

1 A bill to be entitled
 2 An act relating to sentencing for controlled substance
 3 violations; amending s. 893.135, F.S.; providing for
 4 an exception to mandatory minimum sentencing
 5 requirements for certain violators of specified
 6 controlled substance provisions; specifying criteria
 7 to qualify for an exception; providing criteria that
 8 may be considered by a court in departing for the
 9 mandatory minimum term of imprisonment; requiring a
 10 court to make certain statements if it departs from
 11 the mandatory minimum term of imprisonment; providing
 12 an effective date.

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

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 16 Section 1. Subsection (8) is added to section 893.135,
 17 Florida Statutes, to read:

18 893.135 Trafficking; mandatory sentences; suspension or
 19 reduction of sentences; conspiracy to engage in trafficking.—

20 (8) (a) Notwithstanding any other provision of law, if a
 21 defendant has been convicted of a violation of paragraph (1) (c)
 22 that involves possession of a mixture that is a prescription
 23 drug as defined in s. 499.003, the state attorney, defendant, or
 24 counsel representing the defendant may move the sentencing court
 25 to depart from the mandatory minimum term of imprisonment
 26 applicable to that violation.

27 (b) The sentencing court may grant a motion under this
 28 subsection if the court finds that the following criteria are

29 met:

30 1. The defendant's violation of paragraph (1)(c) did not
31 involve the use, attempted use, or threatened use of physical
32 force against another person.

33 2. The defendant's violation of paragraph (1)(c) did not
34 result in serious bodily injury to another person or the
35 disfigurement or death of another person.

36 3. In the commission of the offense in violation of
37 paragraph (1)(c), the defendant was not armed with, did not
38 threaten to use or display, and did not represent by word or
39 conduct that he or she possessed a firearm, deadly weapon, or
40 dangerous instrument.

41 4. The defendant has not previously been convicted of a
42 felony.

43 5. The provisions of this subsection have not been
44 previously invoked.

45 (c) When departing from the mandatory minimum term of
46 imprisonment, the sentencing court may consider any facts that
47 the court considers relevant, including, but not limited to:

48 1. The criteria listed in paragraph (b).

49 2. The sentencing report and any evidence admitted in a
50 previous sentencing proceeding.

51 3. The defendant's record of arrests.

52 4. Any other evidence of allegations of unlawful conduct
53 or the use of violence by the defendant.

54 5. The defendant's family ties, length of residence in the
55 community, employment history, and mental condition.

56 6. The likelihood that an alternative sentence will

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57 | produce the same deterrent effect, rehabilitate the defendant,
58 | and prevent or delay recidivism to an equal or greater extent
59 | than imposition of the mandatory minimum term of imprisonment.

60 | 7. The likelihood that the defendant will engage again in
61 | a criminal course of conduct.

62 | (d) If the sentencing court grants the motion, the court
63 | shall state in open court at time of sentencing the specific
64 | reasons for imposing the sentence and for not imposing the
65 | mandatory minimum term of imprisonment.

66 | Section 2. This act shall take effect July 1, 2013.