

By Senators Aronberg and Atwater

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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 with respect to organized criminal activity; amending s.
6 874.03, F.S.; creating and revising definitions;
7 redefining the term "criminal street gangs" as "organized
8 crime groups"; amending s. 874.04, F.S.; conforming
9 provisions; revising an evidentiary standard for purposes
10 of imposing enhanced penalties; creating s. 874.045, F.S.;
11 providing that ch. 874, F.S., does not preclude arrest and
12 prosecution under other specified provisions; amending s.
13 874.05, F.S.; revising provisions relating to soliciting
14 or causing another to join an organized crime group;
15 amending s. 874.06, F.S.; authorizing the state to bring
16 civil actions for certain violations; providing that a
17 plaintiff, upon prevailing, has a superior claim to
18 property or proceeds; amending s. 874.08, F.S.; conforming
19 provisions; amending s. 874.09, F.S.; providing additional
20 powers for the Department of Law Enforcement and local law
21 enforcement agencies relating to crime data information;
22 creating s. 874.10, F.S.; prohibiting use of electronic
23 communications to further the interests of an organized
24 crime group; providing penalties; creating s. 874.11,
25 F.S.; defining the term "identification document";
26 prohibiting possession of identification documents for
27 specified purposes; providing penalties; creating s.
28 874.12, F.S.; providing for an organized crime prevention
29 and enforcement grant program; creating s. 874.13, F.S.;

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30 providing for the suspension of driver's licenses for
31 certain offenses; creating s. 948.033, F.S.; prohibiting
32 certain offenders from communicating with organized crime
33 group members; providing exceptions; amending s. 947.18,
34 F.S.; prohibiting certain parolees from communicating with
35 organized crime group members; providing exceptions;
36 amending s. 947.1405, F.S.; prohibiting certain
37 conditional releasees from communicating with organized
38 crime group members; providing exceptions; amending ss.
39 435.04, 893.138, 895.02, 921.0022, 921.0024, 921.141,
40 984.03, 985.03, 985.047, and 985.433, F.S.; conforming
41 cross-references and terminology to changes made by the
42 act; providing a directive to the Division of Statutory
43 Revision; providing an effective date.

44
45 Be It Enacted by the Legislature of the State of Florida:

46
47 Section 1. Section 874.01, Florida Statutes, is amended to
48 read:

49 874.01 Short title.--This chapter may be cited as the
50 "Organized Crime Group ~~Criminal Street Gang~~ Prevention Act of
51 1996."

52 Section 2. Section 874.02, Florida Statutes, is amended to
53 read:

54 874.02 Legislative findings and intent.--

55 (1) The Legislature finds that it is the right of every
56 person, regardless of race, color, creed, religion, national
57 origin, sex, age, sexual orientation, or handicap, to be secure
58 and protected from fear, intimidation, and physical harm caused

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59 | by the activities of organized crime groups ~~eriminal street gangs~~
60 | and their members. It is not the intent of this chapter to
61 | interfere with the exercise of the constitutionally protected
62 | rights of freedom of expression and association. The Legislature
63 | recognizes the constitutional right of every citizen to harbor
64 | and express beliefs on any lawful subject whatsoever, to lawfully
65 | associate with others who share similar beliefs, to petition
66 | lawfully constituted authority for a redress of perceived
67 | grievances, and to participate in the electoral process.

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

85 | (3) It is the intent of the Legislature to outlaw certain
86 | conduct associated with the existence and proliferation of
87 | organized criminal activity, provide ~~eradicate the terror created~~

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88 ~~by criminal street gangs and their members by providing~~ enhanced
89 criminal penalties, and eliminate ~~and by eliminating~~ the
90 patterns, profits, proceeds, instrumentalities, and property
91 facilitating organized crime group ~~criminal street gang~~ activity,
92 including organized crime group ~~criminal street gang~~ recruitment.

93 Section 3. Section 874.03, Florida Statutes, is amended to
94 read:

95 874.03 Definitions.--As used in this chapter:

96 (1) "Electronic communication" has the meaning provided in
97 s. 934.02 and includes, but is not limited to, photographs,
98 video, telephone communications, text messages, facsimile,
99 electronic mail messages as defined in s. 668.602, and instant
100 message real-time communications with other individuals through
101 the Internet or other means.

102 (2)(1) "Organized crime group ~~Criminal street gang~~" means a
103 formal or informal ongoing organization, association, or group
104 that has as one of its primary activities the commission of
105 criminal or delinquent acts, and that consists of three or more
106 persons who have a common name or common identifying signs,
107 colors, or symbols and have two or more members who, individually
108 or collectively, engage in or have engaged in a pattern of
109 organized criminal ~~street gang~~ activity, including, but not
110 limited to, organized criminal syndicates, street gangs, and
111 terrorist organizations.

112 (3)(2) "Organized crime group ~~Criminal street gang~~ member"
113 is a person who ~~is a member of a criminal street gang as defined~~
114 ~~in subsection (1) and who~~ meets two or more of the following
115 criteria:

116 (a) Admits to membership in an organized crime group

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117 ~~eriminal street gang membership.~~

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

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

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

126 (e) Is identified as an organized crime group ~~a criminal~~
127 ~~street gang~~ member by an informant of previously untested
128 reliability and such identification is corroborated by
129 independent information.

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

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

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

139 (i) Has authored any communication indicating
140 responsibility for the commission of any crime by the organized
141 crime group.

142 (4)-(3) "Pattern of organized crime group ~~criminal street~~
143 ~~gang~~ activity" means the commission or attempted commission of,
144 or solicitation or conspiracy to commit, as an organized crime
145 group member, two or more felony or three or more misdemeanor

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146 offenses, or one felony and two misdemeanor offenses, or the
147 comparable number of delinquent acts or violations of law that
148 ~~which~~ would be felonies or misdemeanors if committed by an adult,
149 on separate occasions within a 3-year period, excluding any
150 period of incarceration.

