

By Senator Jenne

29-2-98

1 A bill to be entitled
2 An act relating to sentencing; amending s.
3 775.0823, F.S.; providing that a person
4 convicted of certain violent offenses against a
5 law enforcement officer, correctional officer,
6 state attorney, assistant state attorney,
7 justice, or judge be sentenced under certain
8 uniform penalties rather than under the
9 Criminal Punishment Code; amending s. 775.084,
10 F.S., relating to sentences imposed against
11 violent career criminals, habitual felony
12 offenders, and habitual violent felony
13 offenders; deleting a reference made obsolete
14 by the act; amending ss. 775.0845, 775.087,
15 775.0875, F.S., relating to wearing a mask
16 while committing an offense, possessing a
17 weapon while committing a felony, and taking a
18 law enforcement officer's firearm; deleting
19 requirements that such offenses be ranked under
20 the sentencing guidelines or the Criminal
21 Punishment Code; amending s. 777.03, F.S.,
22 relating to the offense of being an accessory
23 to a crime; providing for uniform penalties for
24 such offense; amending s. 777.04, F.S.;
25 requiring that a person convicted of criminal
26 attempt, criminal solicitation, or criminal
27 conspiracy be sentenced under certain uniform
28 penalties rather than under the Criminal
29 Punishment Code; amending s. 782.051, F.S.;
30 deleting requirements that certain offenses
31 that result in bodily injury be ranked under

1 the Criminal Punishment Code; amending s.
2 784.08, F.S.; deleting a requirement that a
3 person convicted of assault and battery against
4 an elderly person be sentenced under the
5 Criminal Punishment Code; authorizing the court
6 to impose a term of imprisonment and a fine;
7 amending ss. 794.023, 874.04, F.S., relating to
8 sexual battery by multiple perpetrators and to
9 criminal street-gang activity; deleting
10 requirements that such offenses be ranked under
11 the Criminal Punishment Code; amending s.
12 893.13, F.S., relating to the offense of
13 selling, manufacturing, or possessing certain
14 controlled substances; deleting provisions made
15 obsolete by the act; amending s. 893.135, F.S.;
16 deleting a requirement that a person convicted
17 of certain drug-trafficking offenses be
18 sentenced under the Criminal Punishment Code;
19 authorizing the court to impose a term of
20 imprisonment and a fine; amending s. 893.20,
21 F.S.; requiring that a person convicted of
22 engaging in a continuing criminal enterprise be
23 sentenced under certain uniform penalties
24 rather than under the Criminal Punishment Code;
25 amending s. 921.187, F.S., relating to
26 disposition and sentencing; deleting provisions
27 made obsolete by the act; amending s. 921.188,
28 F.S.; revising conditions based on the Criminal
29 Punishment Code under which a felon may be
30 placed into the custody of a local detention
31 facility; amending s. 924.07, F.S., relating to

1 | appeals by the state; deleting a reference to
2 | the Criminal Punishment Code to conform to
3 | changes made by the act; amending s. 944.17,
4 | F.S.; deleting a requirement that a prisoner's
5 | Criminal Punishment Code scoresheet be
6 | submitted to the Department of Corrections;
7 | amending ss. 947.141, 947.146, F.S., relating
8 | to violations of conditional release or control
9 | release and the Control Release Authority;
10 | deleting provisions made obsolete by the act;
11 | amending s. 948.015, F.S.; revising conditions
12 | under which the court may request that the
13 | department make a presentence report; amending
14 | s. 948.034, F.S., relating to terms and
15 | conditions of probation; deleting references to
16 | the Criminal Punishment Code to conform to
17 | changes made by the act; amending s. 948.51,
18 | F.S.; revising requirements for a county or
19 | county consortium in developing a public safety
20 | plan; amending s. 958.04, F.S.; providing that
21 | the sentencing limitations provided under
22 | certain uniform penalties, rather than the
23 | limitations provided under the Criminal
24 | Punishment Code, apply to a youthful offender;
25 | amending s. 985.313, F.S.; providing for the
26 | criteria under which a juvenile is committed to
27 | a maximum-risk residential program to be based
28 | on specified offenses rather than on the level
29 | at which the offense is ranked under the
30 | Criminal Punishment Code; repealing s. 2 of ch.
31 | 97-194, Laws of Florida, ss. 921.002, 921.0021,

1 921.0022, 921.0023, 921.0024, 921.0026, F.S.,
2 and ss. 42, 43 of ch. 97-194, Laws of Florida,
3 relating to the Criminal Punishment Code;
4 amending s. 947.16, F.S.; providing that a
5 person sentenced for an offense committed on or
6 after a specified date is eligible for parole
7 consideration after serving 85 percent of his
8 or her court-imposed sentence; providing that
9 the Legislature intends that the Florida
10 Supreme Court review the sentencing practices
11 of circuit judges; providing that the
12 Legislature intends that the Florida Supreme
13 Court submit a report of the review to the
14 Legislature; providing effective dates.

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

17
18 Section 1. Section 775.0823, Florida Statutes, as
19 amended by section 11 of chapter 97-194, Laws of Florida, is
20 amended to read:

21 775.0823 Violent offenses committed against law
22 enforcement officers, correctional officers, state attorneys,
23 assistant state attorneys, justices, or judges.--Any provision
24 of law to the contrary notwithstanding, the Legislature does
25 hereby provide for an increase and certainty of penalty for
26 any person convicted of a violent offense against any law
27 enforcement or correctional officer, as defined in s.
28 943.10(1), (2), (3), (6), (7), (8), or (9); against any state
29 attorney elected pursuant to s. 27.01 or assistant state
30 attorney appointed under s. 27.181; or against any justice or
31 judge of a court described in Art. V of the State

1 Constitution, which offense arises out of or in the scope of
2 the officer's duty as a law enforcement or correctional
3 officer, the state attorney's or assistant state attorney's
4 duty as a prosecutor or investigator, or the justice's or
5 judge's duty as a judicial officer, as follows:

6 (1) For murder in the first degree as described in s.
7 782.04(1), if the death sentence is not imposed, a sentence of
8 imprisonment for life without eligibility for release.

9 (2) For attempted murder in the first degree as
10 described in s. 782.04(1), a sentence pursuant to s. 775.082,
11 s. 775.083, or s. 775.084 ~~the Criminal Punishment Code~~.

12 (3) For murder in the second degree as described in s.
13 782.04(2) and (3), a sentence pursuant to s. 775.082, s.
14 775.083, or s. 775.084 ~~the Criminal Punishment Code~~.

15 (4) For attempted murder in the second degree as
16 described in s. 782.04(2) and (3), a sentence pursuant to s.
17 775.082, s. 775.083, or s. 775.084 ~~the Criminal Punishment~~
18 ~~Code~~.

19 (5) For murder in the third degree as described in s.
20 782.04(4), a sentence pursuant to s. 775.082, s. 775.083, or
21 s. 775.084 ~~the Criminal Punishment Code~~.

22 (6) For attempted murder in the third degree as
23 described in s. 782.04(4), a sentence pursuant to s. 775.082,
24 s. 775.083, or s. 775.084 ~~the Criminal Punishment Code~~.

25 (7) For manslaughter as described in s. 782.07 during
26 the commission of a crime, a sentence pursuant to s. 775.082,
27 s. 775.083, or s. 775.084 ~~the Criminal Punishment Code~~.

28 (8) For kidnapping as described in s. 787.01, a
29 sentence pursuant to s. 775.082 ~~the Criminal Punishment Code~~.

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1 (9) For aggravated battery as described in s. 784.045,
2 a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084
3 ~~the Criminal Punishment Code.~~

4 (10) For aggravated assault as described in s.
5 784.021, a sentence pursuant to s. 775.082, s. 775.083, or s.
6 775.084 ~~the Criminal Punishment Code.~~

7
8 Notwithstanding ~~the provisions of~~ s. 948.01, with respect to
9 any person who is found to have violated this section,
10 adjudication of guilt or imposition of sentence shall not be
11 suspended, deferred, or withheld.

12 Section 2. Subsection (4) of section 775.084, Florida
13 Statutes, as amended by section 12 of chapter 97-194, Laws of
14 Florida, is amended to read:

15 775.084 Violent career criminals; habitual felony
16 offenders and habitual violent felony offenders; definitions;
17 procedure; enhanced penalties.--

18 (4)(a) The court, in conformity with the procedure
19 established in paragraph (3)(a), may sentence the habitual
20 felony offender as follows:

21 1. In the case of a life felony or a felony of the
22 first degree, for life.

23 2. In the case of a felony of the second degree, for a
24 term of years not exceeding 30.

25 3. In the case of a felony of the third degree, for a
26 term of years not exceeding 10.

27 (b) The court, in conformity with the procedure
28 established in paragraph (3)(a), may sentence the habitual
29 violent felony offender as follows:

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1 1. In the case of a life felony or a felony of the
2 first degree, for life, and such offender shall not be
3 eligible for release for 15 years.

4 2. In the case of a felony of the second degree, for a
5 term of years not exceeding 30, and such offender shall not be
6 eligible for release for 10 years.

7 3. In the case of a felony of the third degree, for a
8 term of years not exceeding 10, and such offender shall not be
9 eligible for release for 5 years.

10 (c) The court, in conformity with the procedure
11 established in paragraph (3)(b), shall sentence the violent
12 career criminal as follows:

13 1. In the case of a life felony or a felony of the
14 first degree, for life.

