

By Senator Bracy

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20211904\_\_

1                   A bill to be entitled  
2       An act relating to sentencing calculations under the  
3       Criminal Punishment Code; amending s. 921.002, F.S.;  
4       providing that a sentencing judge's decision regarding  
5       sentencing is guided by a computed recommended  
6       sentencing range, from the lowest permissible sentence  
7       to the highest recommended prison sentence; removing a  
8       limitation on sentence appeals for cases in which the  
9       sentence imposed is lower than the lowest permissible  
10      sentence or sentence appeals under other specified  
11      circumstances; amending s. 921.0024, F.S.; increasing  
12      the minimum number of sentence points for a state  
13      prison sanction; revising the calculation of the  
14      lowest permissible sentence; requiring a calculation  
15      of the highest recommended prison sentence under  
16      specified circumstances; providing a recommended range  
17      for sentencing; providing an effective date.

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

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21       Section 1. Present paragraphs (f) and (g) of subsection (1)  
22      of section 921.002, Florida Statutes, are redesignated as  
23      paragraphs (g) and (h), respectively, a new paragraph (f) is  
24      added to that subsection, and present paragraph (h) of that  
25      subsection is amended, to read:

26        921.002 The Criminal Punishment Code.—The Criminal  
27      Punishment Code shall apply to all felony offenses, except  
28      capital felonies, committed on or after October 1, 1998.

29        (1) The provision of criminal penalties and of limitations

11-01779-21

20211904\_\_

30 upon the application of such penalties is a matter of  
31 predominantly substantive law and, as such, is a matter properly  
32 addressed by the Legislature. The Legislature, in the exercise  
33 of its authority and responsibility to establish sentencing  
34 criteria, to provide for the imposition of criminal penalties,  
35 and to make the best use of state prisons so that violent  
36 criminal offenders are appropriately incarcerated, has  
37 determined that it is in the best interest of the state to  
38 develop, implement, and revise a sentencing policy. The Criminal  
39 Punishment Code embodies the principles that:

40 (f) The sentence imposed by the sentencing judge is guided  
41 by the computed sentencing range, which is from the lowest  
42 permissible sentence to the highest recommended sentence, under  
43 the code.

44 ~~(h) A sentence may be appealed on the basis that it departs~~  
45 ~~from the Criminal Punishment Code only if the sentence is below~~  
46 ~~the lowest permissible sentence or as enumerated in s.~~  
47 ~~924.06(1).~~

48 Section 2. Subsection (2) of section 921.0024, Florida  
49 Statutes, is amended to read:

50 921.0024 Criminal Punishment Code; worksheet computations;  
51 scoresheets.-

52 (2) The lowest permissible sentence is the minimum sentence  
53 that may be imposed by the trial court, absent a valid reason  
54 for departure. When the total sentence points are fewer than 52  
55 points, the lowest permissible sentence is any nonstate prison  
56 sanction and the highest recommended sentence is 12 months of  
57 nonstate incarceration ~~The lowest permissible sentence is any~~  
58 ~~nonstate prison sanction in which the total sentence points~~

11-01779-21

20211904\_\_

59 ~~equals or is less than 44 points, unless the court determines~~  
60 ~~within its discretion that a prison sentence, which may be up to~~  
61 ~~the statutory maximums for the offenses committed, is~~  
62 ~~appropriate.~~ When the total sentence points exceeds 52 ~~44~~  
63 points, the lowest permissible sentence in prison months is  
64 ~~shall be~~ calculated by subtracting 36 ~~28~~ points from the total  
65 sentence points and decreasing the remaining total by 25  
66 percent. When the total sentence points exceeds 52 points, the  
67 highest recommended prison sentence in prison months is  
68 calculated by subtracting 36 points from the total sentence  
69 points and increasing the remaining total by 25 percent. The  
70 total sentence points are ~~shall be~~ calculated ~~only~~ as a means of  
71 determining the recommended sentencing range, which is from the  
72 lowest permissible sentence to the highest recommended prison  
73 sentence. The permissible range for sentencing is ~~shall be~~ the  
74 lowest permissible sentence up to and including the statutory  
75 maximum, as defined in s. 775.082, for the primary offense and  
76 any additional offenses before the court for sentencing. The  
77 sentencing court may impose such sentences concurrently or  
78 consecutively. However, any sentence to state prison must exceed  
79 1 year. If the lowest permissible sentence under the code  
80 exceeds the statutory maximum sentence as provided in s.  
81 775.082, the sentence required by the code must be imposed. If  
82 the total sentence points are greater than or equal to 363, the  
83 court may sentence the offender to life imprisonment. An  
84 offender sentenced to life imprisonment under this section is  
85 not eligible for any form of discretionary early release, except  
86 executive clemency or conditional medical release under s.  
87 947.149.

11-01779-21

20211904\_\_

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Section 3. This act shall take effect July 1, 2021.