151 (5)(4) For purposes of law enforcement identification and
152 tracking only:

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

155 1. Admits to associating with an organized crime group
156 ~~criminal street gang association~~; or

157 2. Meets any single defining criterion for organized crime
158 group ~~criminal street gang~~ membership described in subsection (3)
159 ~~(2)~~.

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

163 1. The participants are identified as organized crime group
164 ~~criminal street gang~~ members or organized crime group ~~criminal~~
165 ~~street gang~~ associates, acting, individually or collectively, to
166 further any criminal purpose of the organized crime group ~~gang~~;
167 or

168 2. The ~~A reliable informant identifies an incident is~~
169 identified as organized crime group ~~criminal street gang~~ activity
170 by a reliable informant; or

171 ~~3.~~ an informant of previously untested reliability who
172 ~~identifies an incident as criminal street gang activity and it is~~
173 ~~corroborated by independent information.~~

174 (6) "Street gang" means a formal or informal ongoing

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175 organizational, entity, association, or group consisting of three
176 or more persons having a common name or common identifying signs,
177 colors, or symbols and two or more members who, individually or
178 collectively, have as one of their primary activities the
179 commission of criminal or delinquent acts and engage in or have
180 engaged in a pattern of organized criminal activity.

181 (7) "Terrorist organization" means any organized crime
182 group engaged in or organized for the purpose of engaging in
183 terrorism as defined in s. 775.30. This definition does not
184 prevent prosecution of individuals acting alone under this
185 chapter.

186 Section 4. Section 874.04, Florida Statutes, is amended to
187 read:

188 874.04 Organized crime group ~~criminal street gang~~ activity;
189 enhanced penalties.--Upon a finding ~~by the court at sentencing~~
190 that the defendant committed the charged offense for the purpose
191 of benefiting, promoting, or furthering the interests of an
192 organized crime group ~~a criminal street gang~~, the penalty for any
193 felony or misdemeanor, or any delinquent act or violation of law
194 that ~~which~~ would be a felony or misdemeanor if committed by an
195 adult, may be enhanced. Penalty enhancement affects the
196 applicable statutory maximum penalty only. Each of the findings
197 required as a basis for such sentence shall be found beyond a
198 reasonable doubt ~~by a preponderance of the evidence.~~ The
199 enhancement will be as follows:

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

202 (b) A misdemeanor of the first degree may be punished as if
203 it were a felony of the third degree. For purposes of sentencing

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204 | under chapter 921 and determining incentive gain-time eligibility
205 | under chapter 944, such offense is ranked in level 1 of the
206 | offense severity ranking chart. The organized crime group
207 | ~~criminal street gang~~ multiplier in s. 921.0024 does not apply to
208 | misdemeanors enhanced under this paragraph.

209 | (2) (a) A felony of the third degree may be punished as if
210 | it were a felony of the second degree.

211 | (b) A felony of the second degree may be punished as if it
212 | were a felony of the first degree.

213 | (c) A felony of the first degree may be punished as if it
214 | were a life felony.

215 |

216 | For purposes of sentencing under chapter 921 and determining
217 | incentive gain-time eligibility under chapter 944, such felony
218 | offense is ranked as provided in s. 921.0022 or s. 921.0023, and
219 | without regard to the penalty enhancement in this subsection. ~~For~~
220 | ~~purposes of this section, penalty enhancement affects the~~
221 | ~~applicable statutory maximum penalty only.~~

222 | Section 5. Section 874.045, Florida Statutes, is created to
223 | read:

224 | 874.045 Arrest and prosecution under other
225 | provisions.--This chapter does not prohibit the arrest and
226 | prosecution of an organized crime group member under chapter 876,
227 | chapter 895, chapter 896, s. 893.20, or any other applicable
228 | provision of law except to the extent otherwise prohibited under
229 | a statutory or constitutional provision.

230 | Section 6. Section 874.05, Florida Statutes, is amended to
231 | read:

232 | 874.05 Causing, encouraging, soliciting, or recruiting

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233 organized crime group ~~eriminal street gang~~ membership.--

234 (1) Except as provided in subsection (2), a person who
235 intentionally causes, encourages, solicits, or recruits another
236 person to become an organized crime group member where ~~join a~~
237 ~~eriminal street gang that requires as~~ a condition of membership
238 or continued membership is the commission of any crime commits a
239 felony of the third degree, punishable as provided in s. 775.082,
240 s. 775.083, or s. 775.084.

241 (2) A person who commits ~~Upon~~ a second or subsequent
242 violation ~~offense, the person~~ commits a felony of the second
243 degree, punishable as provided in s. 775.082, s. 775.083, or s.
244 775.084.

245 Section 7. Section 874.06, Florida Statutes, is amended to
246 read:

247 874.06 Civil cause of action.--

248 (1) A person or organization establishing, by clear and
249 convincing evidence, coercion, intimidation, threats, or other
250 harm to that person or organization in violation of this chapter
251 has a civil cause of action for treble damages, an injunction, or
252 any other appropriate relief in law or equity. Upon prevailing,
253 the plaintiff may recover ~~reasonable~~ attorney's fees in the trial
254 and appellate courts and the costs of investigation and
255 litigation, reasonably incurred ~~and costs.~~

256 (2) The state, including any of its agencies,
257 instrumentalities, subdivisions, or municipalities, has a civil
258 cause of action against any person or organization if it proves
259 by clear and convincing evidence that it has been injured by
260 reason of a violation of this chapter by the person or
261 organization. The state has a civil cause of action for treble

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262 damages, injunctive relief, or any other relief in law or equity
263 which the court deems appropriate. If the state prevails, it may
264 also recover attorney's fees in the trial and appellate courts
265 and the costs of investigation and litigation which are
266 reasonably incurred. The state may not recover punitive damages.
267 The defendant is entitled to recover reasonable attorney's fees
268 and court costs if the court finds that the state raised a claim
269 that was without factual or legal support.

270 (3) A prevailing plaintiff under subsection (1) has a right
271 or claim that is superior to any right or claim that the state
272 has in the same property or proceeds.

273 (4) A person who knowingly violates a temporary or
274 permanent order issued under this section commits a misdemeanor
275 of the first degree punishable as provided in s. 775.082 or s.
276 775.083.

