

1 A bill to be entitled
2 An act relating to organized criminal activity; amending
3 s. 874.01, F.S.; revising a short title; amending s.
4 874.02, F.S.; revising legislative findings and intent;
5 amending s. 874.03, F.S.; creating and revising
6 definitions; redefining "criminal street gangs" as
7 "organized crime groups"; amending s. 874.04, F.S.;
8 conforming provisions; creating s. 874.045, F.S.;
9 providing that chapter 874, F.S., does not preclude arrest
10 and prosecution under other specified provisions; amending
11 s. 874.05, F.S.; revising provisions relating to
12 soliciting or causing another to join an organized crime
13 group; creating s. 874.07, F.S.; prohibiting communication
14 with organized crime group members on postconviction
15 release; providing exceptions; providing penalties;
16 amending s. 874.08, F.S.; conforming provisions; amending
17 s. 874.09, F.S.; providing additional powers for the
18 Department of Law Enforcement and local law enforcement
19 agencies relating to crime data information; creating s.
20 874.10, F.S.; prohibiting use of electronic communications
21 to further criminal purposes; providing penalties;
22 creating s. 874.11, F.S.; defining the term
23 "identification document"; prohibiting possession of
24 identification documents in furtherance of criminal
25 activity; providing penalties; creating s. 874.12, F.S.;
26 providing for an organized crime prevention and
27 enforcement grant program; providing for rulemaking;
28 amending ss. 435.04, 893.138, 895.02, 921.0022, 921.0024,

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29 921.141, 984.03, 985.03, 985.047, and 985.433, F.S.;

30 conforming cross-references and terminology to changes

31 made by this act; providing a directive to the Division of

32 Statutory Revision; providing an effective date.

33

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

35

36 Section 1. Section 874.01, Florida Statutes, is amended to

37 read:

38 874.01 Short title.--This chapter may be cited as the

39 "Organized Crime Group ~~Criminal Street Gang~~ Prevention Act of

40 2007 ~~1996~~."

41 Section 2. Section 874.02, Florida Statutes, is amended to

42 read:

43 874.02 Legislative findings and intent.--

44 (1) The Legislature finds that it is the right of every

45 person, regardless of race, color, creed, religion, national

46 origin, sex, age, sexual orientation, or handicap, to be secure

47 and protected from fear, intimidation, and physical harm caused

48 by the activities of organized crime groups ~~criminal street~~

49 ~~gangs~~ and their members. It is not the intent of this chapter to

50 interfere with the exercise of the constitutionally protected

51 rights of freedom of expression and association. The Legislature

52 recognizes the constitutional right of every citizen to harbor

53 and express beliefs on any lawful subject whatsoever, to

54 lawfully associate with others who share similar beliefs, to

55 petition lawfully constituted authority for a redress of

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56 | perceived grievances, and to participate in the electoral
57 | process.

58 | (2) The Legislature finds, however, that the state is
59 | facing a mounting crisis caused by organized crime groups
60 | ~~criminal street gangs~~ whose members threaten and terrorize
61 | peaceful citizens and commit a multitude of crimes. These
62 | organized crime group ~~criminal street gang~~ activities, both
63 | individually and collectively, present a clear and present
64 | danger. Street gangs, in particular, have evolved into
65 | increasingly sophisticated and complex organized crime groups
66 | both in their criminal tactics, their schemes, and their
67 | brutality. The state has a compelling interest in preventing
68 | organized crime group ~~criminal street gang~~ activity and halting
69 | the real and present danger posed by the proliferation of
70 | organized crime groups and the graduation from more primitive
71 | forms of criminal organizations to highly sophisticated criminal
72 | organizations. For these reasons, ~~and~~ the Legislature finds that
73 | the provisions of this chapter ~~act~~ are essential ~~necessary~~ to
74 | maintain ~~the~~ public order and safety.

75 | (3) It is the intent of the Legislature to outlaw certain
76 | conduct associated with the existence and proliferation of
77 | organized criminal activity, provide ~~eradicate the terror~~
78 | ~~created by criminal street gangs and their members by providing~~
79 | ~~enhanced~~ criminal penalties, and eliminate ~~and by eliminating~~
80 | the patterns, profits, proceeds, instrumentalities, and property
81 | facilitating organized criminal ~~street gang~~ activity, including
82 | organized crime group ~~criminal street gang~~ recruitment.

83 Section 3. Section 874.03, Florida Statutes, is amended to
 84 read:

85 874.03 Definitions.--As used in this chapter:

86 (1) "Electronic communication" has the meaning provided in
 87 s. 934.02 and includes, but is not limited to, photographs,
 88 video, telephone communications, text messages, facsimile,
 89 electronic mail messages as defined in s. 668.602, and instant
 90 message real-time communications with other individuals through
 91 the Internet or other means.

92 (2)(1) "Organized crime group ~~Criminal street gang~~" means
 93 a formal or informal ongoing organization, association, or group
 94 that has as one of its primary activities the commission of
 95 criminal or delinquent acts, and that consists of three or more
 96 persons who have a common name or common identifying signs,
 97 colors, or symbols and have two or more members who,
 98 individually or collectively, engage in or have engaged in a
 99 pattern of organized criminal ~~street gang~~ activity, including,
 100 but not limited to, organized criminal syndicates, street gangs,
 101 and terrorist organizations.

102 (3)(2) "Organized crime ~~Criminal street gang~~ member" is a
 103 person who is a member of an organized crime group a ~~criminal~~
 104 ~~street gang~~ as defined in this section subsection (1) and who
 105 meets two or more of the following criteria:

106 (a) Admits to organized crime group ~~criminal street gang~~
 107 membership.

