

By the Committee on Criminal Justice; and Senator Dockery

591-04822-08

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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, and laws affecting or

6 applicable to sentencing or punishment; requiring that

7 recommendations be consistent with specified goals;

8 providing membership of the council; providing for

9 selection of the chair of the council; providing for an

10 executive director and additional staff for the council,

11 subject to appropriations; providing that members of the

12 council serve without compensation, but are entitled to be

13 reimbursed for per diem and travel expenses; requiring

14 meetings and reports of findings and recommendations to

15 the Governor, the Legislature, and the Florida Supreme

16 Court; requiring the council to report its findings and

17 recommendations regarding specified questions by a

18 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 affecting or applicable to

28 sentencing or punishment, including, but not limited to, the

29 Criminal Punishment Code, the degree and offense severity level

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

37 (2) Any recommended change to sentencing policy, sentencing  
38 practices, or laws affecting or applicable to sentencing or  
39 punishment must be consistent with the following goals:

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

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

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

51 (3) (a) The council shall be composed of 15 members,  
52 consisting of: two members of the Senate appointed by the  
53 President of the Senate; two members of the House of  
54 Representatives appointed by the Speaker of the House of  
55 Representatives; the Chief Justice of the Supreme Court or a  
56 member of the Supreme Court designated by the Chief Justice;  
57 three circuit court judges, one county court judge, and one  
58 representative of the victim advocacy profession, appointed by

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

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

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

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

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

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

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

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

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

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

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

115 (c) Are particular criminal acts punished as more than one  
116 specific offense and, if so, has this resulted in duplication,

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117 confusion, or inconsistent penalties?

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

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

124 (f) Should the Legislature preclude the courts from  
125 sentencing to prison defendants convicted of third-degree  
126 felonies who score fewer than 44 total sentence points?

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

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

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

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