277 Section 8. Section 874.08, Florida Statutes, is amended to
278 read:

279 874.08 Organized crime group activity and Profits,
280 ~~proceeds, and instrumentalities of criminal street gangs or~~
281 ~~eriminal street gang~~ recruitment; forfeiture.--All profits,
282 proceeds, and instrumentalities of organized crime group ~~eriminal~~
283 ~~street gang~~ activity and all property used or intended or
284 attempted to be used to facilitate the criminal activity of any
285 organized crime group ~~eriminal street gang~~ or of any group
286 ~~eriminal street gang~~ member; and all profits, proceeds, and
287 instrumentalities of organized crime group ~~eriminal street gang~~
288 recruitment and all property used or intended or attempted to be
289 used to facilitate organized crime group ~~eriminal street gang~~
290 recruitment are subject to seizure and forfeiture under the

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291 Florida Contraband Forfeiture Act, s. 932.704.

292 Section 9. Section 874.09, Florida Statutes, is amended to
293 read:

294 874.09 Crime data information.--

295 (1) The Department of Law Enforcement may:

296 (a) Develop and manage a statewide organized crime group
297 ~~criminal street gang~~ database to facilitate the exchange of
298 information pursuant to the intent and purpose of this chapter.

299 (b) Notify all law enforcement agencies that reports of
300 arrested organized crime group members or associates are entered
301 into the database as soon as the minimum level of data specified
302 by the department is available to the reporting agency and no
303 waiting period for the entry of that data exists.

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

308 (d) Compile and maintain a history data repository relating
309 to organized crime groups and their members and associates in
310 order to develop and improve techniques used by law enforcement
311 agencies and prosecutors in the investigation, apprehension, and
312 prosecution of members and affiliates of organized crime groups.

313 (2) Local law enforcement agencies may:

314 (a) After carrying out any arrest of any individual they
315 believe is a member or associate of an organized crime group,
316 create or update that individual's electronic file within the
317 database.

318 (b) Notify the prosecutor of the accused individual's
319 suspected organized crime group membership or associate status.

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320 Section 10. Section 874.10, Florida Statutes, is created to
321 read:

322 874.10 Electronic communication.--Any person who, for the
323 purpose of benefiting, promoting, or furthering the interests of
324 an organized crime group, uses electronic communication to
325 intimidate or harass other persons, or to advertise his or her
326 presence in the community, including, but not limited to, such
327 activities as distributing, selling, transmitting, or posting on
328 the Internet any audio, video, or still image of criminal
329 activity commits a felony of the third degree, punishable as
330 provided in s. 775.082, s. 775.083, or s. 775.084.

331 Section 11. Section 874.11, Florida Statutes, is created to
332 read:

333 874.11 Identification documents; unlawful possession or
334 creation.--

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

342 (2) Any person possessing or manufacturing any blank,
343 forged, stolen, fictitious, fraudulent, counterfeit, or otherwise
344 unlawfully issued identification document for the purpose of
345 benefiting, promoting, or furthering the interests of an
346 organized crime group commits a felony of the second degree,
347 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

348 Section 12. Section 874.12, Florida Statutes, is created to

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349 read:

350 874.12 Grants.--

351 (1) The Department of Law Enforcement shall administer a
352 grant program to assist local efforts to prevent, detect, and
353 prosecute criminal activity committed by organized criminal
354 street gangs.

355 (2) Grants shall be awarded to local consortia, which must
356 include the state attorney, local law enforcement agencies, and
357 local crime prevention organizations. Local crime prevention
358 organizations may include, but are not limited to, local juvenile
359 justice boards, local not-for-profit community service
360 organizations, and local school boards. Each consortium must
361 identify a single organization to serve as the primary point of
362 contact between the department and the local consortium.
363 Proposals must include the three components of enhanced law
364 enforcement, prosecution, and prevention in order to be eligible
365 for a grant award. Grants shall be awarded on a competitive basis
366 and shall be subject to a 50-percent local match that may be
367 provided in the form of in-kind services. Proposals shall be
368 evaluated based on the following:

369 (a) The extent to which the three components of law
370 enforcement, prosecution, and prevention are appropriately
371 balanced and coordinated to reduce street-gang-related activity.

372 (b) The amount of local match.

373 (c) The extent to which resources are directed toward
374 neighborhoods or areas that are most at risk of street-gang-
375 related crime.

376 Section 13. Section 874.13, Florida Statutes, is created to
377 read:

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378 874.13 Suspension of driver's license.--

379 (1) As used in this section, the term:

380 (a) "Department" means the Department of Highway Safety and
381 Motor Vehicles.

382 (b) "Convicted" means a determination of guilt that is the
383 result of a trial or the entry of a plea of guilty or nolo
384 contendere, regardless of whether adjudication is withheld.

385 (2) In addition to any other penalty provided by law, the
386 court shall order the suspension of the driver's license of each
387 person convicted or adjudicated delinquent of any offense
388 contained in this chapter and of any person whose penalty has
389 been enhanced under s. 874.04. Upon ordering the suspension of
390 the driver's license, the court shall forward the driver's
391 license to the department in accordance with s. 322.25.

392 (a) The first suspension of a driver's license under this
393 section shall be for a period of 6 months.

394 (b) A second or subsequent suspension of a driver's license
395 under this section shall be for 1 year.

396 (3) A court that suspends a driver's license under
397 subsection (2) shall, if the person is sentenced to a term of
398 incarceration, direct the department to commence the suspension
399 of the person's driver's license upon the person's release from
400 incarceration.

401 Section 14. Section 948.033, Florida Statutes, is created
402 to read:

403 948.033 Condition of probation or community control;
404 organized crime group.--Effective for a probationer or community
405 controllee whose crime was committed on or after July 1, 2008,
406 and who has been found to have committed the crime for the

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407 purpose of benefiting, promoting, or furthering the interests of
408 an organized crime group, the court shall, in addition to any
409 other conditions imposed, impose a condition prohibiting the
410 probationer or community controllee from knowingly associating
411 with other organized crime group members or associates, except as
412 authorized by law enforcement officials, prosecutorial
413 authorities, or the court for the purpose of aiding in the
414 investigation of organized crime group activity.