108 (b) Is identified as an organized crime group a ~~criminal~~
 109 ~~street gang~~ member by a parent or guardian.

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110 (c) Is identified as an organized crime group ~~a criminal~~
111 ~~street gang~~ member by a documented reliable informant.

112 (d) Resides in or frequents a particular organized crime
113 group's ~~criminal street gang's~~ area and adopts their style of
114 dress, their use of hand signs, or their tattoos, and associates
115 with known organized crime group ~~criminal street gang~~ members.

116 (e) Is identified as an organized crime group ~~a criminal~~
117 ~~street gang~~ member by an informant of previously untested
118 reliability and such identification is corroborated by
119 independent information.

120 (f) Has been arrested more than once in the company of
121 identified organized crime group ~~criminal street gang~~ members
122 for offenses that ~~which~~ are consistent with usual organized
123 crime group ~~criminal street gang~~ activity.

124 (g) Is identified as an organized crime group ~~a criminal~~
125 ~~street gang~~ member by physical evidence such as photographs or
126 other documentation.

127 (h) Has been stopped in the company of known organized
128 crime group ~~criminal street gang~~ members four or more times.

129 (i) Has authored any communication indicating
130 responsibility for the commission of any crime by the organized
131 crime group.

132 (4)-(3) "Pattern of organized crime group ~~criminal street~~
133 ~~gang~~ activity" means the commission or attempted commission of,
134 or solicitation or conspiracy to commit, as an organized crime
135 group member, two or more felony or three or more misdemeanor
136 offenses, or one felony and two misdemeanor offenses, or the
137 comparable number of delinquent acts or violations of law which

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138 would be felonies or misdemeanors if committed by an adult, on
 139 separate occasions within a 3-year period, excluding any period
 140 of incarceration.

141 (5) ~~(4)~~ For purposes of law enforcement identification and
 142 tracking only:

143 (a) "Organized crime group ~~Criminal street gang~~ associate"
 144 means a person who:

145 1. Admits to organized crime group ~~criminal street gang~~
 146 association; or

147 2. Meets any single defining criterion for organized crime
 148 group ~~criminal street gang~~ membership described in subsection
 149 (3) ~~(2)~~.

150 (b) "Organized crime-related ~~Gang-related~~ incident" means
 151 an incident where ~~that~~, upon investigation, ~~meets any of the~~
 152 ~~following conditions:~~

153 1. The participants are identified as organized crime
 154 group ~~criminal street gang~~ members or organized crime group
 155 ~~criminal street gang~~ associates, acting, individually or
 156 collectively, to further any criminal purpose of the organized
 157 crime group ~~gang~~; or

158 2. The ~~A reliable informant identifies an incident is~~
 159 identified as organized crime group ~~criminal street gang~~
 160 activity by a reliable informant, or

161 ~~3-~~ an informant of previously untested reliability who
 162 ~~identifies an incident as criminal street gang activity and it~~
 163 ~~is corroborated by independent information.~~

164 (6) "Street gangs" are formal or informal ongoing
 165 organizations, entities, associations, or groups consisting of

166 three or more persons with a common name or common identifying
 167 signs, colors, or symbols and two or more members who,
 168 individually or collectively, have as one of their primary
 169 activities the commission of criminal or delinquent acts and
 170 engage in or have engaged in a pattern of organized criminal
 171 activity.

172 (7) "Terrorist organization" means any organized criminal
 173 group engaged in or organized for the purpose of engaging in
 174 terrorism as defined in s. 775.30. This definition shall not be
 175 construed to prevent prosecution of individuals acting alone
 176 under this chapter.

177 Section 4. Section 874.04, Florida Statutes, is amended to
 178 read:

179 874.04 Organized criminal ~~street gang~~ activity; enhanced
 180 penalties.--Upon a finding ~~by the court at sentencing~~ that the
 181 defendant committed the charged offense for the purpose of
 182 benefiting, promoting, or furthering the interests of an
 183 organized crime group ~~a criminal street gang~~, the penalty for
 184 any felony or misdemeanor, or any delinquent act or violation of
 185 law which would be a felony or misdemeanor if committed by an
 186 adult, may be enhanced. Penalty enhancement affects the
 187 applicable statutory maximum penalty only. Each of the findings
 188 required as a basis for such sentence shall be found by a
 189 preponderance of the evidence. The enhancement will be as
 190 follows:

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

193 (b) A misdemeanor of the first degree may be punished as
 194 if it were a felony of the third degree. For purposes of
 195 sentencing under chapter 921 and determining incentive gain-time
 196 eligibility under chapter 944, such offense is ranked in level 1
 197 of the offense severity ranking chart. The criminal street gang
 198 multiplier in s. 921.0024 does not apply to misdemeanors
 199 enhanced under this paragraph.

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

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

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

206
 207 For purposes of sentencing under chapter 921 and determining
 208 incentive gain-time eligibility under chapter 944, such felony
 209 offense is ranked as provided in s. 921.0022 or s. 921.0023, and
 210 without regard to the penalty enhancement in this subsection.
 211 ~~For purposes of this section, penalty enhancement affects the~~
 212 ~~applicable statutory maximum penalty only.~~

213 Section 5. Section 874.045, Florida Statutes, is created
 214 to read:

215 874.045 Arrest and prosecution under other
 216 provisions.--Nothing in this chapter shall prohibit the arrest
 217 and prosecution of an organized crime group member under chapter
 218 876, chapter 895, chapter 896, s. 893.20, or any other
 219 applicable provision of law except to the extent otherwise
 220 prohibited pursuant to a statutory or constitutional provision.