15 2. In the case of a felony of the second degree, for a
16 term of years not exceeding 40, with a mandatory minimum term
17 of 30 years' imprisonment.

18 3. In the case of a felony of the third degree, for a
19 term of years not exceeding 15, with a mandatory minimum term
20 of 10 years' imprisonment.

21 (d) If the court finds, pursuant to paragraph (3)(a)
22 or paragraph (3)(b), that it is not necessary for the
23 protection of the public to sentence a defendant who meets the
24 criteria for sentencing as a habitual felony offender, a
25 habitual violent felony offender, or a violent career
26 criminal, with respect to an offense committed on or after
27 October 1, 1995, sentence shall be imposed without regard to
28 this section.

29 (e) At any time when it appears to the court that the
30 defendant is eligible for sentencing under this section, the
31

1 court shall make that determination as provided in paragraph
2 (3)(a) or paragraph (3)(b).

3 (f) A sentence imposed under this section shall not be
4 increased after such imposition.

5 ~~(g) A sentence imposed under this section is not~~
6 ~~subject to s. 921.002.~~

7 (g)~~(h)~~ The provisions of this section do not apply to
8 capital felonies, and a sentence authorized under this section
9 does not preclude the imposition of the death penalty for a
10 capital felony.

11 (h)~~(i)~~ The provisions of s. 947.1405 shall apply to
12 persons sentenced as habitual felony offenders and persons
13 sentenced as habitual violent felony offenders.

14 (i)~~(j)~~1. A defendant sentenced under this section as
15 a habitual felony offender, a habitual violent felony
16 offender, or a violent career criminal is eligible for
17 gain-time granted by the Department of Corrections as provided
18 in s. 944.275(4)(b).

19 2. For an offense committed on or after October 1,
20 1995, a defendant sentenced under this section as a violent
21 career criminal is not eligible for any form of discretionary
22 early release, other than pardon or executive clemency, or
23 conditional medical release granted pursuant to s. 947.149.

24 Section 3. Section 775.0845, Florida Statutes, is
25 amended to read:

26 775.0845 Wearing mask while committing offense;
27 reclassification.--The felony or misdemeanor degree of any
28 criminal offense, other than a violation of ss. 876.12-876.15,
29 shall be reclassified to the next higher degree as provided in
30 this section if, while committing the offense, the offender
31

1 was wearing a hood, mask, or other device that concealed his
2 or her identity.

3 (1)(a) In the case of a misdemeanor of the second
4 degree, the offense is reclassified to a misdemeanor of the
5 first degree.

6 (b) In the case of a misdemeanor of the first degree,
7 the offense is reclassified to a felony of the third degree.
8 ~~For purposes of sentencing under chapter 921 and determining~~
9 ~~incentive gain-time eligibility under chapter 944, such~~
10 ~~offense is ranked in level 2 of the offense severity ranking~~
11 ~~chart.~~

12 (2)(a) In the case of a felony of the third degree,
13 the offense is reclassified to a felony of the second degree.

14 (b) In the case of a felony of the second degree, the
15 offense is reclassified to a felony of the first degree.

16
17 ~~For purposes of sentencing under chapter 921 and determining~~
18 ~~incentive gain-time eligibility under chapter 944, a felony~~
19 ~~offense that is reclassified under this subsection is ranked~~
20 ~~one level above the ranking under s. 921.0012, s. 921.0013, s.~~
21 ~~921.0022, or s. 921.0023 of the offense committed.~~

22 Section 4. Subsection (1) of section 775.087, Florida
23 Statutes, as amended by section 14 of chapter 97-194, Laws of
24 Florida, is amended to read:

25 775.087 Possession or use of weapon; aggravated
26 battery; felony reclassification; minimum sentence.--

27 (1) Unless otherwise provided by law, whenever a
28 person is charged with a felony, except a felony in which the
29 use of a weapon or firearm is an essential element, and during
30 the commission of such felony the defendant carries, displays,
31 uses, threatens, or attempts to use any weapon or firearm, or

1 during the commission of such felony the defendant commits an
2 aggravated battery, the felony for which the person is charged
3 shall be reclassified as follows:

4 (a) In the case of a felony of the first degree, to a
5 life felony.

6 (b) In the case of a felony of the second degree, to a
7 felony of the first degree.

8 (c) In the case of a felony of the third degree, to a
9 felony of the second degree.

10

11 ~~For purposes of sentencing under chapter 921 and determining~~
12 ~~incentive gain-time eligibility under chapter 944, a felony~~
13 ~~offense which is reclassified under this section is ranked one~~
14 ~~level above the ranking under s. 921.0022 or s. 921.0023 of~~
15 ~~the felony offense committed.~~

16

Section 5. Section 775.0875, Florida Statutes, as
17 amended by section 15 of chapter 97-194, Laws of Florida, is
18 amended to read:

19

775.0875 Unlawful taking, possession, or use of law
20 enforcement officer's firearm; crime reclassification;
21 penalties.--

22

(1) A person who, without authorization, takes a
23 firearm from a law enforcement officer lawfully engaged in law
24 enforcement duties commits a felony of the third degree,
25 punishable as provided in s. 775.082, s. 775.083, or s.
26 775.084.

27

(2) If a person violates subsection (1) and commits
28 any other crime involving the firearm taken from the law
29 enforcement officer, such crime shall be reclassified as
30 follows:

31

1 (a)1. In the case of a felony of the first degree, to
2 a life felony.

3 2. In the case of a felony of the second degree, to a
4 felony of the first degree.

5 3. In the case of a felony of the third degree, to a
6 felony of the second degree.

7
8 ~~For purposes of sentencing under chapter 921 and determining~~
9 ~~incentive gain-time eligibility under chapter 944, a felony~~
10 ~~offense that is reclassified under this paragraph is ranked~~
11 ~~one level above the ranking under s. 921.0022 or s. 921.0023~~
12 ~~of the felony offense committed.~~

13 (b) In the case of a misdemeanor, to a felony of the
14 third degree. ~~For purposes of sentencing under chapter 921 and~~
15 ~~determining incentive gain-time eligibility under chapter 944,~~
16 ~~such offense is ranked in level 2 of the offense severity~~
17 ~~ranking chart.~~

18 (3) A person who possesses a firearm that he or she
19 knows was unlawfully taken from a law enforcement officer
20 commits a misdemeanor of the first degree, punishable as
21 provided in s. 775.082 or s. 775.083.

22 Section 6. Section 777.03, Florida Statutes, as
23 amended by section 16 of chapter 97-194, Laws of Florida, is
24 amended to read:

25 777.03 Accessory after the fact.--

26 ~~(1)~~ Any person not standing in the relation of husband
27 or wife, parent or grandparent, child or grandchild, brother
28 or sister, by consanguinity or affinity to the offender, who
29 maintains or assists the principal or accessory before the
30 fact, or gives the offender any other aid, knowing that the
31 offender had committed a felony or been accessory thereto

1 before the fact, with intent that the offender avoids or
2 escapes detection, arrest, trial, or punishment, is an
3 accessory after the fact and commits a felony of the third
4 degree, punishable as provided in s. 775.082, s. 775.083, or
5 s. 775.084.

6 ~~(2)(a) If the felony offense committed is a capital~~
7 ~~felony, the offense of accessory after the fact is a felony of~~
8 ~~the first degree, punishable as provided in s. 775.082, s.~~
9 ~~775.083, or s. 775.084.~~

10 ~~(b) If the felony offense committed is a life felony~~
11 ~~or a felony of the first degree, the offense of accessory~~
12 ~~after the fact is a felony of the second degree, punishable as~~
13 ~~provided in s. 775.082, s. 775.083, or s. 775.084.~~

14 ~~(c) If the felony offense committed is a felony of the~~
15 ~~second degree or a felony of the third degree ranked in level~~
16 ~~3, 4, 5, 6, 7, 8, 9, or 10 under s. 921.0022 or s. 921.0023,~~
17 ~~the offense of accessory after the fact is a felony of the~~
18 ~~third degree, punishable as provided in s. 775.082, s.~~
19 ~~775.083, or s. 775.084.~~

20 ~~(d) If the felony offense committed is a felony of the~~
21 ~~third degree ranked in level 1 or level 2 under s. 921.0022 or~~
22 ~~s. 921.0023, the offense of accessory after the fact is a~~
23 ~~misdemeanor of the first degree, punishable as provided in s.~~
24 ~~775.082, s. 775.083, or s. 775.084.~~

25 ~~(3) Except as otherwise provided in s. 921.0022, for~~
26 ~~purposes of sentencing under chapter 921 and determining~~
27 ~~incentive gain-time eligibility under chapter 944, the offense~~
28 ~~of accessory after the fact is ranked two levels below the~~
29 ~~ranking under s. 921.0022 or s. 921.0023 of the felony offense~~
30 ~~committed.~~

31

1 Section 7. Section 777.04, Florida Statutes, as
2 amended by section 17 of chapter 97-194, Laws of Florida, is
3 amended to read:

4 777.04 Attempts, solicitation, and conspiracy.--

5 (1) A person who attempts to commit an offense
6 prohibited by law and in such attempt does any act toward the
7 commission of such offense, but fails in the perpetration or
8 is intercepted or prevented in the execution thereof, commits
9 the offense of criminal attempt and shall, when no express
10 provision is made by law for the punishment of such attempt,
11 be punished,~~ranked for purposes of sentencing~~ as provided in
12 subsection (4). Criminal attempt includes the act of an adult
13 who, with intent to commit an offense prohibited by law,
14 allures, seduces, coaxes, or induces a child under the age of
15 12 to engage in an offense prohibited by law.