415 Section 15. Section 947.18, Florida Statutes, is amended to
416 read:

417 947.18 Conditions of parole.--A ~~No~~ person may not ~~shall~~ be
418 placed on parole merely as a reward for good conduct or efficient
419 performance of duties assigned in prison. A ~~No~~ person may not
420 ~~shall~~ be placed on parole until and unless the commission finds
421 that there is reasonable probability that, if the person is
422 placed on parole, he or she will live and conduct himself or
423 herself as a respectable and law-abiding person and that the
424 person's release will be compatible with his or her own welfare
425 and the welfare of society. A ~~No~~ person may not ~~shall~~ be placed
426 on parole unless and until the commission is satisfied that he or
427 she will be suitably employed in self-sustaining employment or
428 that he or she will not become a public charge. The commission
429 shall determine the terms upon which the ~~such~~ person shall be
430 granted parole. If the person's conviction was for a controlled
431 substance violation, one of the conditions must be that the
432 person submit to random substance abuse testing intermittently
433 throughout the term of supervision, upon the direction of the
434 correctional probation officer as defined in s. 943.10(3). In
435 addition to any other lawful condition of parole, the commission

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436 may make the payment of the debt due and owing to the state under
437 s. 960.17 or the payment of the attorney's fees and costs due and
438 owing to the state under s. 938.29 a condition of parole subject
439 to modification based on change of circumstances. If the person's
440 conviction was for a crime that was found to have been committed
441 for the purpose of benefiting, promoting, or furthering the
442 interests of an organized crime group, one of the conditions must
443 be that the person be prohibited from knowingly associating with
444 other organized crime group members or associates, except as
445 authorized by law enforcement officials, prosecutorial
446 authorities, or the court for the purpose of aiding in the
447 investigation of organized crime group activity.

448 Section 16. Subsection (11) is added to section 947.1405,
449 Florida Statutes, to read:

450 947.1405 Conditional release program.--

451 (11) Effective for a releasee whose crime was committed on
452 or after July 1, 2008, and who has been found to have committed
453 the crime for the purpose of benefiting, promoting, or furthering
454 the interests of an organized crime group, the commission shall,
455 in addition to any other conditions imposed, impose a condition
456 prohibiting the releasee from knowingly associating with other
457 organized crime group members or associates, except as authorized
458 by law enforcement officials, prosecutorial authorities, or the
459 court for the purpose of aiding in the investigation of organized
460 crime group activity.

461 Section 17. Paragraph (nn) of subsection (2) of section
462 435.04, Florida Statutes, is amended to read:

463 435.04 Level 2 screening standards.--

464 (2) The security background investigations under this

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465 | section must ensure that no persons subject to the provisions of
466 | this section have been found guilty of, regardless of
467 | adjudication, or entered a plea of nolo contendere or guilty to,
468 | any offense prohibited under any of the following provisions of
469 | the Florida Statutes or under any similar statute of another
470 | jurisdiction:

471 | (nn) Section 874.05(1), relating to encouraging or
472 | recruiting another to join an organized crime group ~~a criminal~~
473 | ~~gang~~.

474 | Section 18. Subsection (2) of section 893.138, Florida
475 | Statutes, is amended to read:

476 | 893.138 Local administrative action to abate drug-related,
477 | prostitution-related, or stolen-property-related public nuisances
478 | and criminal street gang activity.--

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

480 | (a) On more than two occasions within a 6-month period, as
481 | the site of a violation of s. 796.07;

482 | (b) On more than two occasions within a 6-month period, as
483 | the site of the unlawful sale, delivery, manufacture, or
484 | cultivation of any controlled substance;

485 | (c) On one occasion as the site of the unlawful possession
486 | of a controlled substance, where such possession constitutes a
487 | felony and that has been previously used on more than one
488 | occasion as the site of the unlawful sale, delivery, manufacture,
489 | or cultivation of any controlled substance;

490 | (d) By a criminal street gang for the purpose of conducting
491 | a pattern of organized crime group ~~criminal street gang~~ activity
492 | as defined by s. 874.03; or

493 | (e) On more than two occasions within a 6-month period, as

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494 | the site of a violation of s. 812.019 relating to dealing in
495 | stolen property

496

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

499 | Section 19. Paragraph (a) of subsection (1) and subsection
500 | (3) of section 895.02, Florida Statutes, are amended to read:

501 | 895.02 Definitions.--As used in ss. 895.01-895.08, the
502 | term:

503 | (1) "Racketeering activity" means to commit, to attempt to
504 | commit, to conspire to commit, or to solicit, coerce, or
505 | intimidate another person to commit:

506 | (a) Any crime that is chargeable by indictment or
507 | information under the following provisions of the Florida
508 | Statutes:

509 | 1. Section 210.18, relating to evasion of payment of
510 | cigarette taxes.

511 | 2. Section 403.727(3)(b), relating to environmental
512 | control.

513 | 3. Section 409.920 or s. 409.9201, relating to Medicaid
514 | fraud.

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

516 | 5. Section 440.105 or s. 440.106, relating to workers'
517 | compensation.

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

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

522 | 8. Sections 499.0051, 499.0052, 499.00535, 499.00545, and

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523 499.0691, relating to crimes involving contraband and adulterated
524 drugs.

525 9. Part IV of chapter 501, relating to telemarketing.

526 10. Chapter 517, relating to sale of securities and
527 investor protection.

528 11. Section 550.235, s. 550.3551, or s. 550.3605, relating
529 to dogracing and horseracing.

530 12. Chapter 550, relating to jai alai frontons.

531 13. Section 551.109, relating to slot machine gaming.

532 14. Chapter 552, relating to the manufacture, distribution,
533 and use of explosives.

534 15. Chapter 560, relating to money transmitters, if the
535 violation is punishable as a felony.

536 16. Chapter 562, relating to beverage law enforcement.