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221 Section 6. Section 874.05, Florida Statutes, is amended to
 222 read:

223 874.05 Causing, encouraging, soliciting, or recruiting
 224 organized crime group ~~criminal street gang~~ membership.--

225 (1) Except as provided in subsection (2), a person who
 226 intentionally causes, encourages, solicits, or recruits another
 227 person to become an organized criminal group member where ~~join a~~
 228 ~~criminal street gang that requires as~~ a condition of membership
 229 or continued membership is the commission of any crime commits a
 230 felony of the third degree, punishable as provided in s.
 231 775.082, s. 775.083, or s. 775.084.

232 (2) A person who commits ~~Upon~~ a second or subsequent
 233 violation offense, ~~the person~~ commits a felony of the second
 234 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 235 775.084.

236 Section 7. Section 874.07, Florida Statutes, is created to
 237 read:

238 874.07 Communication among members or associates.--As a
 239 term and condition of probation, parole, conditional release, or
 240 community control, organized crime group members or associates
 241 shall not communicate with any other organized crime group
 242 members or associates through any means, except as authorized by
 243 law enforcement officials, prosecutorial authorities, or the
 244 court, for the purpose of aiding in the investigation of
 245 organized criminal activity. Organized crime group members or
 246 associates violating this section shall be deemed to have
 247 violated their probation, parole, community release, or

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248 community control, and the court shall revoke their probation,
 249 parole, conditional release, or community control.

250 Section 8. Section 874.08, Florida Statutes, is amended to
 251 read:

252 874.08 Organized crime group activity and Profits,
 253 ~~proceeds, and instrumentalities of criminal street gangs or~~
 254 ~~eriminal street gang~~ recruitment; forfeiture.--All profits,
 255 proceeds, and instrumentalities of organized crime group
 256 ~~eriminal street gang~~ activity and all property used or intended
 257 or attempted to be used to facilitate the criminal activity of
 258 any organized crime group ~~eriminal street gang~~ or of any group
 259 ~~eriminal street gang~~ member; and all profits, proceeds, and
 260 instrumentalities of organized crime group ~~eriminal street gang~~
 261 recruitment and all property used or intended or attempted to be
 262 used to facilitate organized crime group ~~eriminal street gang~~
 263 recruitment are subject to seizure and forfeiture under the
 264 Florida Contraband Forfeiture Act, s. 932.704.

265 Section 9. Section 874.09, Florida Statutes, is amended to
 266 read:

267 874.09 Crime data information.--

268 (1) The Department of Law Enforcement may:

269 (a) Develop and manage a statewide organized crime group
 270 ~~eriminal street gang~~ database to facilitate the exchange of
 271 information pursuant to the intent and purpose of this chapter.

272 (b) Notify all law enforcement agencies that reports of
 273 arrested organized crime group members or associates shall be
 274 entered into the database as soon as the minimum level of data

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275 specified by the department is available to the reporting agency
276 and no waiting period for the entry of that data exists.

277 (c) Compile and retain information regarding organized
278 crime groups and their members and associates in a manner that
279 allows the information to be used by law enforcement and other
280 agencies deemed appropriate for investigative purposes.

281 (d) Compile and maintain a history data repository
282 relating to organized crime groups and their members and
283 associates in order to develop and improve techniques used by
284 law enforcement agencies and prosecutors in the investigation,
285 apprehension, and prosecution of members and affiliates of
286 organized crime groups. (2) Local law enforcement agencies
287 may:

288 (a) After carrying out any arrest of any individual whom
289 they believe to be a member or associate of an organized crime
290 group, create or update that individual's electronic file within
291 the system.

292 (b) Notify the prosecutor of the accused individual's
293 organized crime group membership or associate status.

294 Section 10. Section 874.10, Florida Statutes, is created
295 to read:

296 874.10 Electronic communication.--Any person who uses
297 electronic communication to further any criminal purpose, to
298 intimidate or harass other persons, or to advertise his or her
299 presence in the community, including, but not limited to,
300 videotaping criminal activity or threats of criminal activity,
301 posting images or audio of criminal activity or threats of
302 criminal activity on the Internet, or reproducing photographs or

303 audio recordings of criminal activity commits a felony of the
 304 third degree, punishable as provided in s. 775.082, s. 775.083,
 305 or s. 775.084.

306 Section 11. Section 874.11, Florida Statutes, is created
 307 to read:

308 874.11 Identification documents; unlawful possession or
 309 creation.--

310 (1) For purposes of this section, the term "identification
 311 document" includes, but is not limited to, a social security
 312 card or number, a birth certificate, a driver's license, an
 313 identification card pursuant to s. 322.051, a naturalization
 314 certificate, an alien registration number, a passport, and any
 315 access credentials for a publicly operated facility or an
 316 infrastructure facility covered under 18 U.S.C. s. 2332f.

317 (2) Any person possessing or manufacturing any blank,
 318 forged, stolen, fictitious, fraudulent, counterfeit, or
 319 otherwise unlawfully issued identification document in
 320 furtherance of a criminal activity commits a felony of the
 321 second degree, punishable as provided in s. 775.082, s. 775.083,
 322 or s. 775.084. Section 12. Section 874.12, Florida Statutes, is
 323 created to read:

324 874.12 Grants.--

325 (1) The Department of Law Enforcement shall administer
 326 organized crime prevention and enforcement grants from funds
 327 specifically appropriated for this purpose. Grants shall be used
 328 solely for the purpose of funding prevention programs or
 329 strengthening enforcement activities. Funds shall be awarded on
 330 a competitive basis to applicants who meet department criteria.

331 (2) The Department of Law Enforcement shall adopt rules
 332 pursuant to ss. 120.536(1) and 120.54 setting forth the grant
 333 application process, eligibility criteria, and performance
 334 standards.

