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Section 1. Subsection (1) of section 921.002, Florida Statutes, is amended to read:

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

(1) The provision of criminal penalties and of limitations upon the application of such penalties is a matter of predominantly substantive law and, as such, is a matter properly addressed by the Legislature. The Legislature, in the exercise of its authority and responsibility to establish sentencing criteria, to provide for the imposition of criminal penalties, and to make the best use of state prisons so that ~~violent~~ criminal offenders are appropriately punished and rehabilitated ~~incarcerated~~, has determined that it is in the best interest of the state to develop, implement, and revise a sentencing policy. The Criminal Punishment Code embodies the principles that:

(a) Sentencing is neutral with respect to race, gender, and social and economic status.

(b) The dual purposes ~~primary purpose~~ of sentencing in the criminal justice system are ~~is~~ to punish the offender and rehabilitate the offender to transition back to the community successfully. ~~Rehabilitation is a desired goal of the criminal justice system but is subordinate to the goal of punishment.~~

(c) The penalty imposed is commensurate with the severity

51 of the primary offense and the circumstances surrounding the
52 primary offense.

53 (d) The severity of the sentence increases with the length
54 and nature of the offender's prior record.

55 (e) The sentence imposed by the sentencing judge reflects
56 the length of actual time to be served, shortened only by the
57 application of outstanding deed incentive and meritorious gain-
58 time, good behavior time, and rehabilitation credits as provided
59 by law, and may not be shortened if the defendant would
60 consequently serve less than 65 ~~85~~ percent of his or her term of
61 imprisonment as provided in s. 944.275(4). The provisions of
62 chapter 947, relating to parole, shall not apply to persons
63 sentenced under the Criminal Punishment Code.

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

71 (g) The trial court judge may impose a sentence up to and
72 including the statutory maximum for any offense, including an
73 offense that is before the court due to a violation of probation
74 or community control.

75 (h) A sentence may be appealed on the basis that it

76 | departs from the Criminal Punishment Code only if the sentence
 77 | is below the lowest permissible sentence or as enumerated in s.
 78 | 924.06(1).

79 | (i) Use of incarcerative sanctions is prioritized toward
 80 | offenders convicted of serious offenses and certain offenders
 81 | who have long prior records, in order to maximize the finite
 82 | capacities of state and local correctional facilities.

83 | Section 2. Section 944.275, Florida Statutes, is amended
 84 | to read:

85 | 944.275 Outstanding deed gain-time, good behavior time,
 86 | and rehabilitation credits.-

87 | (1) The department is authorized to grant deductions from
 88 | sentences in the form of outstanding deed gain-time, good
 89 | behavior time, and rehabilitation credits in order to encourage
 90 | satisfactory prisoner behavior, to provide incentive for
 91 | prisoners to participate in productive activities, and to reward
 92 | prisoners who perform outstanding deeds or services.

93 | (2)(a) The department shall establish for each prisoner
 94 | sentenced to a term of years a "maximum sentence expiration
 95 | date," which shall be the date when the sentence or combined
 96 | sentences imposed on a prisoner will expire. In establishing
 97 | this date, the department shall reduce the total time to be
 98 | served by any time lawfully credited.

99 | (b) When a prisoner with an established maximum sentence
 100 | expiration date is sentenced to an additional term or terms

101 without having been released from custody, the department shall
 102 extend the maximum sentence expiration date by the length of
 103 time imposed in the new sentence or sentences, less lawful
 104 credits.

105 (c) When an escaped prisoner or a parole violator is
 106 returned to the custody of the department, the maximum sentence
 107 expiration date in effect when the escape occurred or the parole
 108 was effective shall be extended by the amount of time the
 109 prisoner was not in custody plus the time imposed in any new
 110 sentence or sentences, but reduced by any lawful credits.

111 (3)(a) The department shall also establish for each
 112 prisoner sentenced to a term of years a "tentative release date"
 113 which shall be the date projected for the prisoner's release
 114 from custody by virtue of outstanding deed gain-time, good
 115 behavior time, or rehabilitation credits granted or forfeited as
 116 described in this section. The initial tentative release date
 117 shall be determined by deducting outstanding deed basic gain-
 118 time, good behavior time, or rehabilitation credits granted from
 119 the maximum sentence expiration date. Outstanding deed ~~other~~
 120 gain-time, good behavior time, and rehabilitation credits shall
 121 be applied when granted or restored to make the tentative
 122 release date proportionately earlier; and forfeitures of good
 123 behavior time ~~gain-time~~, when ordered, shall be applied to make
 124 the tentative release date proportionately later.

125 (b) When an initial tentative release date is

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126 reestablished because of additional sentences imposed before the
127 prisoner has completely served all prior sentences, any
128 outstanding deed gain-time, good behavior time, or
129 rehabilitation credits granted during service of a prior
130 sentence and not forfeited shall be applied.

131 (c) The tentative release date may not be later than the
132 maximum sentence expiration date.

133 (4) (a) As a means of encouraging satisfactory behavior and
134 developing character traits necessary for successful reentry,
135 the department shall grant good behavior time ~~basic gain-time~~ at
136 the rate of 10 days for each month of each sentence imposed on a
137 prisoner, subject to the following:

138 1. Portions of any sentences to be served concurrently
139 shall be treated as a single sentence when determining good
140 behavior time ~~basic gain-time~~.

141 2. Good behavior time ~~Basic gain-time~~ for a partial month
142 shall be prorated on the basis of a 30-day month.