16 (2) A person who solicits another to commit an offense
17 prohibited by law and in the course of such solicitation
18 commands, encourages, hires, or requests another person to
19 engage in specific conduct that ~~which~~ would constitute such
20 offense or an attempt to commit such offense commits the
21 offense of criminal solicitation and shall, when no express
22 provision is made by law for the punishment of such
23 solicitation, be punished,~~ranked for purposes of sentencing~~
24 as provided in subsection (4).

25 (3) A person who agrees, conspires, combines, or
26 confederates with another person or persons to commit any
27 offense commits the offense of criminal conspiracy and shall,
28 when no express provision is made by law for the punishment of
29 such conspiracy, be punished,~~ranked for purposes of~~
30 ~~sentencing~~ as provided in subsection (4).

31

1 (4) A person who commits the offense of criminal
2 attempt, criminal solicitation, or criminal conspiracy shall
3 be punished as follows:

4 (a) If the offense attempted, solicited, or conspired
5 to is a capital felony, the person convicted is guilty of a
6 felony of the first degree, punishable as provided in s.
7 775.082, s. 775.083, or s. 775.084.

8 (b) If the offense attempted, solicited, or conspired
9 to is a life felony or a felony of the first degree, the
10 person convicted is guilty of a felony of the second degree,
11 punishable as provided in s. 775.082, s. 775.083, or s.
12 775.084.

13 (c) If the offense attempted, solicited, or conspired
14 to is a felony of the second degree or a burglary that is a
15 felony of the third degree, the person convicted is guilty of
16 a felony of the third degree, punishable as provided in s.
17 775.082, s. 775.083, or s. 775.084.

18 (d) If the offense attempted, solicited, or conspired
19 to is a felony of the third degree, the person convicted is
20 guilty of a misdemeanor of the first degree, punishable as
21 provided in s. 775.082 or s. 775.083.

22 (e) If the offense attempted, solicited, or conspired
23 to is a misdemeanor of the first or second degree, the person
24 convicted is guilty of a misdemeanor of the second degree,
25 punishable as provided in s. 775.082 or s. 775.083.

26 ~~(4)(a) Except as otherwise provided in ss. 828.125(2),~~
27 ~~849.25(4), 893.135(5), and 921.0022, the offense of criminal~~
28 ~~attempt, criminal solicitation, or criminal conspiracy is~~
29 ~~ranked for purposes of sentencing under chapter 921 and~~
30 ~~determining incentive gain-time eligibility under chapter 944~~
31 ~~one level below the ranking under s. 921.0022 or s. 921.0023~~

1 ~~of the offense attempted, solicited, or conspired to. If the~~
2 ~~criminal attempt, criminal solicitation, or criminal~~
3 ~~conspiracy is of an offense ranked in level 1 or level 2 under~~
4 ~~s. 921.0022 or s. 921.0023, such offense is a misdemeanor of~~
5 ~~the first degree, punishable as provided in s. 775.082 or s.~~
6 ~~775.083.~~

7 ~~(b) If the offense attempted, solicited, or conspired~~
8 ~~to is a capital felony, the offense of criminal attempt,~~
9 ~~criminal solicitation, or criminal conspiracy is a felony of~~
10 ~~the first degree, punishable as provided in s. 775.082, s.~~
11 ~~775.083, or s. 775.084.~~

12 ~~(c) Except as otherwise provided in s. 893.135(5), if~~
13 ~~the offense attempted, solicited, or conspired to is a life~~
14 ~~felony or a felony of the first degree, the offense of~~
15 ~~criminal attempt, criminal solicitation, or criminal~~
16 ~~conspiracy is a felony of the second degree, punishable as~~
17 ~~provided in s. 775.082, s. 775.083, or s. 775.084.~~

18 ~~(d) Except as otherwise provided in s. 828.125(2) or~~
19 ~~s. 849.25(4), if the offense attempted, solicited, or~~
20 ~~conspired to is a:~~

21 ~~1. Felony of the second degree;~~

22 ~~2. Burglary that is a felony of the third degree; or~~

23 ~~3. Felony of the third degree ranked in level 3, 4, 5,~~
24 ~~6, 7, 8, 9, or 10 under s. 921.0022 or s. 921.0023,~~

25
26 ~~the offense of criminal attempt, criminal solicitation, or~~
27 ~~criminal conspiracy is a felony of the third degree,~~
28 ~~punishable as provided in s. 775.082, s. 775.083, or s.~~
29 ~~775.084.~~

30 ~~(e) Except as otherwise provided in s. 849.25(4) or~~
31 ~~paragraph (d), if the offense attempted, solicited, or~~

1 ~~conspired to is a felony of the third degree, the offense of~~
2 ~~criminal attempt, criminal solicitation, or criminal~~
3 ~~conspiracy is a misdemeanor of the first degree, punishable as~~
4 ~~provided in s. 775.082 or s. 775.083.~~

5 ~~(f) If the offense attempted, solicited, or conspired~~
6 ~~to is a misdemeanor of the first or second degree, the offense~~
7 ~~of criminal attempt, criminal solicitation, or criminal~~
8 ~~conspiracy is a misdemeanor of the second degree, punishable~~
9 ~~as provided in s. 775.082 or s. 775.083.~~

10 (5) It is a defense to a charge of criminal attempt,
11 criminal solicitation, or criminal conspiracy that, under
12 circumstances manifesting a complete and voluntary
13 renunciation of his or her criminal purpose, the defendant:

14 (a) Abandoned his or her attempt to commit the offense
15 or otherwise prevented its commission;

16 (b) After soliciting another person to commit an
17 offense, persuaded such other person not to do so or otherwise
18 prevented commission of the offense; or

19 (c) After conspiring with one or more persons to
20 commit an offense, persuaded such persons not to do so or
21 otherwise prevented commission of the offense.

22 Section 8. Section 782.051, Florida Statutes, as
23 amended by section 18 of chapter 97-194, Laws of Florida, is
24 amended to read:

25 782.051 Felony causing bodily injury.--

26 (1) Any person who perpetrates or attempts to
27 perpetrate any felony enumerated in s. 782.04(3) and who
28 commits, aids, or abets an act that causes bodily injury to
29 another commits a felony of the first degree, punishable by
30 imprisonment for a term of years not exceeding life, or as
31 provided in s. 775.082, s. 775.083, or s. 775.084, ~~which is an~~

1 ~~offense ranked in level 9 of the Criminal Punishment Code.~~

2 ~~Victim injury points shall be scored under this subsection.~~

3 (2) Any person who perpetrates or attempts to
4 perpetrate any felony other than a felony enumerated in s.
5 782.04(3) and who commits, aids, or abets an act that causes
6 bodily injury to another commits a felony of the first degree,
7 punishable as provided in s. 775.082, s. 775.083, or s.

8 ~~775.084, which is an offense ranked in level 8 of the Criminal~~
9 ~~Punishment Code. Victim injury points shall be scored under~~
10 ~~this subsection.~~

11 (3) When a person is injured during the perpetration
12 of or the attempt to perpetrate any felony enumerated in s.
13 782.04(3) by a person other than the person engaged in the
14 perpetration of or the attempt to perpetrate such felony, the
15 person perpetrating or attempting to perpetrate such felony
16 commits a felony of the second degree, punishable as provided
17 in s. 775.082, s. 775.083, or s. 775.084, ~~which is an offense~~
18 ~~ranked in level 7 of the Criminal Punishment Code. Victim~~
19 ~~injury points shall be scored under this subsection.~~

20 Section 9. Section 784.08, Florida Statutes, as
21 amended by section 19 of chapter 97-194, Laws of Florida, is
22 amended to read:

23 784.08 Assault or battery on persons 65 years of age
24 or older; reclassification of offenses; ~~minimum sentence.~~--

25 (1) A person who is convicted of an aggravated assault
26 or aggravated battery upon a person 65 years of age or older
27 may shall be sentenced to a term of imprisonment pursuant to
28 the Criminal Punishment Code and may be fined not more than
29 \$10,000 and may shall also be ordered by the sentencing judge
30 to make restitution to the victim of such offense and to
31 perform up to 500 hours of community service work.

1 Restitution and community service work shall be in addition to
2 any fine or sentence that ~~which~~ may be imposed and shall not
3 be in lieu thereof.

4 (2) Whenever a person is charged with committing an
5 assault or aggravated assault or a battery or aggravated
6 battery upon a person 65 years of age or older, regardless of
7 whether he or she knows or has reason to know the age of the
8 victim, the offense for which the person is charged shall be
9 reclassified as follows:

10 (a) In the case of aggravated battery, from a felony
11 of the second degree to a felony of the first degree.

12 (b) In the case of aggravated assault, from a felony
13 of the third degree to a felony of the second degree.

14 (c) In the case of battery, from a misdemeanor of the
15 first degree to a felony of the third degree.

16 (d) In the case of assault, from a misdemeanor of the
17 second degree to a misdemeanor of the first degree.

18 (3) Notwithstanding the provisions of s. 948.01,
19 adjudication of guilt or imposition of sentence shall not be
20 suspended, deferred, or withheld.

21 Section 10. Subsection (2) of section 794.023, Florida
22 Statutes, as amended by section 20 of chapter 97-194, Laws of
23 Florida, is amended to read:

24 794.023 Sexual battery by multiple perpetrators;
25 enhanced penalties.--

26 (2) The penalty for a violation of s. 794.011 shall be
27 increased as provided in this subsection if it is charged and
28 proven by the prosecution that, during the same criminal
29 transaction or episode, more than one person committed an act
30 of sexual battery on the same victim.