335 Section 13. Paragraph (nn) of subsection (2) of section
 336 435.04, Florida Statutes, is amended to read:

337 435.04 Level 2 screening standards.--

338 (2) The security background investigations under this
 339 section must ensure that no persons subject to the provisions of
 340 this section have been found guilty of, regardless of
 341 adjudication, or entered a plea of nolo contendere or guilty to,
 342 any offense prohibited under any of the following provisions of
 343 the Florida Statutes or under any similar statute of another
 344 jurisdiction:

345 (nn) Section 874.05(1), relating to encouraging or
 346 recruiting another to join an organized crime group ~~a criminal~~
 347 ~~gang~~.

348 Section 14. Paragraph (d) of subsection (2) of section
 349 893.138, Florida Statutes, is amended to read:

350 893.138 Local administrative action to abate drug-related,
 351 prostitution-related, or stolen-property-related public
 352 nuisances and criminal street gang activity.--

353 (2) Any place or premises that has been used:

354 (d) By a criminal street gang for the purpose of
 355 conducting a pattern of organized crime group ~~criminal street~~
 356 ~~gang~~ activity as defined by s. 874.03; or

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358 | may be declared to be a public nuisance, and such nuisance may
 359 | be abated pursuant to the procedures provided in this section.

360 | Section 15. Paragraph (a) of subsection (1) and subsection
 361 | (3) of section 895.02, Florida Statutes, are amended to read:

362 | 895.02 Definitions.--As used in ss. 895.01-895.08, the
 363 | term:

364 | (1) "Racketeering activity" means to commit, to attempt to
 365 | commit, to conspire to commit, or to solicit, coerce, or
 366 | intimidate another person to commit:

367 | (a) Any crime that is chargeable by indictment or
 368 | information under the following provisions of the Florida
 369 | Statutes:

370 | 1. Section 210.18, relating to evasion of payment of
 371 | cigarette taxes.

372 | 2. Section 403.727(3)(b), relating to environmental
 373 | control.

374 | 3. Section 409.920 or s. 409.9201, relating to Medicaid
 375 | fraud.

376 | 4. Section 414.39, relating to public assistance fraud.

377 | 5. Section 440.105 or s. 440.106, relating to workers'
 378 | compensation.

379 | 6. Section 443.071(4), relating to creation of a
 380 | fictitious employer scheme to commit unemployment compensation
 381 | fraud.

382 | 7. Section 465.0161, relating to distribution of medicinal
 383 | drugs without a permit as an Internet pharmacy.

- 384 8. Sections 499.0051, 499.0052, 499.00535, 499.00545, and
- 385 499.0691, relating to crimes involving contraband and
- 386 adulterated drugs.
- 387 9. Part IV of chapter 501, relating to telemarketing.
- 388 10. Chapter 517, relating to sale of securities and
- 389 investor protection.
- 390 11. Section 550.235, s. 550.3551, or s. 550.3605, relating
- 391 to dogracing and horseracing.
- 392 12. Chapter 550, relating to jai alai frontons.
- 393 13. Section 551.109, relating to slot machine gaming.
- 394 14. Chapter 552, relating to the manufacture,
- 395 distribution, and use of explosives.
- 396 15. Chapter 560, relating to money transmitters, if the
- 397 violation is punishable as a felony.
- 398 16. Chapter 562, relating to beverage law enforcement.
- 399 17. Section 624.401, relating to transacting insurance
- 400 without a certificate of authority, s. 624.437(4)(c)1., relating
- 401 to operating an unauthorized multiple-employer welfare
- 402 arrangement, or s. 626.902(1)(b), relating to representing or
- 403 aiding an unauthorized insurer.
- 404 18. Section 655.50, relating to reports of currency
- 405 transactions, when such violation is punishable as a felony.
- 406 19. Chapter 687, relating to interest and usurious
- 407 practices.
- 408 20. Section 721.08, s. 721.09, or s. 721.13, relating to
- 409 real estate timeshare plans.
- 410 21. Chapter 782, relating to homicide.
- 411 22. Chapter 784, relating to assault and battery.

- 412 23. Chapter 787, relating to kidnapping or human
- 413 trafficking.
- 414 24. Chapter 790, relating to weapons and firearms.
- 415 25. Section 796.03, s. 796.035, s. 796.04, s. 796.045, s.
- 416 796.05, or s. 796.07, relating to prostitution and sex
- 417 trafficking.
- 418 26. Chapter 806, relating to arson.
- 419 27. Section 810.02(2)(c), relating to specified burglary
- 420 of a dwelling or structure.
- 421 28. Chapter 812, relating to theft, robbery, and related
- 422 crimes.
- 423 29. Chapter 815, relating to computer-related crimes.
- 424 30. Chapter 817, relating to fraudulent practices, false
- 425 pretenses, fraud generally, and credit card crimes.
- 426 31. Chapter 825, relating to abuse, neglect, or
- 427 exploitation of an elderly person or disabled adult.
- 428 32. Section 827.071, relating to commercial sexual
- 429 exploitation of children.
- 430 33. Chapter 831, relating to forgery and counterfeiting.
- 431 34. Chapter 832, relating to issuance of worthless checks
- 432 and drafts.
- 433 35. Section 836.05, relating to extortion.
- 434 36. Chapter 837, relating to perjury.
- 435 37. Chapter 838, relating to bribery and misuse of public
- 436 office.
- 437 38. Chapter 843, relating to obstruction of justice.
- 438 39. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
- 439 s. 847.07, relating to obscene literature and profanity.

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440 40. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
 441 849.25, relating to gambling.

442 41. Chapter 874, relating to organized crime groups
 443 ~~criminal street gangs~~.

444 42. Chapter 893, relating to drug abuse prevention and
 445 control.

