

1                                   A bill to be entitled  
 2           An act relating to criminal sentencing; amending s.  
 3           775.082, F.S.; increasing the number of sentence  
 4           points that require a nonstate sanction in certain  
 5           circumstances; amending s. 921.002, F.S.; providing  
 6           that a sentencing judge's decision regarding  
 7           sentencing is guided by the computed recommended  
 8           sentencing range; requiring findings for sentences  
 9           above the maximum sentence recommended under the  
 10          Criminal Punishment Code; deleting a provision  
 11          limiting appeals of sentences to circumstances in  
 12          which the sentence is lower than the lowest  
 13          permissible sentence or other specified circumstances;  
 14          amending s. 921.0024, F.S.; increasing the minimum  
 15          number of sentence points for a state prison sanction;  
 16          revising the calculation of the lowest permissible  
 17          sentence; requiring a calculation of the highest  
 18          recommended prison sentence; providing a recommended  
 19          range for sentencing; providing an effective date.

20  
 21   Be It Enacted by the Legislature of the State of Florida:

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 23           Section 1. Subsection (10) of section 775.082, Florida  
 24   Statutes, is amended to read:  
 25           775.082 Penalties; applicability of sentencing structures;

26 | mandatory minimum sentences for certain reoffenders previously  
27 | released from prison.—

28 |       (10) If a defendant is sentenced for an offense committed  
29 | on or after July 1, 2009, which is a third degree felony but not  
30 | a forcible felony as defined in s. 776.08, and excluding any  
31 | third degree felony violation under chapter 810, and if the  
32 | total sentence points pursuant to s. 921.0024 are 44 ~~22~~ points  
33 | or fewer, the court must sentence the offender to a nonstate  
34 | prison sanction. However, if the court makes written findings  
35 | that a nonstate prison sanction could present a danger to the  
36 | public, the court may sentence the offender to a state  
37 | correctional facility pursuant to this section.

38 |       Section 2. Paragraphs (f), (g), and (i) of subsection (1)  
39 | of section 921.002, Florida Statutes, are redesignated as  
40 | paragraphs (g), (i), and (j), respectively, present paragraph  
41 | (h) of that subsection is amended, and new paragraphs (f) and  
42 | (h) are added to that subsection, to read:

43 |       921.002 The Criminal Punishment Code.—The Criminal  
44 | Punishment Code shall apply to all felony offenses, except  
45 | capital felonies, committed on or after October 1, 1998.

46 |       (1) The provision of criminal penalties and of limitations  
47 | upon the application of such penalties is a matter of  
48 | predominantly substantive law and, as such, is a matter properly  
49 | addressed by the Legislature. The Legislature, in the exercise  
50 | of its authority and responsibility to establish sentencing

51 criteria, to provide for the imposition of criminal penalties,  
52 and to make the best use of state prisons so that violent  
53 criminal offenders are appropriately incarcerated, has  
54 determined that it is in the best interest of the state to  
55 develop, implement, and revise a sentencing policy. The Criminal  
56 Punishment Code embodies the principles that:

57 (f) The sentence imposed by the sentencing judge is guided  
58 by the computed recommended sentencing range, which is from the  
59 lowest permissible sentence to the highest recommended prison  
60 sentence, under the code.

61 (g)~~(f)~~ Departures below the lowest permissible sentence  
62 established by the code must be articulated in writing by the  
63 trial court judge and made only when circumstances or factors  
64 reasonably justify the mitigation of the sentence. The level of  
65 proof necessary to establish facts that support a departure from  
66 the lowest permissible sentence is a preponderance of the  
67 evidence.

68 (h) Departures above the highest recommended prison  
69 sentence established by the code must be explained by the trial  
70 court judge on the record at the time of the sentencing. The  
71 trial court judge's explanation must specify his or her reasons  
72 for imposing the higher sentence.

73 (i)~~(g)~~ The trial court judge may impose a sentence up to  
74 and including the statutory maximum for any offense, including  
75 an offense that is before the court due to a violation of

76 | probation or community control.

77 | ~~(h) A sentence may be appealed on the basis that it~~  
 78 | ~~departs from the Criminal Punishment Code only if the sentence~~  
 79 | ~~is below the lowest permissible sentence or as enumerated in s.~~  
 80 | ~~924.06(1).~~

81 | Section 3. Subsection (2) of section 921.0024, Florida  
 82 | Statutes, is amended to read:

83 | 921.0024 Criminal Punishment Code; worksheet computations;  
 84 | scoresheets.-

85 | (2) The lowest permissible sentence is the minimum  
 86 | sentence that may be imposed by the trial court, absent a valid  
 87 | reason for departure. The lowest permissible sentence is any  
 88 | nonstate prison sanction in which the total sentence points  
 89 | equals or is less than 52 ~~44~~ points, unless the court determines  
 90 | within its discretion that a prison sentence, ~~which may be up to~~  
 91 | ~~the statutory maximums for the offenses committed,~~ is  
 92 | appropriate. When the total sentence points exceed 52 ~~exceeds 44~~  
 93 | points, the lowest permissible sentence in prison months is  
 94 | ~~shall be~~ calculated by subtracting 36 ~~28~~ points from the total  
 95 | sentence points and decreasing the remaining total by 25  
 96 | percent. When the total sentence points exceed 52 points, the  
 97 | highest recommended prison sentence in prison months is  
 98 | calculated by subtracting 36 points from the total sentence  
 99 | points and increasing the remaining total by 25 percent. The  
 100 | total sentence points are ~~shall be~~ calculated ~~only~~ as a means of

101 determining the recommended sentencing range, which is from the  
102 lowest permissible sentence to the highest recommended prison  
103 sentence. The permissible range for sentencing is ~~shall be~~ the  
104 lowest permissible sentence up to and including the statutory  
105 maximum, as defined in s. 775.082, for the primary offense and  
106 any additional offenses before the court for sentencing. The  
107 sentencing court may impose such sentences concurrently or  
108 consecutively. However, any sentence to state prison must exceed  
109 1 year. If the lowest permissible sentence under the code  
110 exceeds the statutory maximum sentence as provided in s.  
111 775.082, the sentence required by the code must be imposed. If  
112 the total sentence points are greater than or equal to 363, the  
113 court may sentence the offender to life imprisonment. An  
114 offender sentenced to life imprisonment under this section is  
115 not eligible for any form of discretionary early release, except  
116 executive clemency or conditional medical release under s.  
117 947.149.

118 Section 4. This act shall take effect July 1, 2020.