31

1 (a) A felony of the second degree shall be punishable
2 as if it were a felony of the first degree.

3 (b) A felony of the first degree shall be punishable
4 as if it were a life felony.

5
6 This subsection does not apply to life felonies or capital
7 felonies. ~~For purposes of sentencing under chapter 921 and~~
8 ~~determining incentive gain-time eligibility under chapter 944,~~
9 ~~a felony offense that is reclassified under this subsection is~~
10 ~~ranked one level above the ranking under s. 921.0022 or s.~~
11 ~~921.0023 of the offense committed.~~

12 Section 11. Section 874.04, Florida Statutes, as
13 amended by section 21 of chapter 97-194, Laws of Florida, is
14 amended to read:

15 874.04 Criminal street gang activity; enhanced
16 penalties.--Upon a finding by the court at sentencing that the
17 defendant is a member of a criminal street gang, the penalty
18 for any felony or misdemeanor, or any delinquent act or
19 violation of law which would be a felony or misdemeanor if
20 committed by an adult, may be enhanced if the offender was a
21 member of a criminal street gang at the time of the commission
22 of such offense. Each of the findings required as a basis for
23 such sentence shall be found by a preponderance of the
24 evidence. The enhancement will be as follows:

25 (1)(a) A misdemeanor of the second degree may be
26 punished as if it were a misdemeanor of the first degree.

27 (b) A misdemeanor of the first degree may be punished
28 as if it were a felony of the third degree. ~~For purposes of~~
29 ~~sentencing under chapter 921 and determining incentive~~
30 ~~gain-time eligibility under chapter 944, such offense is~~
31 ~~ranked in level 1 of the offense severity ranking chart. The~~

1 ~~criminal street gang multiplier in s. 921.0024 does not apply~~
2 ~~to misdemeanors enhanced under this paragraph.~~

3 (2)(a) A felony of the third degree may be punished as
4 if it were a felony of the second degree.

5 (b) A felony of the second degree may be punished as
6 if it were a felony of the first degree.

7 (c) A felony of the first degree may be punished as if
8 it were a life felony.

9
10 ~~For purposes of sentencing under chapter 921 and determining~~
11 ~~incentive gain time eligibility under chapter 944, such felony~~
12 ~~offense is ranked as provided in s. 921.0022 or s. 921.0023,~~
13 ~~and without regard to the penalty enhancement in this~~
14 ~~subsection.~~For purposes of this section, penalty enhancement
15 affects the applicable statutory maximum penalty only.

16 Section 12. Subsections (9) and (10) of section
17 893.13, Florida Statutes, as amended by section 22 of chapter
18 97-194, Laws of Florida, are amended to read:

19 893.13 Prohibited acts; penalties.--

20 (9) ~~Notwithstanding any provision of the sentencing~~
21 ~~guidelines or the Criminal Punishment Code to the contrary,~~On
22 or after October 1, 1993, any defendant who:

23 (a) Violates subparagraph (1)(a)1., subparagraph
24 (1)(c)2., subparagraph (1)(d)2., subparagraph (2)(a)1., or
25 paragraph (5)(a); and

26 (b) Has not previously been convicted, regardless of
27 whether adjudication was withheld, of any felony, other than a
28 violation of subparagraph (1)(a)1., subparagraph (1)(c)2.,
29 subparagraph (1)(d)2., subparagraph (2)(a)1., or paragraph
30 (5)(a),
31

1 may be required by the court to successfully complete a term
2 of probation pursuant to the terms and conditions set forth in
3 s. 948.034(1), in lieu of serving a term of imprisonment.

4 (10) ~~Notwithstanding any provision of the sentencing~~
5 ~~guidelines or the Criminal Punishment Code to the contrary,~~ On
6 or after January 1, 1994, any defendant who:

7 (a) Violates subparagraph (1)(a)2., subparagraph
8 (2)(a)2., paragraph (5)(b), or paragraph (6)(a); and

9 (b) Has not previously been convicted, regardless of
10 whether adjudication was withheld, of any felony, other than a
11 violation of subparagraph (1)(a)2., subparagraph (2)(a)2.,
12 paragraph (5)(b), or paragraph (6)(a),
13

14 may be required by the court to successfully complete a term
15 of probation pursuant to the terms and conditions set forth in
16 s. 948.034(2), in lieu of serving a term of imprisonment.

17 Section 13. Subsection (1) of section 893.135, Florida
18 Statutes, as amended by section 23 of chapter 97-194, Laws of
19 Florida, is amended to read:

20 893.135 Trafficking; mandatory sentences; suspension
21 or reduction of sentences; conspiracy to engage in
22 trafficking.--

23 (1) Except as authorized in this chapter or in chapter
24 499 and notwithstanding the provisions of s. 893.13:

25 (a) Any person who knowingly sells, purchases,
26 manufactures, delivers, or brings into this state, or who is
27 knowingly in actual or constructive possession of, in excess
28 of 50 pounds of cannabis commits a felony of the first degree,
29 which felony shall be known as "trafficking in cannabis." If
30 the quantity of cannabis involved:
31

1 1. Is in excess of 50 pounds, but less than 2,000
2 pounds, such person may ~~shall~~ be sentenced to a term of
3 imprisonment pursuant to the Criminal Punishment Code and may
4 be ordered to pay a fine of not more than \$25,000.

5 2. Is 2,000 pounds or more, but less than 10,000
6 pounds, such person may ~~shall~~ be sentenced to a term of
7 imprisonment pursuant to the Criminal Punishment Code and may
8 be ordered to pay a fine of not more than \$50,000.

9 3. Is 10,000 pounds or more, such person may ~~shall~~ be
10 sentenced to a mandatory minimum term of imprisonment of 15
11 calendar years and may be ordered to pay a fine of not more
12 than \$200,000.

13 (b)1. Any person who knowingly sells, purchases,
14 manufactures, delivers, or brings into this state, or who is
15 knowingly in actual or constructive possession of, 28 grams or
16 more of cocaine, as described in s. 893.03(2)(a)4., or of any
17 mixture containing cocaine, but less than 150 kilograms of
18 cocaine or any such mixture, commits a felony of the first
19 degree, which felony shall be known as "trafficking in
20 cocaine." If the quantity involved:

21 a. Is 28 grams or more, but less than 200 grams, such
22 person may ~~shall~~ be sentenced to a term of imprisonment
23 ~~pursuant to the Criminal Punishment Code~~ and may be ordered to
24 pay a fine of not more than \$50,000.

25 b. Is 200 grams or more, but less than 400 grams, such
26 person may ~~shall~~ be sentenced to a term of imprisonment
27 ~~pursuant to the Criminal Punishment Code~~ and may be ordered to
28 pay a fine of not more than \$100,000.

29 c. Is 400 grams or more, but less than 150 kilograms,
30 such person may ~~shall~~ be sentenced to a mandatory minimum term
31

1 of imprisonment of 15 calendar years and may be ordered to pay
2 a fine of not more than \$250,000.

3 2. Any person who knowingly sells, purchases,
4 manufactures, delivers, or brings into this state, or who is
5 knowingly in actual or constructive possession of, 150
6 kilograms or more, but less than 300 kilograms, of cocaine, as
7 described in s. 893.03(2)(a)4., commits the first degree
8 felony of trafficking in cocaine. A person who has been
9 convicted of the first degree felony of trafficking in cocaine
10 under this subparagraph shall be punished by life imprisonment
11 and is ineligible for any form of discretionary early release
12 except pardon or executive clemency or conditional medical
13 release under s. 947.149. However, if the court determines
14 that, in addition to committing any act specified in this
15 paragraph:

16 a. The person intentionally killed an individual or
17 counseled, commanded, induced, procured, or caused the
18 intentional killing of an individual and such killing was the
19 result; or

20 b. The person's conduct in committing that act led to
21 a natural, though not inevitable, lethal result,

22
23 such person commits the capital felony of trafficking in
24 cocaine, punishable as provided in ss. 775.082 and 921.142.
25 Any person sentenced for a capital felony under this paragraph
26 may ~~shall~~ also be sentenced to pay the maximum fine provided
27 under subparagraph 1.

28 3. Any person who knowingly brings into this state 300
29 kilograms or more of cocaine, as described in s.
30 893.03(2)(a)4., and who knows that the probable result of such
31 importation would be the death of any person, commits capital

1 importation of cocaine, a capital felony punishable as
2 provided in ss. 775.082 and 921.142. Any person sentenced for
3 a capital felony under this paragraph may ~~shall~~ also be
4 sentenced to pay the maximum fine provided under subparagraph
5 1.

6 (c)1. Any person who knowingly sells, purchases,
7 manufactures, delivers, or brings into this state, or who is
8 knowingly in actual or constructive possession of, 4 grams or
9 more of any morphine, opium, oxycodone, hydrocodone,
10 hydromorphone, or any salt, derivative, isomer, or salt of an
11 isomer thereof, including heroin, as described in s.
12 893.03(1)(b) or (2)(a), or 4 grams or more of any mixture
13 containing any such substance, but less than 30 kilograms of
14 such substance or mixture, commits a felony of the first
15 degree, which felony shall be known as "trafficking in illegal
16 drugs." If the quantity involved:

17 a. Is 4 grams or more, but less than 14 grams, such
18 person may ~~shall~~ be sentenced to a term of imprisonment
19 ~~pursuant to the Criminal Punishment Code~~ and may be ordered to
20 pay a fine of not more than \$50,000.