446 43. Chapter 896, relating to offenses related to financial
 447 transactions.

448 44. Sections 914.22 and 914.23, relating to tampering with
 449 a witness, victim, or informant, and retaliation against a
 450 witness, victim, or informant.

451 45. Sections 918.12 and 918.13, relating to tampering with
 452 jurors and evidence.

453 (3) "Enterprise" means any individual, sole
 454 proprietorship, partnership, corporation, business trust, union
 455 chartered under the laws of this state, or other legal entity,
 456 or any unchartered union, association, or group of individuals
 457 associated in fact although not a legal entity; and it includes
 458 illicit as well as licit enterprises and governmental, as well
 459 as other, entities. An organized crime group ~~A criminal street~~
 460 ~~gang~~, as defined in s. 874.03, constitutes an enterprise.

461 Section 16. Paragraphs (d) and (e) of subsection (3) of
 462 section 921.0022, Florida Statutes, are amended to read:

463 921.0022 Criminal Punishment Code; offense severity
 464 ranking chart.--

465 (3) OFFENSE SEVERITY RANKING CHART

Florida Felony

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	Statute	Degree	Description
466			(d) LEVEL 4
467	316.1935 (3) (a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
468	499.0051 (1)	3rd	Failure to maintain or deliver pedigree papers.
469	499.0051 (2)	3rd	Failure to authenticate pedigree papers.
470	499.0051 (6)	2nd	Sale or delivery, or possession with intent to sell, contraband legend drugs.
471	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, intake officer, etc.
472	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
473	784.075	3rd	Battery on detention or commitment facility staff.

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474	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
475	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
476	784.081 (3)	3rd	Battery on specified official or employee.
477	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
478	784.083 (3)	3rd	Battery on code inspector.
479	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
480	787.03 (1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
481	787.04 (2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
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483	787.04 (3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
484	790.115 (1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
485	790.115 (2) (b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
486	790.115 (2) (c)	3rd	Possessing firearm on school property.
487	800.04 (7) (d)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
488	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
489	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
490	810.06	3rd	Burglary; possession of tools.
	810.08 (2) (c)	3rd	Trespass on property, armed with

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			firearm or dangerous weapon.
491	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
492	812.014 (2) (c) 4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
493	812.0195 (2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
494	817.563 (1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03 (5) drugs.
495	817.568 (2) (a)	3rd	Fraudulent use of personal identification information.
496	817.625 (2) (a)	3rd	Fraudulent use of scanning device or reencoder.
497	828.125 (1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
498	837.02 (1)	3rd	Perjury in official proceedings.

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499	837.021 (1)	3rd	Make contradictory statements in official proceedings.
500	838.022	3rd	Official misconduct.
501	839.13 (2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
502	839.13 (2) (c)	3rd	Falsifying records of the Department of Children and Family Services.
503	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
504	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
505	843.15 (1) (a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
506	874.05 (1)	3rd	Encouraging or recruiting another to join <u>an organized crime group</u> a criminal street

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507	893.13 (2) (a) 1.	2nd	gang. Purchase of cocaine (or other s. 893.03 (1) (a), (b), or (d), (2) (a), (2) (b), or (2) (c) 4. drugs).
508	914.14 (2)	3rd	Witnesses accepting bribes.
509	914.22 (1)	3rd	Force, threaten, etc., witness, victim, or informant.
510	914.23 (2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
511	918.12	3rd	Tampering with jurors.
512	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
513			(e) LEVEL 5
514	316.027 (1) (a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
515	316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.
516	322.34 (6)	3rd	Careless operation of motor

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			vehicle with suspended license, resulting in death or serious bodily injury.
517	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
518	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
519	440.10 (1) (g)	2nd	Failure to obtain workers' compensation coverage.
520	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
521	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
522	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
523	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.

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524	790.01(2)	3rd	Carrying a concealed firearm.
525	790.162	2nd	Threat to throw or discharge destructive device.
526	790.163(1)	2nd	False report of deadly explosive or weapon of mass destruction.
527	790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
528	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
529	800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
530	800.04(7)(c)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
531	806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
532	812.0145(2)(b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
533			

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534	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
535	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
536	812.131 (2) (b)	3rd	Robbery by sudden snatching.
537	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
538	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
539	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
540	817.2341 (1), (2) (a) & (3) (a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
	817.568 (2) (b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or

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amount of injury or fraud,
\$5,000 or more or use of
personal identification
information of 10 or more
individuals.

541 817.625 (2) (b) 2nd Second or subsequent fraudulent
use of scanning device or
reencoder.

542 825.1025 (4) 3rd Lewd or lascivious exhibition in
the presence of an elderly
person or disabled adult.

543 827.071 (4) 2nd Possess with intent to promote
any photographic material,
motion picture, etc., which
includes sexual conduct by a
child.

544 827.071 (5) 3rd Possess any photographic
material, motion picture, etc.,
which includes sexual conduct by
a child.

545 839.13 (2) (b) 2nd Falsifying records of an
individual in the care and
custody of a state agency
involving great bodily harm or

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			death.
546	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
547	847.0137(2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
548	847.0138(2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
549	874.05(2)	2nd	Encouraging or recruiting another to join <u>an organized crime group</u> a criminal street gang ; second or subsequent offense.
550	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
551	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5.,

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(2)(c)6., (2)(c)7., (2)(c)8.,
 (2)(c)9., (3), or (4) drugs)
 within 1,000 feet of a child
 care facility, school, or state,
 county, or municipal park or
 publicly owned recreational
 facility or community center.