537 17. Section 624.401, relating to transacting insurance
538 without a certificate of authority, s. 624.437(4)(c)1., relating
539 to operating an unauthorized multiple-employer welfare
540 arrangement, or s. 626.902(1)(b), relating to representing or
541 aiding an unauthorized insurer.

542 18. Section 655.50, relating to reports of currency
543 transactions, when such violation is punishable as a felony.

544 19. Chapter 687, relating to interest and usurious
545 practices.

546 20. Section 721.08, s. 721.09, or s. 721.13, relating to
547 real estate timeshare plans.

548 21. Chapter 782, relating to homicide.

549 22. Chapter 784, relating to assault and battery.

550 23. Chapter 787, relating to kidnapping or human
551 trafficking.

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- 552 24. Chapter 790, relating to weapons and firearms.
- 553 25. Section 796.03, s. 796.035, s. 796.04, s. 796.045, s.
- 554 796.05, or s. 796.07, relating to prostitution and sex
- 555 trafficking.
- 556 26. Chapter 806, relating to arson.
- 557 27. Section 810.02(2)(c), relating to specified burglary of
- 558 a dwelling or structure.
- 559 28. Chapter 812, relating to theft, robbery, and related
- 560 crimes.
- 561 29. Chapter 815, relating to computer-related crimes.
- 562 30. Chapter 817, relating to fraudulent practices, false
- 563 pretenses, fraud generally, and credit card crimes.
- 564 31. Chapter 825, relating to abuse, neglect, or
- 565 exploitation of an elderly person or disabled adult.
- 566 32. Section 827.071, relating to commercial sexual
- 567 exploitation of children.
- 568 33. Chapter 831, relating to forgery and counterfeiting.
- 569 34. Chapter 832, relating to issuance of worthless checks
- 570 and drafts.
- 571 35. Section 836.05, relating to extortion.
- 572 36. Chapter 837, relating to perjury.
- 573 37. Chapter 838, relating to bribery and misuse of public
- 574 office.
- 575 38. Chapter 843, relating to obstruction of justice.
- 576 39. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
- 577 s. 847.07, relating to obscene literature and profanity.
- 578 40. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
- 579 849.25, relating to gambling.
- 580 41. Chapter 874, relating to organized crime groups

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581 | ~~eriminal street gangs.~~

582 | 42. Chapter 893, relating to drug abuse prevention and
583 | control.

584 | 43. Chapter 896, relating to offenses related to financial
585 | transactions.

586 | 44. Sections 914.22 and 914.23, relating to tampering with
587 | a witness, victim, or informant, and retaliation against a
588 | witness, victim, or informant.

589 | 45. Sections 918.12 and 918.13, relating to tampering with
590 | jurors and evidence.

591 | (3) "Enterprise" means any individual, sole proprietorship,
592 | partnership, corporation, business trust, union chartered under
593 | the laws of this state, or other legal entity, or any unchartered
594 | union, association, or group of individuals associated in fact
595 | although not a legal entity; and it includes illicit as well as
596 | licit enterprises and governmental, as well as other, entities.
597 | An organized crime group ~~A criminal street /gang~~, as defined in
598 | s. 874.03, constitutes an enterprise.

599 | Section 20. Paragraphs (d) and (e) of subsection (3) of
600 | section 921.0022, Florida Statutes, are amended to read:

601 | 921.0022 Criminal Punishment Code; offense severity ranking
602 | chart.--

603 | (3) OFFENSE SEVERITY RANKING CHART

604 | (d) LEVEL 4

605 |

Florida	Felony	Description
Statute	Degree	

606 |

316.1935 (3) (a)	2nd	Driving at high speed or with
------------------	-----	-------------------------------

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wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.

607	499.0051 (1)	3rd	Failure to maintain or deliver pedigree papers.
608	499.0051 (2)	3rd	Failure to authenticate pedigree papers.
609	499.0051 (6)	2nd	Sale or delivery, or possession with intent to sell, contraband legend drugs.
610	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, intake officer, etc.
611	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
612	784.075	3rd	Battery on detention or commitment facility staff.
613	784.078	3rd	Battery of facility employee by throwing, tossing, or

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expelling certain fluids or materials.

614

784.08 (2) (c) 3rd Battery on a person 65 years of age or older.

615

784.081 (3) 3rd Battery on specified official or employee.

616

784.082 (3) 3rd Battery by detained person on visitor or other detainee.

617

784.083 (3) 3rd Battery on code inspector.

618

784.085 3rd Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.

619

787.03 (1) 3rd Interference with custody; wrongly takes minor from appointed guardian.

620

787.04 (2) 3rd Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.

621

787.04 (3) 3rd Carrying child beyond state

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lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.

622	790.115 (1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
623	790.115 (2) (b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
624	790.115 (2) (c)	3rd	Possessing firearm on school property.
625	800.04 (7) (d)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
626	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
627	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
628			

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629	810.06	3rd	Burglary; possession of tools.
630	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
631	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
632	812.014 (2) (c) 4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
633	812.0195 (2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
634	817.563 (1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03 (5) drugs.
635	817.568 (2) (a)	3rd	Fraudulent use of personal identification information.
636	817.625 (2) (a)	3rd	Fraudulent use of scanning device or reencoder.

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637	828.125 (1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
638	837.02 (1)	3rd	Perjury in official proceedings.
639	837.021 (1)	3rd	Make contradictory statements in official proceedings.
640	838.022	3rd	Official misconduct.
641	839.13 (2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
642	839.13 (2) (c)	3rd	Falsifying records of the Department of Children and Family Services.
643	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.

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644	843.15 (1) (a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
645	874.05 (1)	3rd	Encouraging or recruiting another to join <u>an organized crime group</u> a criminal street gang .
646	893.13 (2) (a) 1.	2nd	Purchase of cocaine (or other s. 893.03(1) (a), (b), or (d), (2) (a), (2) (b), or (2) (c) 4. drugs).
647	914.14 (2)	3rd	Witnesses accepting bribes.
648	914.22 (1)	3rd	Force, threaten, etc., witness, victim, or informant.
649	914.23 (2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
650	918.12	3rd	Tampering with jurors.
651	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.