21 b. Is 14 grams or more, but less than 28 grams, such
22 person may ~~shall~~ be sentenced to a term of imprisonment
23 ~~pursuant to the Criminal Punishment Code~~ and may be ordered to
24 pay a fine of not more than \$100,000.

25 c. Is 28 grams or more, but less than 30 kilograms,
26 such person may ~~shall~~ be sentenced to a mandatory minimum term
27 of imprisonment of 25 calendar years and may be ordered to pay
28 a fine of not more than \$500,000.

29 2. Any person who knowingly sells, purchases,
30 manufactures, delivers, or brings into this state, or who is
31 knowingly in actual or constructive possession of, 30

1 kilograms or more, but less than 60 kilograms, of any
2 morphine, opium, oxycodone, hydrocodone, hydromorphone, or any
3 salt, derivative, isomer, or salt of an isomer thereof,
4 including heroin, as described in s. 893.03(1)(b) or (2)(a),
5 or 30 kilograms or more, but less than 60 kilograms, of any
6 mixture containing any such substance, commits the
7 first-degree ~~first-degree~~ felony of trafficking in illegal
8 drugs. A person who has been convicted of the first-degree
9 ~~first-degree~~ felony of trafficking in illegal drugs under this
10 subparagraph shall be punished by life imprisonment and is
11 ineligible for any form of discretionary early release except
12 pardon or executive clemency or conditional medical release
13 under s. 947.149. However, if the court determines that, in
14 addition to committing any act specified in this paragraph:
15 a. The person intentionally killed an individual or
16 counseled, commanded, induced, procured, or caused the
17 intentional killing of an individual and such killing was the
18 result; or
19 b. The person's conduct in committing that act led to
20 a natural, though not inevitable, lethal result,
21
22 such person commits the capital felony of trafficking in
23 illegal drugs, punishable as provided in ss. 775.082 and
24 921.142. Any person sentenced for a capital felony under this
25 paragraph may ~~shall~~ also be sentenced to pay the maximum fine
26 provided under subparagraph 1.
27 3. Any person who knowingly brings into this state 60
28 kilograms or more of any morphine, opium, oxycodone,
29 hydrocodone, hydromorphone, or any salt, derivative, isomer,
30 or salt of an isomer thereof, including heroin, as described
31 in s. 893.03(1)(b) or (2)(a), or 60 kilograms or more of any

1 mixture containing any such substance, and who knows that the
2 probable result of such importation would be the death of any
3 person, commits capital importation of illegal drugs, a
4 capital felony punishable as provided in ss. 775.082 and
5 921.142. Any person sentenced for a capital felony under this
6 paragraph may ~~shall~~ also be sentenced to pay the maximum fine
7 provided under subparagraph 1.

8 (d)1. Any person who knowingly sells, purchases,
9 manufactures, delivers, or brings into this state, or who is
10 knowingly in actual or constructive possession of, 28 grams or
11 more of phencyclidine or of any mixture containing
12 phencyclidine, as described in s. 893.03(2)(b), commits a
13 felony of the first degree, which felony shall be known as
14 "trafficking in phencyclidine." If the quantity involved:

15 a. Is 28 grams or more, but less than 200 grams, such
16 person may ~~shall~~ be sentenced to a term of imprisonment
17 ~~pursuant to the Criminal Punishment Code~~ and may be ordered to
18 pay a fine of not more than \$50,000.

19 b. Is 200 grams or more, but less than 400 grams, such
20 person may ~~shall~~ be sentenced to a term of imprisonment
21 ~~pursuant to the Criminal Punishment Code~~ and may be ordered to
22 pay a fine of not more than \$100,000.

23 c. Is 400 grams or more, but less than 800 grams, such
24 person may ~~shall~~ be sentenced to a mandatory minimum term of
25 imprisonment of 15 calendar years and may be ordered to pay a
26 fine of not more than \$250,000.

27 2. Any person who knowingly brings into this state 800
28 grams or more of phencyclidine or of any mixture containing
29 phencyclidine, as described in s. 893.03(2)(b), and who knows
30 that the probable result of such importation would be the
31 death of any person commits capital importation of

1 phencyclidine, a capital felony punishable as provided in ss.
2 775.082 and 921.142. Any person sentenced for a capital felony
3 under this paragraph may ~~shall~~ also be sentenced to pay the
4 maximum fine provided under subparagraph 1.

5 (e)1. Any person who knowingly sells, purchases,
6 manufactures, delivers, or brings into this state, or who is
7 knowingly in actual or constructive possession of, 200 grams
8 or more of methaqualone or of any mixture containing
9 methaqualone, as described in s. 893.03(1)(d), commits a
10 felony of the first degree, which felony shall be known as
11 "trafficking in methaqualone." If the quantity involved:

12 a. Is 200 grams or more, but less than 5 kilograms,
13 such person may ~~shall~~ be sentenced to a term of imprisonment
14 ~~pursuant to the Criminal Punishment Code~~ and may be ordered to
15 pay a fine of not more than \$50,000.

16 b. Is 5 kilograms or more, but less than 25 kilograms,
17 such person may ~~shall~~ be sentenced to a term of imprisonment
18 ~~pursuant to the Criminal Punishment Code~~ and may be ordered to
19 pay a fine of not more than \$100,000.

20 c. Is 25 kilograms or more, but less than 50
21 kilograms, such person may ~~shall~~ be sentenced to a mandatory
22 minimum term of imprisonment of 15 calendar years and may be
23 ordered to pay a fine of not more than \$250,000.

24 2. Any person who knowingly brings into this state 50
25 kilograms or more of methaqualone or of any mixture containing
26 methaqualone, as described in s. 893.03(1)(d), and who knows
27 that the probable result of such importation would be the
28 death of any person commits capital importation of
29 methaqualone, a capital felony punishable as provided in ss.
30 775.082 and 921.142. Any person sentenced for a capital felony
31

1 under this paragraph may ~~shall~~ also be sentenced to pay the
2 maximum fine provided under subparagraph 1.

3 (f)1. Any person who knowingly sells, purchases,
4 manufactures, delivers, or brings into this state, or who is
5 knowingly in actual or constructive possession of, 14 grams or
6 more of amphetamine, as described in s. 893.03(2)(c)2., or
7 methamphetamine, as described in s. 893.03(2)(c)4., or of any
8 mixture containing amphetamine or methamphetamine, or
9 phenylacetone, phenylacetic acid, or ephedrine in conjunction
10 with other chemicals and equipment utilized in the manufacture
11 of amphetamine or methamphetamine, commits a felony of the
12 first degree, which felony shall be known as "trafficking in
13 amphetamine." If the quantity involved:

14 a. Is 14 grams or more, but less than 28 grams, such
15 person may ~~shall~~ be sentenced to a term of imprisonment
16 ~~pursuant to the Criminal Punishment Code~~ and may be ordered to
17 pay a fine of not more than \$50,000.

18 b. Is 28 grams or more, but less than 200 grams, such
19 person may ~~shall~~ be sentenced to a term of imprisonment
20 ~~pursuant to the Criminal Punishment Code~~ and may be ordered to
21 pay a fine of not more than \$100,000.

22 c. Is 200 grams or more, but less than 400 grams, such
23 person may ~~shall~~ be sentenced to a mandatory minimum term of
24 imprisonment of 15 calendar years and may be ordered to pay a
25 fine of not more than \$250,000.

26 2. Any person who knowingly brings into this state 400
27 grams or more of amphetamine, as described in s.
28 893.03(2)(c)2., or methamphetamine, as described in s.
29 893.03(2)(c)4., or of any mixture containing amphetamine or
30 methamphetamine, or phenylacetone, phenylacetic acid, or
31 ephedrine in conjunction with other chemicals and equipment

1 utilized in the manufacture of amphetamine or methamphetamine,
2 and who knows that the probable result of such importation
3 would be the death of any person commits capital importation
4 of amphetamine, a capital felony punishable as provided in ss.
5 775.082 and 921.142. Any person sentenced for a capital felony
6 under this paragraph may ~~shall~~ also be sentenced to pay the
7 maximum fine provided under subparagraph 1.

8 (g)1. Any person who knowingly sells, purchases,
9 manufactures, delivers, or brings into this state, or who is
10 knowingly in actual or constructive possession of, 4 grams or
11 more of flunitrazepam or any mixture containing flunitrazepam
12 as described in s. 893.03(1)(a) commits a felony of the first
13 degree, which felony shall be known as "trafficking in
14 flunitrazepam." If the quantity involved:

15 a. Is 4 grams or more, but less than 14 grams, such
16 person may ~~shall~~ be sentenced to a term of imprisonment
17 ~~pursuant to the sentencing guidelines~~ and may be ordered to
18 pay a fine of not more than \$50,000.

19 b. Is 14 grams or more, but less than 28 grams, such
20 person may ~~shall~~ be sentenced to a term of imprisonment
21 ~~pursuant to the sentencing guidelines~~ and may be ordered to
22 pay a fine of not more than \$100,000.

23 c. Is 28 grams or more, but less than 30 kilograms,
24 such person may ~~shall~~ be sentenced to a mandatory minimum term
25 of imprisonment of 25 calendar years and may be ordered to pay
26 a fine of not more than \$500,000.

