

By the Committees on Criminal and Civil Justice Appropriations;  
Criminal Justice; and Senator Dockery

604-06526-08

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1 A bill to be entitled

2 An act relating to sentencing and the development of more  
3 effective justice and correctional policies; creating s.  
4 921.0019, F.S.; creating the Sentencing Policy Advisory  
5 Council within the Legislature and a Justice Reinvestment  
6 Subcommittee within the Sentencing Policy Advisory  
7 Council; requiring the council to evaluate sentencing  
8 policy, sentencing practices, correctional policies,  
9 justice reinvestment initiatives, and laws affecting or  
10 applicable to sentencing or punishment; requiring the  
11 subcommittee to review the effectiveness of correctional  
12 policies, including sanctioning programs for low-level  
13 drug and property offenders, mental health and substance  
14 abuse interventions, and reinvestment strategies to  
15 enhance the long-term effectiveness of correctional  
16 policies by reducing cost without negatively impacting  
17 public safety; requiring that recommendations be  
18 consistent with specified goals; providing membership of  
19 the council; providing for selection of the chair of the  
20 council; providing for an executive director and  
21 additional staff for the council, subject to  
22 appropriations; providing that members of the council  
23 serve without compensation, but are entitled to be  
24 reimbursed for per diem and travel expenses; requiring  
25 meetings and reports of findings and recommendations to  
26 the Governor, the Legislature, and the Florida Supreme  
27 Court; requiring the council to report its findings and  
28 recommendations regarding specified questions by a  
29 specified date; providing an effective date.

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

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33 Section 1. Section 921.0019, Florida Statutes, is created  
34 to read:

35 921.0019 Sentencing Policy Advisory Council.--

36 (1) The Sentencing Policy Advisory Council is created  
37 within the Legislature for the purpose of evaluating sentencing  
38 policy, sentencing practices, correctional policies, justice  
39 reinvestment initiatives, and laws affecting or applicable to  
40 sentencing or punishment, including, but not limited to, the  
41 Criminal Punishment Code, the degree and offense severity level  
42 ranking of offenses, mandatory sentences, enhanced penalties,  
43 felony and misdemeanor reclassifications, and gain-time and early  
44 release mechanisms, and for the purpose of making findings and  
45 recommendations on a continuing basis regarding changes to such  
46 policy, practices, and laws. The council shall serve in an  
47 advisory capacity to the Legislature, the Governor, and the  
48 Supreme Court.

49 (2) A Justice Reinvestment Subcommittee within the  
50 Sentencing Policy Advisory Council is created to review the  
51 effectiveness of correctional policies, including, but not  
52 limited to, the review of the availability of sanctions options  
53 for low-level drug and property offenders; the effectiveness of  
54 mental health and substance abuse diversion programs; the  
55 effectiveness of prison reentry practices; the feasibility of  
56 implementing a progressive sanctions system for probationers; the  
57 impact of jail overcrowding on the effectiveness of local  
58 alternative programs and sanctions; the effectiveness of

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59 supervision strategies; and the delivery of supervision and  
60 programs in neighborhoods that have a high proportion of  
61 supervised offenders.

62 (3) Any recommended change to sentencing policy, sentencing  
63 practices, correctional policies, justice reinvestment  
64 initiatives, or laws affecting or applicable to sentencing or  
65 punishment must be consistent with the following goals:

66 (a) Protecting public safety, including, but not limited  
67 to, ensuring the incarceration of violent criminal offenders and  
68 nonviolent criminal offenders who commit repeated acts of  
69 criminal behavior and who have demonstrated an inability to  
70 comply with less restrictive penalties previously imposed for  
71 nonviolent criminal acts; and

72 (b) Providing for the most cost-effective and efficient use  
73 of correctional resources to the extent that such use is not in  
74 conflict with paragraph (a).

75 (4) (a) The council shall be composed of 15 members,  
76 consisting of two members of the Senate appointed by the  
77 President of the Senate; two members of the House of  
78 Representatives appointed by the Speaker of the House of  
79 Representatives; the Chief Justice of the Supreme Court or a  
80 member of the Supreme Court designated by the Chief Justice;  
81 three circuit court judges, one county court judge, and one  
82 representative of the victim advocacy profession, appointed by  
83 the Chief Justice of the Supreme Court; the Attorney General or  
84 her or his designee; and the Secretary of Corrections or her or  
85 his designee. The following members shall be appointed by the  
86 Governor: one state attorney from a list of three nominees  
87 recommended by the Florida Prosecuting Attorneys Association; one

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88 public defender from a list of three nominees recommended by the  
89 Public Defenders Association; and one private attorney from a  
90 list of three nominees recommended by the President of The  
91 Florida Bar. The membership of the council shall reflect the  
92 geographic and ethnic diversity of the state. The chair of the  
93 council shall be selected by the members for a term of 1 year.