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652			
653	(e)	LEVEL 5	
654			
	Florida	Felony	Description
	Statute	Degree	
655			
	316.027 (1) (a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
656			
	316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.
657			
	322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
658			
	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
659			
	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
660			
	440.10 (1) (g)	2nd	Failure to obtain workers' compensation coverage.
661			
	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers'

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compensation claims.

662

440.381 (2)

2nd

Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.

663

624.401 (4) (b) 2.

2nd

Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.

664

626.902 (1) (c)

2nd

Representing an unauthorized insurer; repeat offender.

665

790.01 (2)

3rd

Carrying a concealed firearm.

666

790.162

2nd

Threat to throw or discharge destructive device.

667

790.163 (1)

2nd

False report of deadly explosive or weapon of mass destruction.

668

790.221 (1)

2nd

Possession of short-barreled shotgun or machine gun.

669

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670	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
671	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
672	800.04 (7) (c)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
673	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
674	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
675	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
676	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
677	812.131 (2) (b)	3rd	Robbery by sudden snatching.
	812.16 (2)	3rd	Owning, operating, or

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conducting a chop shop.

678

817.034 (4) (a) 2. 2nd Communications fraud, value
\$20,000 to \$50,000.

679

817.234 (11) (b) 2nd Insurance fraud; property
value \$20,000 or more but less
than \$100,000.

680

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.

681

817.568 (2) (b) 2nd Fraudulent use of personal
identification information;
value of benefit, services
received, payment avoided, or
amount of injury or fraud,
\$5,000 or more or use of
personal identification
information of 10 or more
individuals.

682

817.625 (2) (b) 2nd Second or subsequent
fraudulent use of scanning

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device or reencoder.

683

825.1025 (4)

3rd

Lewd or lascivious exhibition
in the presence of an elderly
person or disabled adult.

684

827.071 (4)

2nd

Possess with intent to promote
any photographic material,
motion picture, etc., which
includes sexual conduct by a
child.

685

827.071 (5)

3rd

Possess any photographic
material, motion picture,
etc., which includes sexual
conduct by a child.

686

839.13 (2) (b)

2nd

Falsifying records of an
individual in the care and
custody of a state agency
involving great bodily harm or
death.

687

843.01

3rd

Resist officer with violence
to person; resist arrest with
violence.

688

847.0137 (2) & (3)

3rd

Transmission of pornography by
electronic device or

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equipment.

689

847.0138 (2) & (3)

3rd

Transmission of material harmful to minors to a minor by electronic device or equipment.

690

874.05 (2)

2nd

Encouraging or recruiting another to join an organized crime group ~~a criminal street gang~~; second or subsequent offense.

691

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).

692

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., (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

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recreational facility or
community center.

693

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.

694

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.

695

893.13(1)(f)1.

1st

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

696

893.13(4)(b)

2nd

Deliver to minor cannabis (or

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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).

697 Section 21. Subsection (1) of section 921.0024, Florida
 698 Statutes, is amended to read:

699 921.0024 Criminal Punishment Code; worksheet computations;
 700 scoresheets.--

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

703
 704 FLORIDA CRIMINAL PUNISHMENT CODE
 705 WORKSHEET

706
 707 OFFENSE SCORE

708
 709 Primary Offense

Level	Sentence Points	Total
10	116	_____
9	92	_____
8	74	_____

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716	7	56	=	_____
717	6	36	=	_____
718	5	28	=	_____
719	4	22	=	_____
720	3	16	=	_____
721	2	10	=	_____
722	1	4	=	_____

723				
724			Total	_____

725 Additional Offenses

726	Level	Sentence Points		Counts		Total
727	<hr/>					
728	10	58	x	_____	=	_____
729	9	46	x	_____	=	_____
730	8	37	x	_____	=	_____

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731	7	28	x	_____	=	_____
732	6	18	x	_____	=	_____
733	5	5.4	x	_____	=	_____
734	4	3.6	x	_____	=	_____
735	3	2.4	x	_____	=	_____
736	2	1.2	x	_____	=	_____
737	1	0.7	x	_____	=	_____
738	M	0.2	x	_____	=	_____

740

Total

741

742 Victim Injury

743

Level	Sentence Points		Number		Total
-------	-----------------	--	--------	--	-------

744

745

2nd degree murder-	240	x	_____	=	_____
-----------------------	-----	---	-------	---	-------

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746	death					
747	Death	120	x	_____	=	_____
748	Severe	40	x	_____	=	_____
749	Moderate	18	x	_____	=	_____
750	Slight	4	x	_____	=	_____
751	Sexual penetration	80	x	_____	=	_____
752	Sexual contact	40	x	_____	=	_____
753	<hr/>					
754					Total	_____
755	Primary Offense + Additional Offenses + Victim Injury =					
756	TOTAL OFFENSE SCORE					
757						
758	PRIOR RECORD SCORE					
759						
760	Prior Record					
761						
762	Level	Sentence Points		Number		Total
	<hr/>					

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763	10	29	x	_____	=	_____
764	9	23	x	_____	=	_____
765	8	19	x	_____	=	_____
766	7	14	x	_____	=	_____
767	6	9	x	_____	=	_____
768	5	3.6	x	_____	=	_____
769	4	2.4	x	_____	=	_____
770	3	1.6	x	_____	=	_____
771	2	0.8	x	_____	=	_____
772	1	0.5	x	_____	=	_____
773	M	0.2	x	_____	=	_____
774						

775

Total

776

777 TOTAL OFFENSE SCORE

778 TOTAL PRIOR RECORD SCORE

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779
 780 LEGAL STATUS
 781 COMMUNITY SANCTION VIOLATION
 782 PRIOR SERIOUS FELONY
 783 PRIOR CAPITAL FELONY
 784 FIREARM OR SEMIAUTOMATIC WEAPON
 785 SUBTOTAL _____
 786
 787 PRISON RELEASEE REOFFENDER (no) (yes)
 788 VIOLENT CAREER CRIMINAL (no) (yes)
 789 HABITUAL VIOLENT OFFENDER (no) (yes)
 790 HABITUAL OFFENDER (no) (yes)
 791 DRUG TRAFFICKER (no) (yes) (x multiplier)
 792 LAW ENF. PROTECT. (no) (yes) (x multiplier)
 793 MOTOR VEHICLE THEFT (no) (yes) (x multiplier)
 794 CRIMINAL STREET GANG OFFENSE (no) (yes) (x multiplier)
 795 DOMESTIC VIOLENCE IN THE PRESENCE OF RELATED CHILD (no) (yes)
 796 (x multiplier)
 797
 798 TOTAL SENTENCE POINTS _____
 799

