mandatory prison sentence and provides a written statement
3 to that effect; or

4 d. Other extenuating circumstances exist which
5 preclude the just prosecution of the offender.

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

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

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

27 775.084 Violent career criminals; habitual felony
28 offenders and habitual violent felony offenders; definitions;
29 procedure; enhanced penalties.--

30 (2) For the purposes of this section, the placing of a
31 person on probation or community control without an

1 adjudication of guilt shall be treated as a prior conviction
2 if the subsequent offense for which the person is to be
3 sentenced was committed during such ~~probationary~~ period of
4 probation or community control.

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

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

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

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

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

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

29 6. For an offense committed on or after October 1,
30 1995, if the state attorney pursues a habitual felony offender
31 sanction or a habitual violent felony offender sanction

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

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

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

29 2. All evidence presented shall be presented in open
30 court with full rights of confrontation, cross-examination,
31 and representation by counsel.

1 3. Each of the findings required as the basis for such
2 sentence shall be found to exist by a preponderance of the
3 evidence and shall be appealable only as provided in paragraph
4 (c).

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

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

26 Section 12. Section 782.051, Florida Statutes, as
27 amended by section 18 of chapter 97-194, Laws of Florida, is
28 amended to read:

29 782.051 Attempted felony murder ~~causing bodily~~
30 ~~injury.~~--

31

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

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

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

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

1 924.06 Appeal by defendant.--

2 (1) A defendant may appeal from:

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

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

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

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

9 (e) A sentence imposed under s. 921.0024 of the

10 Criminal Punishment Code which exceeds the statutory maximum
11 penalty provided in s. 775.082 for an offense at conviction,
12 or the consecutive statutory maximums for offenses at
13 conviction, unless otherwise provided by law.

14 Section 14. Paragraph (i) of subsection (1) of section
15 924.07, Florida Statutes, as amended by section 28 of chapter
16 97-194, Laws of Florida, is amended to read:

17 924.07 Appeal by state.--

18 (1) The state may appeal from:

19 (i) A sentence imposed below the lowest permissible
20 sentence established ~~range permitted~~ by the Criminal
21 Punishment Code under 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
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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.

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