

By Senator Bracy

11-01121-19

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1 A bill to be entitled
2 An act relating to a presentencing consideration;
3 creating s. 921.245, F.S.; defining the terms
4 "dependent child" and "primary caretaker"; authorizing
5 a defendant who is found guilty of committing a
6 nonviolent offense to request a sentencing court to
7 withhold sentencing until after making a certain
8 determination; requiring the court to make certain
9 written findings if the defendant makes such a motion,
10 which must meet specified requirements; prohibiting
11 the court from imposing a sentence of incarceration
12 without making such findings; authorizing the court to
13 impose a nonincarcerative sentence with specified
14 conditions, in writing; authorizing a court to require
15 the defendant to appear in court after reasonable
16 notice to evaluate the defendant's progress;
17 authorizing the court to revise the sentence during
18 the appearance; 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 921.245, Florida Statutes, is created to
23 read:

24 921.245 Presentencing consideration for primary caretaker
25 of dependent child.—

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

27 (a) "Dependent child" means a child who is younger than 18
28 years of age.

29 (b) "Primary caretaker" means a parent, a guardian, or an

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30 individual who has assumed responsibility for a dependent
31 child's housing, health, financial support, education, family
32 ties, and safety; or a woman who has given birth to a child
33 after, or while awaiting, her sentencing hearing and who
34 expresses a willingness to assume responsibility for that
35 dependent child's housing, health, and safety. The term includes
36 a parent who, in the best interests of the dependent child, has
37 arranged for the temporary care of the child in the home of a
38 relative or other responsible adult.

39 (2) Notwithstanding any other law, a defendant who is found
40 guilty of committing a nonviolent offense may request that a
41 sentencing court impose a sentence only after determining
42 whether the defendant is a primary caretaker of a dependent
43 child. If a defendant moves for such determination, by written
44 motion supported by an affidavit, the court must make written
45 findings concerning the defendant being a primary caretaker and
46 the availability of appropriate individually assessed
47 nonincarcerative sentence alternatives. The court may not impose
48 a sentence of incarceration without first making such written
49 findings. If the court determines that the defendant is a
50 primary caretaker of a dependent child and identifies an
51 available, appropriate nonincarcerative sentence, it may impose
52 the nonincarcerative sentence with conditions, which must be in
53 writing and must emphasize community rehabilitation and parent-
54 child unity and support. Such conditions may include, but need
55 not be limited to, the defendant's receipt of any of the
56 following treatments or services:

57 (a) Drug and alcohol treatment.

58 (b) Domestic violence prevention education.

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- 59 (c) Physical or sexual abuse counseling.
60 (d) Anger management treatment.
61 (e) Vocational or educational services.
62 (f) Job training and job placement services.
63 (g) Affordable and safe housing assistance.
64 (h) Financial literacy education.
65 (i) Parenting classes.
66 (j) Family and individual counseling.
67 (k) Family case management services.
68 (3) (a) The court may require any person serving an
69 individually assessed sentence pursuant to this section to
70 appear in court after reasonable notice at any time during his
71 or her serving of that sentence to evaluate the person's
72 progress in treatment or rehabilitation, or to determine if the
73 person has violated any condition of the sentence.
74 (b) During an appearance in court made pursuant to
75 paragraph (a), the court may:
76 1. Modify the conditions of a sentence imposed pursuant to
77 this section;
78 2. Decrease the duration of a sentence imposed pursuant to
79 this section based on the person's successful advancement; or
80 3. Sanction the person for each detected violation of any
81 condition of the sentence imposed pursuant to this section,
82 including, but not limited to, requiring the person to serve a
83 term of imprisonment within the range of sentencing for the
84 offense for which the person was originally convicted,
85 notwithstanding the determination made pursuant to the
86 subsection (2) that the person is a primary caretaker of a
87 dependent child.

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Section 2. This act shall take effect July 1, 2019.