800 (b) WORKSHEET KEY:

801
 802 Legal status points are assessed when any form of legal status
 803 existed at the time the offender committed an offense before the
 804 court for sentencing. Four (4) sentence points are assessed for
 805 an offender's legal status.
 806

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807 Community sanction violation points are assessed when a community
808 sanction violation is before the court for sentencing. Six (6)
809 sentence points are assessed for each community sanction
810 violation and each successive community sanction violation,
811 unless any of the following apply:

812 1. If the community sanction violation includes a new
813 felony conviction before the sentencing court, twelve (12)
814 community sanction violation points are assessed for the
815 violation, and for each successive community sanction violation
816 involving a new felony conviction.

817 2. If the community sanction violation is committed by a
818 violent felony offender of special concern as defined in s.
819 948.06:

820 a. Twelve (12) community sanction violation points are
821 assessed for the violation and for each successive violation of
822 felony probation or community control where:

823 (I) The violation does not include a new felony conviction;
824 and

825 (II) The community sanction violation is not based solely
826 on the probationer or offender's failure to pay costs or fines or
827 make restitution payments.

828 b. Twenty-four (24) community sanction violation points are
829 assessed for the violation and for each successive violation of
830 felony probation or community control where the violation
831 includes a new felony conviction.

832

833 Multiple counts of community sanction violations before the
834 sentencing court shall not be a basis for multiplying the
835 assessment of community sanction violation points.

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836

837 Prior serious felony points: If the offender has a primary
838 offense or any additional offense ranked in level 8, level 9, or
839 level 10, and one or more prior serious felonies, a single
840 assessment of thirty (30) points shall be added. For purposes of
841 this section, a prior serious felony is an offense in the
842 offender's prior record that is ranked in level 8, level 9, or
843 level 10 under s. 921.0022 or s. 921.0023 and for which the
844 offender is serving a sentence of confinement, supervision, or
845 other sanction or for which the offender's date of release from
846 confinement, supervision, or other sanction, whichever is later,
847 is within 3 years before the date the primary offense or any
848 additional offense was committed.

849

850 Prior capital felony points: If the offender has one or more
851 prior capital felonies in the offender's criminal record, points
852 shall be added to the subtotal sentence points of the offender
853 equal to twice the number of points the offender receives for the
854 primary offense and any additional offense. A prior capital
855 felony in the offender's criminal record is a previous capital
856 felony offense for which the offender has entered a plea of nolo
857 contendere or guilty or has been found guilty; or a felony in
858 another jurisdiction which is a capital felony in that
859 jurisdiction, or would be a capital felony if the offense were
860 committed in this state.

861

862 Possession of a firearm, semiautomatic firearm, or machine gun:
863 If the offender is convicted of committing or attempting to
864 commit any felony other than those enumerated in s. 775.087(2)

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865 while having in his or her possession: a firearm as defined in s.
866 790.001(6), an additional eighteen (18) sentence points are
867 assessed; or if the offender is convicted of committing or
868 attempting to commit any felony other than those enumerated in s.
869 775.087(3) while having in his or her possession a semiautomatic
870 firearm as defined in s. 775.087(3) or a machine gun as defined
871 in s. 790.001(9), an additional twenty-five (25) sentence points
872 are assessed.

873

874 Sentencing multipliers:

875

876 Drug trafficking: If the primary offense is drug trafficking
877 under s. 893.135, the subtotal sentence points are multiplied, at
878 the discretion of the court, for a level 7 or level 8 offense, by
879 1.5. The state attorney may move the sentencing court to reduce
880 or suspend the sentence of a person convicted of a level 7 or
881 level 8 offense, if the offender provides substantial assistance
882 as described in s. 893.135(4).

883

884 Law enforcement protection: If the primary offense is a violation
885 of the Law Enforcement Protection Act under s. 775.0823(2), (3),
886 or (4), the subtotal sentence points are multiplied by 2.5. If
887 the primary offense is a violation of s. 775.0823(5), (6), (7),
888 (8), or (9), the subtotal sentence points are multiplied by 2.0.
889 If the primary offense is a violation of s. 784.07(3) or s.
890 775.0875(1), or of the Law Enforcement Protection Act under s.
891 775.0823(10) or (11), the subtotal sentence points are multiplied
892 by 1.5.

893

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894 Grand theft of a motor vehicle: If the primary offense is grand
895 theft of the third degree involving a motor vehicle and in the
896 offender's prior record, there are three or more grand thefts of
897 the third degree involving a motor vehicle, the subtotal sentence
898 points are multiplied by 1.5.

899

900 Offense related to an organized crime group ~~a criminal street~~
901 ~~gang~~: If the offender is convicted of the primary offense and
902 committed that offense for the purpose of benefiting, promoting,
903 or furthering the interests of an organized criminal group ~~a~~
904 ~~criminal street gang~~ as prohibited under s. 874.04, the subtotal
905 sentence points are multiplied by 1.5.

906

907 Domestic violence in the presence of a child: If the offender is
908 convicted of the primary offense and the primary offense is a
909 crime of domestic violence, as defined in s. 741.28, which was
910 committed in the presence of a child under 16 years of age who is
911 a family or household member as defined in s. 741.28(3) with the
912 victim or perpetrator, the subtotal sentence points are
913 multiplied by 1.5.

