

By Senator Book

32-00302-17

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1                   A bill to be entitled  
2           An act relating to sentencing; amending s. 775.082,  
3           F.S.; prohibiting a sentencing court from crediting a  
4           defendant for the length of time he or she is  
5           determined to have malingered or feigned an illness;  
6           amending s. 921.161, F.S.; providing an exception to  
7           the requirement that a sentencing court allow a  
8           defendant credit for a specified time served;  
9           reenacting ss. 907.041(4)(j), 947.146(6), and  
10          947.16(2)(g), F.S., relating to pretrial detention and  
11          release, the Control Release Authority, and  
12          determining eligibility for parole interview and  
13          release, respectively, to incorporate the amendment  
14          made to s. 921.161, F.S., in references thereto;  
15          providing an effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

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19           Section 1. Present subsection (11) of section 775.082,  
20           Florida Statutes, is renumbered as subsection (12), and a new  
21           subsection (11) is added to that section, to read:

22           775.082 Penalties; applicability of sentencing structures;  
23           mandatory minimum sentences for certain reoffenders previously  
24           released from prison.—

25           (11) If a psychologist or a psychiatrist determines that a  
26           person who is under civil or criminal arrest and in the lawful  
27           custody of a law enforcement official or that a person who is  
28           committed to or detained in a municipal or county jail or state  
29           prison, prison farm, or penitentiary, or to the custody of the  
30           department, pursuant to lawful authority, is knowingly  
31           malingering or feigning an illness and a judge concurs with the  
32           psychologist's or psychiatrist's determination, the court may

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33 not allow such person credit for the length of time the person  
34 is determined to have malingered or feigned the illness.

35 Section 2. Subsection (1) of section 921.161, Florida  
36 Statutes, is amended to read:

37 921.161 Sentence not to run until imposed; credit for  
38 county jail time after sentence; certificate of custodian of  
39 jail.—

40 (1) A sentence of imprisonment shall not begin to run  
41 before the date it is imposed, but the court imposing a sentence  
42 shall allow a defendant credit for all of the time she or he  
43 spent in the county jail before sentence, except as provided in  
44 s. 775.082(11). The credit must be for a specified period of  
45 time and shall be provided for in the sentence.

46 Section 3. For the purpose of incorporating the amendment  
47 made by this act to section 921.161, Florida Statutes, in a  
48 reference thereto, paragraph (j) of subsection (4) of section  
49 907.041, Florida Statutes, is reenacted to read:

50 907.041 Pretrial detention and release.—

51 (4) PRETRIAL DETENTION.—

52 (j) A defendant convicted at trial following the issuance  
53 of a pretrial detention order shall have credited to his or her  
54 sentence, if imprisonment is imposed, the time the defendant was  
55 held under the order, pursuant to s. 921.161.

56 Section 4. For the purpose of incorporating the amendment  
57 made by this act to section 921.161, Florida Statutes, in a  
58 reference thereto, subsection (6) of section 947.146, Florida  
59 Statutes, is reenacted to read:

60 947.146 Control Release Authority.—

61 (6) For purpose of determining eligibility for control

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62 release, the mandatory minimum portion of a concurrent sentence  
63 will begin on the date the sentence begins to run as provided in  
64 s. 921.161. The mandatory minimum portions of consecutive  
65 sentences shall be served at the beginning of the maximum  
66 sentence as established by the Department of Corrections. With  
67 respect to offenders who have more than one sentence with a  
68 mandatory minimum portion, each mandatory minimum portion of  
69 consecutive sentences shall be served consecutively; provided,  
70 that in no case shall a sentence begin to run before the date of  
71 imposition of that sentence.

72 Section 5. For the purpose of incorporating the amendment  
73 made by this act to section 921.161, Florida Statutes, in a  
74 reference thereto, paragraph (g) of subsection (2) of section  
75 947.16, Florida Statutes, is reenacted to read:

76 947.16 Eligibility for parole; initial parole interviews;  
77 powers and duties of commission.-

78 (2) The following special types of cases shall have their  
79 initial parole interview as follows:

80 (g) For purposes of determining eligibility for parole  
81 interview and release, the mandatory minimum portion of a  
82 concurrent sentence will begin on the date the sentence begins  
83 to run as provided in s. 921.161. The mandatory minimum portions  
84 of consecutive sentences shall be served at the beginning of the  
85 maximum sentence as established by the Department of  
86 Corrections. Each mandatory minimum portion of consecutive  
87 sentences shall be served consecutively; provided, that in no  
88 case shall a sentence begin to run before the date of  
89 imposition. The commission shall conduct an initial interview  
90 for an inmate serving a mandatory minimum sentence according to

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91 the following schedule:

92 1. An inmate serving a mandatory term of 7 years or less  
93 shall have an initial interview no sooner than 6 months prior to  
94 the expiration of the mandatory minimum portion of the sentence.

95 2. An inmate serving a mandatory term in excess of 7 years  
96 but of less than 15 years shall have an initial interview no  
97 sooner than 12 months prior to the expiration of the mandatory  
98 minimum portion of the sentence.

99 3. An inmate serving a mandatory term of 15 years or more  
100 shall have an initial interview no sooner than 18 months prior  
101 to the expiration of the mandatory minimum portion of the  
102 sentence.

103 Section 6. This act shall take effect July 1, 2017.