27 2. Any person who knowingly sells, purchases,
28 manufactures, delivers, or brings into this state, or who is
29 knowingly in actual or constructive possession of, 30
30 kilograms or more of flunitrazepam, or any mixture containing
31 flunitrazepam as described in s. 893.03(1)(a), commits the

1 first-degree ~~first-degree~~ felony of trafficking in
2 flunitrazepam. A person who has been convicted of the
3 first-degree ~~first-degree~~ felony of trafficking in
4 flunitrazepam under this subparagraph shall be punished by
5 life imprisonment and is ineligible for any form of
6 discretionary early release except pardon or executive
7 clemency or conditional medical release under s. 947.149.
8 However, if the court determines that, in addition to
9 committing any act specified in this paragraph:
10 a. The person intentionally killed an individual or
11 counseled, commanded, induced, procured, or caused the
12 intentional killing of an individual and such killing was the
13 result; or
14 b. The person's conduct in committing that act led to
15 a natural, though not inevitable, lethal result,
16
17 such person commits the capital felony of trafficking in
18 flunitrazepam, punishable as provided in ss. 775.082 and
19 921.142. Any person sentenced for a capital felony under this
20 paragraph may ~~shall~~ also be sentenced to pay the maximum fine
21 provided under subparagraph 1.
22 Section 14. Subsection (2) of section 893.20, Florida
23 Statutes, as amended by section 24 of chapter 97-194, Laws of
24 Florida, is amended to read:
25 893.20 Continuing criminal enterprise.--
26 (2) A person who commits the offense of engaging in a
27 continuing criminal enterprise is guilty of a life felony,
28 punishable as provided in s. 775.082, s. 775.083, or s.
29 775.084 ~~pursuant to the Criminal Punishment Code and by a fine~~
30 ~~of \$500,000.~~
31

1 Section 15. Paragraph (b) of subsection (1) of section
2 921.187, Florida Statutes, as amended by section 25 of chapter
3 97-194, Laws of Florida, is amended to read:

4 921.187 Disposition and sentencing; alternatives;
5 restitution.--

6 (1) The alternatives provided in this section for the
7 disposition of criminal cases shall be used in a manner that
8 will best serve the needs of society, punish criminal
9 offenders, and provide the opportunity for rehabilitation.

10 (b)1. ~~Notwithstanding any provision of former s.~~
11 ~~921.001 or s. 921.002 to the contrary,~~On or after October 1,
12 1993, the court may require any defendant who violates s.
13 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a), and
14 meets the criteria described in s. 893.13(9), to successfully
15 complete a term of probation pursuant to the terms and
16 conditions set forth in s. 948.034(1), in lieu of serving a
17 term of imprisonment.

18 2. ~~Notwithstanding any provision of former s. 921.001~~
19 ~~or s. 921.002 to the contrary,~~On or after October 1, 1993,
20 the court may require any defendant who violates s.
21 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a), and meets the
22 criteria described in s. 893.13(10), to successfully complete
23 a term of probation pursuant to the terms and conditions set
24 forth in s. 948.034(2), in lieu of serving a term of
25 imprisonment.

26 Section 16. Section 921.188, Florida Statutes, as
27 amended by section 26 of chapter 97-194, Laws of Florida, is
28 amended to read:

29 921.188 Placement of certain state inmates in local
30 detention facilities.--Effective June 17, 1993,
31 notwithstanding ~~the provisions of~~ ss. 775.08, former 921.001,

1 ~~921.002, 921.187, 944.02, and 951.23, or any other law to the~~
2 ~~contrary, a person whose presumptive sentence is from 1 year~~
3 ~~and 1 day to up to 22 months in a state correctional~~
4 ~~institution may be placed by the court into the custody of a~~
5 ~~local detention facility as a condition of probation or~~
6 ~~community control for a felony offense, except for any such~~
7 ~~offense in which physical force was used, threatened, or~~
8 ~~attempted or in which violence was an element of the offense~~
9 ~~contained in sentencing guidelines categories five through~~
10 ~~nine contained in Rules 3.701 and 3.988, Florida Rules of~~
11 ~~Criminal Procedure, or similar levels described in s.~~
12 ~~921.0022, except for such person whose total sentence points~~
13 ~~are greater than 52 or less than 40. The court may place such~~
14 ~~person for the duration of the presumptive sentence. The court~~
15 ~~may only place a person in a local detention facility pursuant~~
16 ~~to this section if there is a contractual agreement between~~
17 ~~the chief correctional officer of that county and the~~
18 ~~Department of Corrections. The contract may include all~~
19 ~~operational functions, or only housing wherein the department~~
20 ~~would provide staffing and medical costs. The agreement must~~
21 ~~provide for a per diem or partial per diem reimbursement for~~
22 ~~each person placed under this section, which is payable by the~~
23 ~~Department of Corrections for the duration of the offender's~~
24 ~~placement in the facility. The full per diem reimbursement may~~
25 ~~not exceed the per diem published in the Department of~~
26 ~~Corrections' most recent annual report for total department~~
27 ~~facilities. This section does not limit the court's ability to~~
28 ~~place a person in a local detention facility for less than 1~~
29 ~~year.~~
30
31

1 Section 17. Subsection (1) of section 924.07, Florida
2 Statutes, as amended by section 28 of chapter 97-194, Laws of
3 Florida, is amended to read:

4 924.07 Appeal by state.--

5 (1) The state may appeal from:

6 (a) An order dismissing an indictment or information
7 or any count thereof or dismissing an affidavit charging the
8 commission of a criminal offense, the violation of probation,
9 the violation of community control, or the violation of any
10 supervised correctional release.

11 (b) An order granting a new trial.

12 (c) An order arresting judgment.

13 (d) A ruling on a question of law when the defendant
14 is convicted and appeals from the judgment. Once the state's
15 cross-appeal is instituted, the appellate court shall review
16 and rule upon the question raised by the state regardless of
17 the disposition of the defendant's appeal.

18 (e) The sentence, on the ground that it is illegal.

19 (f) A judgment discharging a prisoner on habeas
20 corpus.

21 (g) An order adjudicating a defendant insane under the
22 Florida Rules of Criminal Procedure.

23 (h) All other pretrial orders, except that it may not
24 take more than one appeal under this subsection in any case.

25 ~~(i) A sentence imposed below the range permitted by~~
26 ~~the Criminal Punishment Code under chapter 921.~~

27 (i)~~(j)~~ A ruling granting a motion for judgment of
28 acquittal after a jury verdict.

29 (j)~~(k)~~ An order denying restitution under s. 775.089.

30 (k)~~(l)~~ An order or ruling suppressing evidence or
31 evidence in limine at trial.

1 Section 18. Subsection (5) of section 944.17, Florida
2 Statutes, as amended by section 29 of chapter 97-194, Laws of
3 Florida, is amended to read:

4 944.17 Commitments and classification; transfers.--

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

10 (a) The uniform commitment and judgment and sentence
11 forms as described in subsection (4).

12 (b) The sheriff's certificate as described in s.
13 921.161.

14 (c) A certified copy of the indictment or information
15 relating to the offense for which the person was convicted.

16 (d) A copy of the probable cause affidavit for each
17 offense identified in the current indictment or information.

18 ~~(e) A copy of the Criminal Punishment Code scoresheet~~
19 ~~and any attachments thereto prepared pursuant to Rule 3.701,~~
20 ~~Florida Rules of Criminal Procedure.~~

21 (e)(f) A copy of the restitution order or the reasons
22 by the court for not requiring restitution pursuant to s.
23 775.089(1).

24 (f)(g) The name and address of any victim, if
25 available.

26 (g)(h) A printout of a current criminal history record
27 as provided through an FCIC/NCIC printer.

28 (h)(i) Any available health assessments including
29 medical, mental health, and dental, including laboratory or
30 test findings; custody classification; disciplinary and
31 adjustment; and substance abuse assessment and treatment

1 information which may have been developed during the period of
2 incarceration prior to the transfer of the person to the
3 department's custody. Available information shall be
4 transmitted on standard forms developed by the department.
5

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

19 Section 19. Subsection (5) of section 947.141, Florida
20 Statutes, as amended by section 30 of chapter 97-194, Laws of
21 Florida, is amended to read:

22 947.141 Violations of conditional release, control
23 release, or conditional medical release.--

24 (5) Effective for inmates whose offenses were
25 committed on or after July 1, 1995, notwithstanding the
26 provisions of ss. 775.08, former 921.001, ~~921.002~~, 921.187,
27 921.188, 944.02, and 951.23, or any other law to the contrary,
28 by such order as provided in subsection (4), the panel, upon a
29 finding of guilt, may, as a condition of continued
30 supervision, place the releasee in a local detention facility
31 for a period of incarceration not to exceed 22 months. Prior

1 to the expiration of the term of incarceration, or upon
2 recommendation of the chief correctional officer of that
3 county, the commission shall cause inquiry into the inmate's
4 release plan and custody status in the detention facility and
5 consider whether to restore the inmate to supervision, modify
6 the conditions of supervision, or enter an order of
7 revocation, thereby causing the return of the inmate to prison
8 to serve the sentence imposed. The provisions of this section
9 do not prohibit the panel from entering such other order or
10 conducting any investigation that it deems proper. The
11 commission may only place a person in a local detention
12 facility pursuant to this section if there is a contractual
13 agreement between the chief correctional officer of that
14 county and the Department of Corrections. The agreement must
15 provide for a per diem reimbursement for each person placed
16 under this section, which is payable by the Department of
17 Corrections for the duration of the offender's placement in
18 the facility. This section does not limit the commission's
19 ability to place a person in a local detention facility for
20 less than 1 year.

