

By Senator Dockery

15-03455D-08

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1 A bill to be entitled

2 An act relating to sentencing; creating s. 921.0019, F.S.;

3 creating the Sentencing Policy Advisory Council within the

4 Legislature; requiring the council to evaluate sentencing

5 policy, sentencing practices, laws, and rules of criminal

6 procedure affecting or applicable to sentencing or

7 punishment; requiring that recommendations be consistent

8 with specified goals; providing membership of the council;

9 providing for selection of the chair of the council;

10 providing for an executive director and additional staff

11 for the council, subject to appropriations; providing that

12 members of the council serve without compensation, but are

13 entitled to be reimbursed for per diem and travel

14 expenses; requiring meetings and reports of findings and

15 recommendations to the Governor, the Legislature, and the

16 Florida Supreme Court; requiring the council to report its

17 findings and recommendations regarding specified questions

18 by a specified date; providing an effective date.

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

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22 Section 1. Section 921.0019, Florida Statutes, is created

23 to read:

24 921.0019 Sentencing Policy Advisory Council.--

25 (1) The Sentencing Policy Advisory Council is created

26 within the Legislature for the purpose of evaluating sentencing

27 policy, sentencing practices, and laws and rules of criminal

28 procedure affecting or applicable to sentencing or punishment,

29 including, but not limited to, the Criminal Punishment Code, the

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30 degree and offense severity level ranking of offenses, mandatory
31 sentences, enhanced penalties, felony and misdemeanor
32 reclassifications, gain-time and early release mechanisms, and
33 for the purpose of making findings and recommendations on a
34 continuing basis regarding changes to such policy, practices,
35 laws, and rules of criminal procedure. The council shall serve in
36 an advisory capacity to the Legislature, the Governor, and the
37 Supreme Court.

38 (2) Any recommended change to sentencing policy, sentencing
39 practices, or laws or rules of criminal procedure affecting or
40 applicable to sentencing or punishment must be consistent with
41 the following goals:

42 (a) Protecting public safety, including, but not limited
43 to, ensuring the incarceration of violent criminal offenders and
44 nonviolent criminal offenders who commit repeated acts of
45 criminal behavior and who have demonstrated an inability to
46 comply with less restrictive penalties previously imposed for
47 nonviolent criminal acts;

48 (b) Supporting the principles embodied in the Criminal
49 Punishment Code as described in s. 921.002(1); and

50 (c) Providing for the most cost-effective and efficient use
51 of correctional resources to the extent that such use is not in
52 conflict with the goals described in paragraphs (a) and (b).

53 (3) (a) The council shall be composed of 15 members,
54 consisting of: two members of the Senate appointed by the
55 President of the Senate; two members of the House of
56 Representatives appointed by the Speaker of the House of
57 Representatives; the Chief Justice of the Supreme Court or a
58 member of the Supreme Court designated by the Chief Justice;

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59 three circuit court judges, one county court judge, and one
60 representative of the victim advocacy profession, appointed by
61 the Chief Justice of the Supreme Court; the Attorney General or
62 her or his designee; and the Secretary of Corrections or her or
63 his designee. The following members shall be appointed by the
64 Governor: one state attorney from a list of three nominees
65 recommended by the Florida Prosecuting Attorneys Association; one
66 public defender from a list of three nominees recommended by the
67 Public Defenders Association; and one private attorney from a
68 list of three nominees recommended by the President of The
69 Florida Bar. The membership of the council shall reflect the
70 geographic and ethnic diversity of the state. The chair of the
71 council shall be selected by the members for a term of 1 year.

72 (b) The members of the council shall be appointed to serve
73 4-year terms, except that a legislative member's term expires
74 upon leaving office as a member of the Senate or the House of
75 Representatives.

76 (c) The council shall meet at least quarterly and other
77 meetings may be called by the chair upon giving 7 days' notice to
78 the public. The council may take public testimony.

79 (d) Members of the council shall serve without
80 compensation, but are entitled to reimbursement for per diem and
81 travel expenses, which shall be paid by the appointing entity.

82 (e) The Office of Legislative Services shall provide staff
83 support for the council. The council staff members shall consist
84 of an executive director and any other staff member determined to
85 be necessary to the completion of the council's duties, subject
86 to appropriations. Upon request of the chair of the council or
87 the executive director, the Legislature's Office of Economic and

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88 Demographic Research, the Office of Program Policy Analysis and
89 Government Accountability, the Department of Corrections and any
90 other state agency or department, and the Office of the State
91 Courts Administrator shall assist the council in providing
92 necessary data collection, analysis, and research.

93 (4) On or before January 15 of each year, the council shall
94 provide a report of its findings and recommendations to the
95 Governor, the President of the Senate, the Speaker of the House
96 of Representatives, and the Chief Justice of the Supreme Court.
97 The council may provide the Legislature, the Governor, and the
98 Supreme Court with additional reports of findings and
99 recommendations at any time it deems appropriate.

100 (5) The President of the Senate or the Speaker of the House
101 may also direct the council to report by a certain date the
102 council's findings and recommendations regarding an issue
103 pertinent to sentencing policy, sentencing practice, or laws or
104 rules of criminal procedure affecting or applicable to sentencing
105 or punishment.

106 Section 2. (1) On or before January 15, 2009, the
107 Sentencing Policy Advisory Council shall report to the Governor,
108 the President of the Senate, the Speaker of the House of
109 Representatives, and the Supreme Court its preliminary findings
110 and recommendations regarding the following questions:

111 (a) Should the Legislature repeal any laws providing for a
112 mandatory minimum sentence or modify such laws to provide for
113 presumptive mandatory minimum sentences or exceptions to
114 mandatory sentences in some circumstances?

115 (b) Do mandatory sentencing laws conflict with or undermine
116 the purpose of the Criminal Punishment Code?

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117 (c) Are particular criminal acts punished as more than one
118 specific offense and, if so, has this resulted in duplication,
119 confusion, or inconsistent penalties?

120 (d) Are the penalties for particular felony or misdemeanor
121 offenses disproportionate to those for other felonies or
122 misdemeanor offenses of a similar nature or severity?

123 (e) Do current enhanced penalties or felony and misdemeanor
124 reclassifications for repeat offenders result in duplication,
125 confusion, or inconsistent penalties?

126 (f) Should the Legislature preclude the courts from
127 sentencing to prison defendants convicted of third-degree
128 felonies who score under 44 total sentence points?

129 (g) Should the Legislature change the current "Truth in
130 Sentencing" gain-time restrictions specified in s.
131 944.275(4)(b)3., Florida Statutes, to more closely align with the
132 federal minimum requirements?

133 (h) Should the Legislature authorize correctional probation
134 officers to apply a continuum of administrative sanctions for
135 technical probation violations that do not affect public safety?

136 (2) Findings and recommendations regarding the questions
137 described in subsection (1) are in addition to any findings and
138 recommendations the council is required to provide under s.
139 921.0019, Florida Statutes.

140 Section 3. This act shall take effect July 1, 2008.