914 Section 22. Paragraph (n) of subsection (5) of section
915 921.141, Florida Statutes, is amended to read:

916 921.141 Sentence of death or life imprisonment for capital
917 felonies; further proceedings to determine sentence.--

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

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

922 Section 23. Subsection (30) of section 984.03, Florida

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923 Statutes, is amended to read:

924 984.03 Definitions.--When used in this chapter, the term:

925 (30) "Juvenile justice continuum" includes, but is not
926 limited to, delinquency prevention programs and services designed
927 for the purpose of preventing or reducing delinquent acts,
928 including criminal activity by organized crime groups ~~youth gangs~~
929 and juvenile arrests, as well as programs and services targeted
930 at children who have committed delinquent acts, and children who
931 have previously been committed to residential treatment programs
932 for delinquents. The term includes children-in-need-of-services
933 and families-in-need-of-services programs; conditional release;
934 substance abuse and mental health programs; educational and
935 vocational programs; recreational programs; community services
936 programs; community service work programs; and alternative
937 dispute resolution programs serving children at risk of
938 delinquency and their families, whether offered or delivered by
939 state or local governmental entities, public or private for-
940 profit or not-for-profit organizations, or religious or
941 charitable organizations.

942 Section 24. Paragraph (c) of subsection (15) and subsection
943 (29) of section 985.03, Florida Statutes, are amended to read:

944 985.03 Definitions.--As used in this chapter, the term:

945 (15)

946 (c) "Delinquency prevention programs" means programs
947 designed for the purpose of reducing the occurrence of
948 delinquency, including organized crime group ~~youth and street~~
949 ~~gang~~ activity, and juvenile arrests. The term excludes
950 arbitration, diversionary or mediation programs, and community
951 service work or other treatment available subsequent to a child

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952 committing a delinquent act.

953 (29) "Juvenile justice continuum" includes, but is not
954 limited to, delinquency prevention programs and services designed
955 for the purpose of preventing or reducing delinquent acts,
956 including criminal activity by organized crime groups ~~youth~~
957 ~~gangs~~, and juvenile arrests, as well as programs and services
958 targeted at children who have committed delinquent acts, and
959 children who have previously been committed to residential
960 treatment programs for delinquents. The term includes children-
961 in-need-of-services and families-in-need-of-services programs;
962 conditional release; substance abuse and mental health programs;
963 educational and career programs; recreational programs; community
964 services programs; community service work programs; and
965 alternative dispute resolution programs serving children at risk
966 of delinquency and their families, whether offered or delivered
967 by state or local governmental entities, public or private for-
968 profit or not-for-profit organizations, or religious or
969 charitable organizations.

970 Section 25. Paragraph (c) of subsection (1) of section
971 985.047, Florida Statutes, is amended to read:

972 985.047 Information systems.--

973 (1)

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

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

980 2. Has five or more arrests, at least three of which are

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981 for felony offenses. Three of such arrests must have occurred
982 within the preceding 12-month period.

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

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

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

- 990 a. Petit theft;
- 991 b. Misdemeanor assault;
- 992 c. Possession of a controlled substance;
- 993 d. Weapon or firearm violation; or
- 994 e. Substance abuse.

995

996 Four of such arrests must have occurred within the preceding 12-
997 month period.

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

1000 Section 26. Paragraph (a) of subsection (6) and subsection
1001 (7) of section 985.433, Florida Statutes, are amended to read:

1002 985.433 Disposition hearings in delinquency cases.--When a
1003 child has been found to have committed a delinquent act, the
1004 following procedures shall be applicable to the disposition of
1005 the case:

1006 (6) The first determination to be made by the court is a
1007 determination of the suitability or unsuitability for
1008 adjudication and commitment of the child to the department. This
1009 determination shall include consideration of the recommendations

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1010 of the department, which may include a predisposition report. The
1011 predisposition report shall include, whether as part of the
1012 child's multidisciplinary assessment, classification, and
1013 placement process components or separately, evaluation of the
1014 following criteria:

1015 (a) The seriousness of the offense to the community. If the
1016 court determines under chapter 874 that the child was a member of
1017 an organized crime group ~~a criminal street gang~~ at the time of
1018 the commission of the offense, the seriousness of the offense to
1019 the community shall be given great weight.

1020
1021 It is the intent of the Legislature that the criteria set forth
1022 in this subsection are general guidelines to be followed at the
1023 discretion of the court and not mandatory requirements of
1024 procedure. It is not the intent of the Legislature to provide for
1025 the appeal of the disposition made under this section.

1026 (7) If the court determines that the child should be
1027 adjudicated as having committed a delinquent act and should be
1028 committed to the department, such determination shall be in
1029 writing or on the record of the hearing. The determination shall
1030 include a specific finding of the reasons for the decision to
1031 adjudicate and to commit the child to the department, including
1032 any determination that the child was a member of an organized
1033 crime group ~~a criminal street gang~~.

1034 (a) The juvenile probation officer shall recommend to the
1035 court the most appropriate placement and treatment plan,
1036 specifically identifying the restrictiveness level most
1037 appropriate for the child. If the court has determined that the
1038 child was a member of an organized crime group ~~a criminal street~~

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1039 ~~gang~~, that determination shall be given great weight in
1040 identifying the most appropriate restrictiveness level for the
1041 child. The court shall consider the department's recommendation
1042 in making its commitment decision.

1043 (b) The court shall commit the child to the department at
1044 the restrictiveness level identified or may order placement at a
1045 different restrictiveness level. The court shall state for the
1046 record the reasons that establish by a preponderance of the
1047 evidence why the court is disregarding the assessment of the
1048 child and the restrictiveness level recommended by the
1049 department. Any party may appeal the court's findings resulting
1050 in a modified level of restrictiveness under this paragraph.

1051 (c) The court may also require that the child be placed in
1052 a probation program following the child's discharge from
1053 commitment. Community-based sanctions under subsection (8) may be
1054 imposed by the court at the disposition hearing or at any time
1055 prior to the child's release from commitment.

1056 Section 27. The Division of Statutory Revision is directed
1057 to redesignate the title of chapter 874, Florida Statutes, as
1058 "Organized Criminal Activity Enforcement and Prevention."

1059 Section 28. This act shall take effect July 1, 2008.