21 Section 20. Subsection (3) of section 947.146, Florida
22 Statutes, as amended by section 31 of chapter 97-194, Laws of
23 Florida, is amended to read:

24 947.146 Control Release Authority.--

25 (3) Within 120 days prior to the date the state
26 correctional system is projected pursuant to s. 216.136 to
27 exceed 99 percent of total capacity, the authority shall
28 determine eligibility for and establish a control release date
29 for an appropriate number of parole ineligible inmates
30 committed to the department and incarcerated within the state
31 who have been determined by the authority to be eligible for

1 discretionary early release pursuant to this section. In
2 establishing control release dates, it is the intent of the
3 Legislature that the authority prioritize consideration of
4 eligible inmates closest to their tentative release date. The
5 authority shall rely upon commitment data on the offender
6 information system maintained by the department to initially
7 identify inmates who are to be reviewed for control release
8 consideration. The authority may use a method of objective
9 risk assessment in determining if an eligible inmate should be
10 released. Such assessment shall be a part of the department's
11 management information system. However, the authority shall
12 have sole responsibility for determining control release
13 eligibility, establishing a control release date, and
14 effectuating the release of a sufficient number of inmates to
15 maintain the inmate population between 99 percent and 100
16 percent of total capacity. Inmates who are ineligible for
17 control release are inmates who are parole eligible or inmates
18 who:

19 (a) Are serving a sentence that includes a mandatory
20 minimum provision for a capital offense or drug trafficking
21 offense and have not served the number of days equal to the
22 mandatory minimum term less any jail-time credit awarded by
23 the court;

24 (b) Are serving the mandatory minimum portion of a
25 sentence enhanced under s. 775.087(2) or (3), or s. 784.07(3);

26 (c) Are convicted, or have been previously convicted,
27 of committing or attempting to commit sexual battery, incest,
28 or any of the following lewd or indecent assaults or acts:
29 masturbating in public; exposing the sexual organs in a
30 perverted manner; or nonconsensual handling or fondling of the
31 sexual organs of another person;

1 (d) Are convicted, or have been previously convicted,
2 of committing or attempting to commit assault, aggravated
3 assault, battery, or aggravated battery, and a sex act was
4 attempted or completed during commission of such offense;

5 (e) Are convicted, or have been previously convicted,
6 of committing or attempting to commit kidnapping, burglary, or
7 murder, and the offense was committed with the intent to
8 commit sexual battery or a sex act was attempted or completed
9 during commission of the offense;

10 (f) Are convicted, or have been previously convicted,
11 of committing or attempting to commit false imprisonment upon
12 a child under the age of 13 and, in the course of committing
13 the offense, the inmate committed aggravated child abuse,
14 sexual battery against the child, or a lewd, lascivious, or
15 indecent assault or act upon or in the presence of the child;

16 (g) Are sentenced, have previously been sentenced, or
17 have been sentenced at any time under s. 775.084, or have been
18 sentenced at any time in another jurisdiction as a habitual
19 offender;

20 (h) Are convicted, or have been previously convicted,
21 of committing or attempting to commit assault, aggravated
22 assault, battery, aggravated battery, kidnapping,
23 manslaughter, or murder against an officer as defined in s.
24 943.10(1), (2), (3), (6), (7), (8), or (9); against a state
25 attorney or assistant state attorney; or against a justice or
26 judge of a court described in Art. V of the State
27 Constitution; or against an officer, judge, or state attorney
28 employed in a comparable position by any other jurisdiction;
29 or

30 (i) Are convicted, or have been previously convicted,
31 of committing or attempting to commit murder in the first,

1 second, or third degree under s. 782.04(1), (2), (3), or (4),
2 or have ever been convicted of any degree of murder or
3 attempted murder in another jurisdiction;

4 (j) Are convicted, or have been previously convicted,
5 of DUI manslaughter under s. 316.193(3)(c)3., and are
6 sentenced, or have been sentenced at any time, as a habitual
7 offender for such offense, or have been sentenced at any time
8 in another jurisdiction as a habitual offender for such
9 offense;

10 (k)1. Are serving a sentence for an offense committed
11 on or after January 1, 1994, for a violation of the Law
12 Enforcement Protection Act under s. 775.0823(2), (3), (4), or
13 (5), and the subtotal of the offender's sentence points is
14 multiplied pursuant to former s. 921.0014 ~~or s. 921.0024~~;

15 2. Are serving a sentence for an offense committed on
16 or after October 1, 1995, for a violation of the Law
17 Enforcement Protection Act under s. 775.0823(2), (3), (4),
18 (5), (6), (7), or (8), and the subtotal of the offender's
19 sentence points is multiplied pursuant to former s. 921.0014
20 ~~or s. 921.0024~~;

21 (l) Are serving a sentence for an offense committed on
22 or after January 1, 1994, for possession of a firearm,
23 semiautomatic firearm, or machine gun in which additional
24 points are added to the subtotal of the offender's sentence
25 points pursuant to former s. 921.0014 ~~or s. 921.0024~~; or

26 (m) Are convicted, or have been previously convicted,
27 of committing or attempting to commit manslaughter,
28 kidnapping, robbery, carjacking, home-invasion robbery, or a
29 burglary under s. 810.02(2).

30
31

1 In making control release eligibility determinations under
2 this subsection, the authority may rely on any document
3 leading to or generated during the course of the criminal
4 proceedings, including, but not limited to, any presentence or
5 postsentence investigation or any information contained in
6 arrest reports relating to circumstances of the offense.

7 Section 21. Section 948.015, Florida Statutes, as
8 amended by section 33 of chapter 97-194, Laws of Florida, is
9 amended to read:

10 948.015 Presentence investigation reports.--~~The~~
11 ~~circuit court,~~When the defendant in a criminal case has been
12 found guilty or has entered a plea of nolo contendere or
13 guilty, the circuit court ~~and has a recommended sentence under~~
14 ~~the Criminal Punishment Code of any nonstate prison sanction,~~
15 may refer the case to the department for investigation or
16 recommendation. Upon such referral, the department shall make
17 the following report in writing at a time specified by the
18 court prior to sentencing. The full report must ~~shall~~ include:

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

27 (2) The offender's sentencing status, including
28 whether the offender is a first offender, a habitual or
29 violent offender, a youthful offender, or is currently on
30 probation.

31

- 1 (3) The offender's prior record of arrests and
2 convictions.
- 3 (4) The offender's educational background.
- 4 (5) The offender's employment background, including
5 any military record, present employment status, and
6 occupational capabilities.
- 7 (6) The offender's financial status, including total
8 monthly income and estimated total debts.
- 9 (7) The social history of the offender, including his
10 or her family relationships, marital status, interests, and
11 activities.
- 12 (8) The residence history of the offender.
- 13 (9) The offender's medical history and, as
14 appropriate, a psychological or psychiatric evaluation.
- 15 (10) Information about the environments to which the
16 offender might return or to which the offender could be sent
17 should a sentence of nonincarceration or community supervision
18 be imposed by the court, and consideration of the offender's
19 plan concerning employment supervision and treatment.
- 20 (11) Information about any resources available to
21 assist the offender, such as:
- 22 (a) Treatment centers.
- 23 (b) Residential facilities.
- 24 (c) Vocational training programs.
- 25 (d) Special education programs.
- 26 (e) Services that may preclude or supplement
27 commitment to the department.
- 28 (12) The views of the person preparing the report as
29 to the offender's motivations and ambitions and an assessment
30 of the offender's explanations for his or her criminal
31 activity.

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

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

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

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

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

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

20 Section 22. Subsections (1) and (2) of section
21 948.034, Florida Statutes, as amended by section 34 of chapter
22 97-194, Laws of Florida, are amended to read:

23 948.034 Terms and conditions of probation; community
24 residential drug punishment centers.--

25 (1) On or after October 1, 1993, any person who
26 violates s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or
27 (5)(a) may, in the discretion of the trial court, be required
28 to successfully complete a term of probation in lieu of
29 serving a term of imprisonment as required or authorized by s.
30 775.084 or, former s. 921.001, ~~or s. 921.002~~, as follows:

31

1 (a) If the person has not previously been convicted of
2 violating s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or
3 (5)(a), adjudication may be withheld and the offender may be
4 placed on probation for not less than 18 months, as a
5 condition of which the court shall require the offender to
6 reside at a community residential drug punishment center for
7 90 days. The offender must comply with all rules and
8 regulations of the center and must pay a fee for the costs of
9 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 \$500 nor more than
17 \$10,000 pursuant to s. 775.083(1)(c).