552

893.13(1)(d)1. 1st

Sell, manufacture, or deliver
 cocaine (or other s.
 893.03(1)(a), (1)(b), (1)(d),
 (2)(a), (2)(b), or (2)(c)4.
 drugs) within 1,000 feet of
 university.

553

893.13(1)(e)2. 2nd

Sell, manufacture, or deliver
 cannabis or other drug
 prohibited under s.
 893.03(1)(c), (2)(c)1.,
 (2)(c)2., (2)(c)3., (2)(c)5.,
 (2)(c)6., (2)(c)7., (2)(c)8.,
 (2)(c)9., (3), or (4) within
 1,000 feet of property used for
 religious services or a
 specified business site.

554

893.13(1)(f)1. 1st

Sell, manufacture, or deliver
 cocaine (or other s.

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893.03 (1) (a), (1) (b), (1) (d), or
 (2) (a), (2) (b), or (2) (c) 4.
 drugs) within 1,000 feet of
 public housing facility.

555 893.13 (4) (b) 2nd Deliver to minor cannabis (or
 other s. 893.03 (1) (c), (2) (c) 1.,
 (2) (c) 2., (2) (c) 3., (2) (c) 5.,
 (2) (c) 6., (2) (c) 7., (2) (c) 8.,
 (2) (c) 9., (3), or (4) drugs).

556
 557 Section 17. Subsection (1) of section 921.0024, Florida
 558 Statutes, is amended to read:

559 921.0024 Criminal Punishment Code; worksheet computations;
 560 scoresheets.--

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

563
 564 FLORIDA CRIMINAL PUNISHMENT CODE

565 WORKSHEET

566
 567 OFFENSE SCORE

568
 569 Primary Offense

570

Level	Sentence Points	Total
10	116	= _____

571

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572
573
574
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588

9	92	=	_____
8	74	=	_____
7	56	=	_____
6	36	=	_____
5	28	=	_____
4	22	=	_____
3	16	=	_____
2	10	=	_____
1	4	=	_____

Total _____

Additional Offenses

Level	Sentence Points		Counts		Total
10	58	x	_____	=	_____
9	46	x	_____	=	_____

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589	8	37	x	_____	=	_____
590	7	28	x	_____	=	_____
591	6	18	x	_____	=	_____
592	5	5.4	x	_____	=	_____
593	4	3.6	x	_____	=	_____
594	3	2.4	x	_____	=	_____
595	2	1.2	x	_____	=	_____
596	1	0.7	x	_____	=	_____
597	M	0.2	x	_____	=	_____

Total _____

Victim Injury

Level	Sentence Points		Number	Total
2nd degree murder-	240	x	_____	_____

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603	death					
604	Death	120	x	_____	=	_____
605	Severe	40	x	_____	=	_____
606	Moderate	18	x	_____	=	_____
607	Slight	4	x	_____	=	_____
608	Sexual	80	x	_____	=	_____
609	penetrati on					
610	Sexual	40	x	_____	=	_____
611	contact					
612						Total _____
613						
614						
615						
616						
617						
618						

Primary Offense + Additional Offenses + Victim Injury =
TOTAL OFFENSE SCORE

PRIOR RECORD SCORE

Prior Record

Level Sentence Number Total

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		Points				
619	10	29	x	_____	=	_____
620	9	23	x	_____	=	_____
621	8	19	x	_____	=	_____
622	7	14	x	_____	=	_____
623	6	9	x	_____	=	_____
624	5	3.6	x	_____	=	_____
625	4	2.4	x	_____	=	_____
626	3	1.6	x	_____	=	_____
627	2	0.8	x	_____	=	_____
628	1	0.5	x	_____	=	_____
629	M	0.2	x	_____	=	_____
630						
631					Total	_____
632						
633	TOTAL OFFENSE SCORE			_____		
634	TOTAL PRIOR RECORD SCORE			_____		
635						
636	LEGAL STATUS			_____		

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637 COMMUNITY SANCTION VIOLATION _____
 638 PRIOR SERIOUS FELONY _____
 639 PRIOR CAPITAL FELONY _____
 640 FIREARM OR SEMIAUTOMATIC WEAPON _____
 641 SUBTOTAL _____
 642
 643 PRISON RELEASEE REOFFENDER (no) (yes) _____
 644 VIOLENT CAREER CRIMINAL (no) (yes) _____
 645 HABITUAL VIOLENT OFFENDER (no) (yes) _____
 646 HABITUAL OFFENDER (no) (yes) _____
 647 DRUG TRAFFICKER (no) (yes) (x multiplier) _____
 648 LAW ENF. PROTECT. (no) (yes) (x multiplier) _____
 649 MOTOR VEHICLE THEFT (no) (yes) (x multiplier) _____
 650 ORGANIZED CRIME GROUP ~~CRIMINAL STREET GANG~~ OFFENSE (no) (yes)
 651 (x multiplier) _____
 652 DOMESTIC VIOLENCE IN THE PRESENCE OF RELATED CHILD (no) (yes)
 653 (x multiplier) _____
 654
 655 TOTAL SENTENCE POINTS _____
 656

(b) WORKSHEET KEY:

659 Legal status points are assessed when any form of legal status
 660 existed at the time the offender committed an offense before the
 661 court for sentencing. Four (4) sentence points are assessed for
 662 an offender's legal status.
 663

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664 Community sanction violation points are assessed when a
665 community sanction violation is before the court for sentencing.
666 Six (6) sentence points are assessed for each community sanction
667 violation, and each successive community sanction violation;
668 however, if the community sanction violation includes a new
669 felony conviction before the sentencing court, twelve (12)
670 community sanction violation points are assessed for such
671 violation, and for each successive community sanction violation
672 involving a new felony conviction. Multiple counts of community
673 sanction violations before the sentencing court shall not be a
674 basis for multiplying the assessment of community sanction
675 violation points.