94 (b) The chair of the council shall appoint members of the  
95 council to serve in a Justice Reinvestment Subcommittee to carry  
96 out the duties provided in subsection (2) and designate ex  
97 officio members from state or local agencies to serve as  
98 technical assistance advisors to the subcommittee.

99 (c) The members of the council shall be appointed to serve  
100 4-year terms, except that a legislative member's term expires  
101 upon leaving office as a member of the Senate or the House of  
102 Representatives.

103 (d) The council shall meet at least quarterly and other  
104 meetings may be called by the chair upon giving 7 days' notice to  
105 the public. The council may take public testimony.

106 (e) Members of the council shall serve without  
107 compensation, but are entitled to reimbursement for per diem and  
108 travel expenses, which shall be paid by the appointing entity.

109 (f) The Office of Legislative Services shall provide  
110 administrative staff support for the council. The Legislature's  
111 Office of Economic and Demographic Research shall provide  
112 technical and substantive staff support. The council staff  
113 members shall consist of an executive director and any other  
114 staff member determined to be necessary to the completion of the  
115 council's duties, subject to appropriations. Upon request of the  
116 chair of the council or the executive director, the Office of

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117 Program Policy Analysis and Government Accountability, the  
118 Department of Corrections and any other state agency or  
119 department, and the Office of the State Courts Administrator  
120 shall assist the council in providing necessary data collection,  
121 analysis, and research.

122 (g) The chair of the council shall develop a technical  
123 assistance agreement with the Justice Center of the Council of  
124 State Governments to work with the Justice Reinvestment  
125 Subcommittee to accomplish the review of the effectiveness of  
126 correctional policies as provided in subsection (2). The  
127 agreement shall include, but not be limited to, procedures for  
128 the Justice Center of the Council of State Governments to access  
129 the data collection, analysis, and research capabilities of the  
130 agencies and offices listed in paragraph (f).

131 (5) On or before January 15 of each year, the council shall  
132 provide a report of its findings and recommendations to the  
133 Governor, the President of the Senate, the Speaker of the House  
134 of Representatives, and the Chief Justice of the Supreme Court.  
135 The council may provide the Legislature, the Governor, and the  
136 Supreme Court with additional reports of findings and  
137 recommendations at any time it deems appropriate. The council may  
138 integrate the recommendations of the Justice Reinvestment  
139 Subcommittee in its report or may issue a separate report  
140 reflecting the findings of the subcommittee.

141 (6) The President of the Senate or the Speaker of the House  
142 may also direct the council to report by a certain date the  
143 council's findings and recommendations regarding an issue  
144 pertinent to sentencing policy, sentencing practice, correctional  
145 policies, justice reinvestment initiatives, or laws affecting or

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146 applicable to sentencing or punishment.

147 Section 2. (1) The Sentencing Policy Advisory Council  
148 shall report to the Governor, the President of the Senate, the  
149 Speaker of the House of Representatives, and the Supreme Court  
150 its preliminary findings and recommendations regarding the  
151 following questions:

152 (a) Should the Legislature repeal any laws providing for a  
153 mandatory minimum sentence or modify such laws to provide for  
154 presumptive mandatory minimum sentences or exceptions to  
155 mandatory sentences in some circumstances?

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

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

161 (d) Are the penalties for particular felony or misdemeanor  
162 offenses disproportionate to those for other felonies or  
163 misdemeanor offenses of a similar nature or severity?

164 (e) Do current enhanced penalties or felony and misdemeanor  
165 reclassifications for repeat offenders result in duplication,  
166 confusion, or inconsistent penalties?

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

170 (g) Should the Legislature change the current "Truth in  
171 Sentencing" gain-time restrictions specified in s.  
172 944.275(4)(b)3., Florida Statutes, to more closely align with the  
173 federal minimum requirements?

174 (h) Should the Legislature authorize correctional probation

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175 officers to apply a continuum of administrative sanctions for  
176 technical probation violations that do not affect public safety?

177 (2) The council shall give priority to answering the  
178 questions provided in subsection (1) over other questions,  
179 issues, or matters that the council might consider relevant to  
180 its review of sentencing policy, sentencing practice, and  
181 sentencing laws as provided in s. 921.0019, Florida Statutes. If  
182 the council is unable to answer any question prior to the report  
183 of its findings and recommendations as required by s.  
184 921.0019(4), Florida Statutes, the council shall either provide  
185 preliminary findings and recommendations regarding the question  
186 or report the council's progress in answering the question.

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