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

30 3. Perform at least 100 hours of public service.
31

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

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

7 (b) If the person has been previously convicted of one
8 felony violation of s. 893.13(1)(a)1., (1)(c)2., (1)(d)2.,
9 (2)(a)1., or (5)(a), adjudication may not be withheld and the
10 offender may be placed on probation for not less than 24
11 months, as a condition of which the court shall require the
12 offender to reside at a community residential drug punishment
13 center for 180 days. The offender must comply with all rules
14 and regulations of the center and must pay a fee for the costs
15 of 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 \$1,000 nor more than
23 \$10,000 pursuant to s. 775.083(1)(c).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (a) If the person has not previously been convicted of
27 violating s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a),
28 adjudication may be withheld and the offender shall be placed
29 on probation for not less than 12 months, as a condition of
30 which the court may require the offender to comply with one or
31 more of the following terms and conditions:

- 1 1. Pay a fine of not less than \$250 nor more than
- 2 \$5,000 pursuant to s. 775.083(1)(c).
- 3 2. Enter, regularly attend, and successfully complete
- 4 a substance abuse education program of at least 40 hours or a
- 5 prescribed substance abuse treatment program provided by a
- 6 treatment resource licensed pursuant to chapter 396 or chapter
- 7 397 or by a hospital licensed pursuant to chapter 395, as
- 8 specified by the court. In addition, the court may refer the
- 9 offender to a licensed agency for substance abuse evaluation
- 10 and, if appropriate, substance abuse treatment subject to the
- 11 ability of the offender to pay for such evaluation and
- 12 treatment. If such referral is made, the offender must comply
- 13 and must pay for the reasonable cost of the evaluation and
- 14 treatment.
- 15 3. Perform at least 50 hours of public service.
- 16 4. Submit to routine and random drug testing which may
- 17 be conducted during the probationary period, with the
- 18 reasonable costs thereof borne by the offender.
- 19 5. Participate, at his or her own expense, in an
- 20 appropriate self-help group, such as Narcotics Anonymous,
- 21 Alcoholics Anonymous, or Cocaine Anonymous, if available.
- 22 (b) If the person has been previously convicted of one
- 23 felony violation of s. 893.13(1)(a)2., (2)(a)2., (5)(b), or
- 24 (6)(a), adjudication may not be withheld and the offender may
- 25 be placed on probation for not less than 18 months, as a
- 26 condition of which the court shall require the offender to
- 27 reside at a community residential drug punishment center for
- 28 90 days. The offender must comply with all rules and
- 29 regulations of the center and must pay a fee for the costs of
- 30 room and board and residential supervision. Placement of an
- 31 offender into a community residential drug punishment center

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

6 1. Pay a fine of not less than \$500 nor more than
7 \$5,000 pursuant to s. 775.083(1)(c).

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

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

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

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

26 (c) If the person has been previously convicted of two
27 felony violations of s. 893.13(1)(a)2., (2)(a)2., (5)(b), or
28 (6)(a), adjudication may not be withheld and the offender may
29 be placed on probation for not less than 24 months, as a
30 condition of which the court shall require the offender to
31 reside at a community residential drug punishment center for

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

10 1. Pay a fine of not less than \$1,000 nor more than
11 \$5,000 pursuant to s. 775.083(1)(c).

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

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

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

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

30 (d) If the person has been previously convicted of
31 three felony violations of s. 893.13(1)(a)2., (2)(a)2.,

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

14 1. Pay a fine of not less than \$1,500 nor more than
15 \$5,000 pursuant to s. 775.083(1)(c).

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

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

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

31

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

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

19 1. Pay a fine of not less than \$2,000 nor more than
20 \$5,000 pursuant to s. 775.083(1)(c).

21 2. Enter, regularly attend, and successfully complete
22 a 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 250 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 ~~(f) An offender who violates probation imposed~~
9 ~~pursuant to this section shall be sentenced in accordance with~~
10 ~~s. 921.002.~~

11 Section 23. Paragraph (c) of subsection (2) of section
12 948.51, Florida Statutes, as amended by section 35 of chapter
13 97-194, Laws of Florida, is amended to read:

14 948.51 Community corrections assistance to counties or
15 county consortiums.--

16 (2) ELIGIBILITY OF COUNTIES AND COUNTY CONSORTIUMS.--A
17 county, or a consortium of two or more counties, may contract
18 with the Department of Corrections for community corrections
19 funds as provided in this section. In order to enter into a
20 community corrections partnership contract, a county or county
21 consortium must have a public safety coordinating council
22 established under s. 951.26 and must designate a county
23 officer or agency to be responsible for administering
24 community corrections funds received from the state. The
25 public safety coordinating council shall prepare, develop, and
26 implement a comprehensive public safety plan for the county,
27 or the geographic area represented by the county consortium,
28 and shall submit an annual report to the Department of
29 Corrections concerning the status of the program. In preparing
30 the comprehensive public safety plan, the public safety
31 coordinating council shall cooperate with the district

1 juvenile justice board and the county juvenile justice
2 council, established under s. 39.025, in order to include
3 programs and services for juveniles in the plan. To be
4 eligible for community corrections funds under the contract,
5 the initial public safety plan must be approved by the
6 governing board of the county, or the governing board of each
7 county within the consortium, and the Secretary of Corrections
8 based on the requirements of this section. If one or more
9 other counties develop a unified public safety plan, the
10 public safety coordinating council shall submit a single
11 application to the department for funding. Continued contract
12 funding shall be pursuant to subsection (6). The plan for a
13 county or county consortium must cover at least a 5-year
14 period and must include:

15 (c) Specific goals and objectives for reducing the
16 projected percentage of commitments to the state prison system
17 of persons who are eligible for community-based sanctions with
18 ~~sentencing scores of 40 to 52 points, inclusive, pursuant to~~
19 ~~the Criminal Punishment Code.~~

20 Section 24. Subsection (3) of section 958.04, Florida
21 Statutes, as amended by section 36 of chapter 97-194, Laws of
22 Florida, is amended to read:

23 958.04 Judicial disposition of youthful offenders.--

24 (3) ~~The provisions of~~ This section may ~~shall~~ not be
25 used to impose a greater sentence than the maximum term of
26 imprisonment recommended range ~~as~~ established by s. 775.082,
27 s. 775.083, or s. 775.084 ~~the Criminal Punishment Code~~
28 ~~pursuant to chapter 921 unless reasons are explained in~~
29 ~~writing by the trial court judge which reasonably justify~~
30 ~~departure. A sentence imposed outside of the code is subject~~
31 ~~to appeal pursuant to s. 924.07.~~

1 Section 25. Subsection (4) of section 985.313, Florida
2 Statutes, as amended by section 10 of chapter 97-194, Laws of
3 Florida, is amended to read:

4 985.313 Maximum-risk residential program.--A
5 maximum-risk residential program is a physically secure
6 residential commitment program with a designated length of
7 stay from 18 months to 36 months, primarily serving children
8 13 years of age to 19 years of age, or until the jurisdiction
9 of the court expires. The court may retain jurisdiction over
10 the child until the child reaches the age of 21, specifically
11 for the purpose of the child completing the program. Each
12 child committed to this level must meet one of the following
13 criteria:

14 (4) The youth is at least 13 years of age at the time
15 of the disposition for the current offense, the youth is
16 eligible for prosecution as an adult for the current offense,
17 and the current offense is:

18 (a) A first-degree felony or second-degree felony that
19 is a forcible felony under s. 776.08;

20 (b) A felony involving serious bodily injury, great
21 bodily harm, or permanent disfigurement or disability;

22 (c) A violation of s. 790.07(2)(d), s. 790.07(4), s.
23 796.03, s. 800.04, or s. 847.0145; or

24 (d) A first-degree felony under chapter 812, chapter
25 893, or chapter 895.~~ranked at level 7 or higher on the~~
26 ~~Criminal Punishment Code offense severity ranking chart~~
27 ~~pursuant to s. 921.0022.~~

28 Section 26. Section 2 of chapter 97-194, Laws of
29 Florida; sections 921.002, 921.0021, 921.0022, 921.0023,
30 921.0024, and 921.0026, Florida Statutes, as created by
31 sections 3 through 8 of chapter 97-194, Laws of Florida; and

1 sections 42 and 43 of chapter 97-194, Laws of Florida, are
2 repealed.

3 Section 27. Subsection (7) is added to section 947.16,
4 Florida Statutes, to read:

5 947.16 Eligibility for parole; initial parole
6 interviews; powers and duties of commission.--

7 (7) A person convicted of an offense committed on or
8 after October 1, 1983, shall, unless otherwise provided by
9 law, be eligible for consideration for parole after completing
10 at least 85 percent of the sentence imposed by the court.

11 Section 28. It is the intent of the Legislature that
12 the Florida Supreme Court review the sentencing practices of
13 judges within each of the circuit courts of this state. Such
14 review should entail a specific examination of how convicted
15 offenders are sentenced by the circuit courts to determine
16 whether discrepancies in sentences are based on socioeconomic,
17 racial, or ethnic factors rather than upon the severity of the
18 offense committed. It is further the intent of the
19 Legislature that the Florida Supreme Court submit a report of
20 its review, including findings with respect to each circuit
21 and each judge within the circuit, to the President of the
22 Senate and the Speaker of the House of Representatives by
23 January 1, 1999.

24 Section 29. This act shall take effect October 1,
25 1998, and shall apply to sentences imposed for offenses
26 committed on or after that date, except that this section and
27 sections 27 and 28 of this act shall take effect upon becoming
28 a law.

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SENATE SUMMARY

Repeals ss. 921.002-921.0026, F.S., which creates the Florida Criminal Punishment Code, effective October 1, 1998. Provides for persons convicted of various offenses committed on or after October 1, 1998, to be sentenced under s. 775.082, s. 775.083, or s. 775.084, F.S., rather than sentenced under the Criminal Punishment Code. Provides additional authority for the court to impose terms of imprisonment and fines. Deletes the mandatory minimum sentences imposed for certain drug-trafficking offenses. Provides that certain offenders may be eligible for consideration for parole after completing at least 85 percent of their sentences. Provides that the Legislature intends that the Florida Supreme Court review the sentencing practices of circuit court judges. Revises additional provisions to delete references to the Criminal Punishment Code. (See bill for details.)