676

677 Prior serious felony points: If the offender has a primary
678 offense or any additional offense ranked in level 8, level 9, or
679 level 10, and one or more prior serious felonies, a single
680 assessment of 30 points shall be added. For purposes of this
681 section, a prior serious felony is an offense in the offender's
682 prior record that is ranked in level 8, level 9, or level 10
683 under s. 921.0022 or s. 921.0023 and for which the offender is
684 serving a sentence of confinement, supervision, or other
685 sanction or for which the offender's date of release from
686 confinement, supervision, or other sanction, whichever is later,
687 is within 3 years before the date the primary offense or any
688 additional offense was committed.

689

690 Prior capital felony points: If the offender has one or more
691 prior capital felonies in the offender's criminal record, points

692 shall be added to the subtotal sentence points of the offender
 693 equal to twice the number of points the offender receives for
 694 the primary offense and any additional offense. A prior capital
 695 felony in the offender's criminal record is a previous capital
 696 felony offense for which the offender has entered a plea of nolo
 697 contendere or guilty or has been found guilty; or a felony in
 698 another jurisdiction which is a capital felony in that
 699 jurisdiction, or would be a capital felony if the offense were
 700 committed in this state.

701
 702 Possession of a firearm, semiautomatic firearm, or machine gun:
 703 If the offender is convicted of committing or attempting to
 704 commit any felony other than those enumerated in s. 775.087(2)
 705 while having in his or her possession: a firearm as defined in
 706 s. 790.001(6), an additional 18 sentence points are assessed; or
 707 if the offender is convicted of committing or attempting to
 708 commit any felony other than those enumerated in s. 775.087(3)
 709 while having in his or her possession a semiautomatic firearm as
 710 defined in s. 775.087(3) or a machine gun as defined in s.
 711 790.001(9), an additional 25 sentence points are assessed.

712
 713 Sentencing multipliers:

714
 715 Drug trafficking: If the primary offense is drug trafficking
 716 under s. 893.135, the subtotal sentence points are multiplied,
 717 at the discretion of the court, for a level 7 or level 8
 718 offense, by 1.5. The state attorney may move the sentencing
 719 court to reduce or suspend the sentence of a person convicted of

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720 a level 7 or level 8 offense, if the offender provides
 721 substantial assistance as described in s. 893.135(4).
 722
 723 Law enforcement protection: If the primary offense is a
 724 violation of the Law Enforcement Protection Act under s.
 725 775.0823(2), the subtotal sentence points are multiplied by 2.5.
 726 If the primary offense is a violation of s. 775.0823(3), (4),
 727 (5), (6), (7), or (8), the subtotal sentence points are
 728 multiplied by 2.0. If the primary offense is a violation of s.
 729 784.07(3) or s. 775.0875(1), or of the Law Enforcement
 730 Protection Act under s. 775.0823(9) or (10), the subtotal
 731 sentence points are multiplied by 1.5.
 732
 733 Grand theft of a motor vehicle: If the primary offense is grand
 734 theft of the third degree involving a motor vehicle and in the
 735 offender's prior record, there are three or more grand thefts of
 736 the third degree involving a motor vehicle, the subtotal
 737 sentence points are multiplied by 1.5.
 738
 739 Offense related to an organized crime group ~~a criminal street~~
 740 ~~gang~~: If the offender is convicted of the primary offense and
 741 committed that offense for the purpose of benefiting, promoting,
 742 or furthering the interests of an organized crime group a
 743 ~~criminal street gang~~ as prohibited under s. 874.04, the subtotal
 744 sentence points are multiplied by 1.5.
 745
 746 Domestic violence in the presence of a child: If the offender is
 747 convicted of the primary offense and the primary offense is a

748 crime of domestic violence, as defined in s. 741.28, which was
 749 committed in the presence of a child under 16 years of age who
 750 is a family or household member as defined in s. 741.28(3) with
 751 the victim or perpetrator, the subtotal sentence points are
 752 multiplied by 1.5.

753 Section 18. Paragraph (n) of subsection (5) of section
 754 921.141, Florida Statutes, is amended to read:

755 921.141 Sentence of death or life imprisonment for capital
 756 felonies; further proceedings to determine sentence.--

757 (5) AGGRAVATING CIRCUMSTANCES.--Aggravating circumstances
 758 shall be limited to the following:

759 (n) The capital felony was committed by an organized crime
 760 group ~~a criminal street gang~~ member, as defined in s. 874.03.

761 Section 19. Subsection (30) of section 984.03, Florida
 762 Statutes, is amended to read:

763 984.03 Definitions.--When used in this chapter, the term:

764 (30) "Juvenile justice continuum" includes, but is not
 765 limited to, delinquency prevention programs and services
 766 designed for the purpose of preventing or reducing delinquent
 767 acts, including criminal activity by organized crime groups
 768 ~~youth gangs~~ and juvenile arrests, as well as programs and
 769 services targeted at children who have committed delinquent
 770 acts, and children who have previously been committed to
 771 residential treatment programs for delinquents. The term
 772 includes children-in-need-of-services and families-in-need-of-
 773 services programs; conditional release; substance abuse and
 774 mental health programs; educational and vocational programs;
 775 recreational programs; community services programs; community

776 service work programs; and alternative dispute resolution
 777 programs serving children at risk of delinquency and their
 778 families, whether offered or delivered by state or local
 779 governmental entities, public or private for-profit or not-for-
 780 profit organizations, or religious or charitable organizations.

781 Section 20. Paragraph (c) of subsection (15) and
 782 subsection (29) of section 985.03, Florida Statutes, are amended
 783 to read:

784 985.03 Definitions.--As used in this chapter, the term:
 785 (15)

786 (c) "Delinquency prevention programs" means programs
 787 designed for the purpose of reducing the occurrence of
 788 delinquency, including organized crime group ~~youth and street~~
 789 ~~gang~~ activity, and juvenile arrests. The term excludes
 790 arbitration, diversionary or mediation programs, and community
 791 service work or other treatment available subsequent to a child
 792 committing a delinquent act.

793 (29) "Juvenile justice continuum" includes, but is not
 794 limited to, delinquency prevention programs and services
 795 designed for the purpose of preventing or reducing delinquent
 796 acts, including criminal activity by organized crime groups
 797 ~~youth gangs~~, and juvenile arrests, as well as programs and
 798 services targeted at children who have committed delinquent
 799 acts, and children who have previously been committed to
 800 residential treatment programs for delinquents. The term
 801 includes children-in-need-of-services and families-in-need-of-
 802 services programs; conditional release; substance abuse and
 803 mental health programs; educational and career programs;

804 recreational programs; community services programs; community
 805 service work programs; and alternative dispute resolution
 806 programs serving children at risk of delinquency and their
 807 families, whether offered or delivered by state or local
 808 governmental entities, public or private for-profit or not-for-
 809 profit organizations, or religious or charitable organizations.

810 Section 21. Paragraph (c) of subsection (1) of section
 811 985.047, Florida Statutes, is amended to read:

812 985.047 Information systems.--

813 (1)

814 (c) As used in this section, "a juvenile who is at risk of
 815 becoming a serious habitual juvenile offender" means a juvenile
 816 who has been adjudicated delinquent and who meets one or more of
 817 the following criteria:

818 1. Is arrested for a capital, life, or first degree felony
 819 offense or sexual battery.

820 2. Has five or more arrests, at least three of which are
 821 for felony offenses. Three of such arrests must have occurred
 822 within the preceding 12-month period.

823 3. Has 10 or more arrests, at least 2 of which are for
 824 felony offenses. Three of such arrests must have occurred within
 825 the preceding 12-month period.

826 4. Has four or more arrests, at least one of which is for
 827 a felony offense and occurred within the preceding 12-month
 828 period.

829 5. Has 10 or more arrests, at least 8 of which are for any
 830 of the following offenses:

831 a. Petit theft;

- 832 b. Misdemeanor assault;
- 833 c. Possession of a controlled substance;
- 834 d. Weapon or firearm violation; or
- 835 e. Substance abuse.

836
 837 Four of such arrests must have occurred within the preceding 12-
 838 month period.

839 6. Meets at least one of the criteria for organized crime
 840 group ~~youth and street gang~~ membership.

841 Section 22. Paragraph (a) of subsection (6) and subsection
 842 (7) of section 985.433, Florida Statutes, are amended to read:

843 985.433 Disposition hearings in delinquency cases.--When a
 844 child has been found to have committed a delinquent act, the
 845 following procedures shall be applicable to the disposition of
 846 the case:

847 (6) The first determination to be made by the court is a
 848 determination of the suitability or nonsuitability for
 849 adjudication and commitment of the child to the department. This
 850 determination shall include consideration of the recommendations
 851 of the department, which may include a predisposition report.
 852 The predisposition report shall include, whether as part of the
 853 child's multidisciplinary assessment, classification, and
 854 placement process components or separately, evaluation of the
 855 following criteria:

856 (a) The seriousness of the offense to the community. If
 857 the court determines under chapter 874 that the child was a
 858 member of an organized crime group ~~a criminal street gang~~ at the

859 | time of the commission of the offense, the seriousness of the
 860 | offense to the community shall be given great weight.

861 |
 862 | It is the intent of the Legislature that the criteria set forth
 863 | in this subsection are general guidelines to be followed at the
 864 | discretion of the court and not mandatory requirements of
 865 | procedure. It is not the intent of the Legislature to provide
 866 | for the appeal of the disposition made under this section.

867 | (7) If the court determines that the child should be
 868 | adjudicated as having committed a delinquent act and should be
 869 | committed to the department, such determination shall be in
 870 | writing or on the record of the hearing. The determination shall
 871 | include a specific finding of the reasons for the decision to
 872 | adjudicate and to commit the child to the department, including
 873 | any determination that the child was a member of an organized
 874 | crime group ~~a criminal street gang~~.

875 | (a) The juvenile probation officer shall recommend to the
 876 | court the most appropriate placement and treatment plan,
 877 | specifically identifying the restrictiveness level most
 878 | appropriate for the child. If the court has determined that the
 879 | child was a member of an organized crime group ~~a criminal street~~
 880 | ~~gang~~, that determination shall be given great weight in
 881 | identifying the most appropriate restrictiveness level for the
 882 | child. The court shall consider the department's recommendation
 883 | in making its commitment decision.

884 | (b) The court shall commit the child to the department at
 885 | the restrictiveness level identified or may order placement at a
 886 | different restrictiveness level. The court shall state for the

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887 record the reasons that establish by a preponderance of the
888 evidence why the court is disregarding the assessment of the
889 child and the restrictiveness level recommended by the
890 department. Any party may appeal the court's findings resulting
891 in a modified level of restrictiveness under this paragraph.

892 (c) The court may also require that the child be placed in
893 a probation program following the child's discharge from
894 commitment. Community-based sanctions under subsection (8) may
895 be imposed by the court at the disposition hearing or at any
896 time prior to the child's release from commitment.

897 Section 23. The Division of Statutory Revision is directed
898 to redesignate the title of chapter 874, Florida Statutes, as
899 "Organized Criminal Activity Enforcement and Prevention."

900 Section 24. This act shall take effect July 1, 2007.