143 3. When a prisoner receives a new maximum sentence
144 expiration date because of additional sentences imposed, good
145 behavior time ~~basic gain-time~~ shall be granted for the amount of
146 time the maximum sentence expiration date was extended.

147 (b) For each month in which an inmate works diligently,
148 participates in training or education, uses time constructively,
149 or otherwise engages in positive activities, the department may
150 grant rehabilitation credits ~~incentive gain-time~~ in accordance

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151 with this paragraph. The rate of rehabilitation credits
152 ~~incentive gain-time~~ in effect on the date the inmate committed
153 the offense which resulted in his or her incarceration shall be
154 the inmate's rate of eligibility to earn rehabilitation credits
155 ~~incentive gain-time~~ throughout the period of incarceration and
156 shall not be altered by a subsequent change in the severity
157 level of the offense for which the inmate was sentenced.

158 1. For sentences imposed for offenses committed before
159 ~~prior to~~ January 1, 1994, and after October 1, 1995, up to 20
160 days of rehabilitation credits ~~incentive gain-time~~ may be
161 granted. If granted, such rehabilitation credits ~~gain-time~~ shall
162 be credited and applied monthly.

163 2. For sentences imposed for offenses committed on or
164 after January 1, 1994, and before October 1, 1995:

165 a. For offenses ranked in offense severity levels 1
166 through 7, under former s. 921.0012 or former s. 921.0013, up to
167 25 days of rehabilitation credits ~~incentive gain-time~~ may be
168 granted. If granted, such rehabilitation credits ~~gain-time~~ shall
169 be credited and applied monthly.

170 b. For offenses ranked in offense severity levels 8, 9,
171 and 10, under former s. 921.0012 or former s. 921.0013, up to 20
172 days of incentive gain-time may be granted. If granted, such
173 gain-time shall be credited and applied monthly.

174 ~~3. For sentences imposed for offenses committed on or~~
175 ~~after October 1, 1995, the department may grant up to 10 days~~

176 ~~per month of incentive gain-time.~~

177 (c) An inmate who performs some outstanding deed, such as
 178 saving a life or assisting in recapturing an escaped inmate, or
 179 who in some manner performs an outstanding service that would
 180 merit the granting of additional deductions from the term of his
 181 or her sentence may be granted outstanding deed~~meritorious~~
 182 gain-time of from 30 ~~±~~ to 60 days per outstanding deed
 183 performed.

184 (d) Notwithstanding the monthly maximum awards of
 185 rehabilitation credits ~~incentive gain-time~~ under subparagraphs
 186 (b)1. ~~and 2., and 3., the education program manager shall~~
 187 ~~recommend, and~~ the Department of Corrections shall ~~may~~ grant
 188 awards, a one-time award of 60 additional days of rehabilitation
 189 credits for successful completion of each of the following:
 190 ~~incentive gain-time to an inmate who is otherwise eligible and~~
 191 ~~who successfully completes requirements for and is, or has been~~
 192 ~~during the current commitment, awarded a high school equivalency~~
 193 ~~diploma, college degree, or vocational certificate, drug~~
 194 treatment program, mental health treatment program, life skills
 195 program, behavioral modification program, reentry program, or
 196 equivalent rehabilitative program. Additionally, the department
 197 shall grant 5 additional days of rehabilitation credits for
 198 successful completion of any other department-approved program,
 199 including inmate-developed programs, or a passing grade in each
 200 online or in-person educational course. Rehabilitation credits

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201 awarded herein shall be retroactive. Under no circumstances may
202 an inmate receive more than 60 days for educational attainment
203 pursuant to this section.

204 (e) Notwithstanding the monthly maximum awards of
205 rehabilitation credits under subparagraphs (b)1. and 2., the
206 department may grant 2 additional days per month of good
207 behavior time to prisoners serving sentences for violations of
208 ss. 893.13 and 893.135, and such days granted shall be
209 retroactive.

210 (f)(e) Notwithstanding subparagraph (b)1. ~~(b)3.~~, for
211 sentences imposed for offenses committed on or after October 1,
212 2014, the department may not grant rehabilitation credits
213 ~~incentive gain-time~~ if the offense is a violation of s.
214 782.04(1)(a)2.c.; s. 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or
215 3.; s. 794.011, excluding s. 794.011(10); s. 800.04; s.
216 825.1025; or s. 847.0135(5).

217 (g)1.~~(f)~~ An inmate who is subject to this subsection
218 ~~subparagraph (b)3.~~ is not eligible to earn or receive
219 outstanding deed gain-time or good behavior time ~~under paragraph~~
220 ~~(a), paragraph (b), paragraph (c), or paragraph (d) or any other~~
221 ~~type of gain-time~~ in an amount that would cause a sentence to
222 expire, end, or terminate, or that would result in a prisoner's
223 release, before ~~prior to~~ serving a minimum of 85 percent of the
224 sentence imposed. For purposes of this paragraph, credits
225 awarded by the court for time physically incarcerated shall be

226 credited toward satisfaction of 85 percent of the sentence
227 imposed.

228 2. A prisoner who is subject to this subsection may not
229 accumulate rehabilitation credits as described in paragraph (d)
230 in an amount that would allow a sentence to expire, end, or
231 terminate, or that would result in a prisoner's release, before
232 serving a minimum of 65 percent of the sentence imposed.

233 3. Except as provided by this section, a prisoner may not
234 accumulate further ~~gain-time~~ awards at any point when the
235 tentative release date is the same as that date at which the
236 prisoner will have served 65 ~~85~~ percent of the sentence imposed.
237 State prisoners sentenced to life imprisonment shall be
238 incarcerated for the rest of their natural lives, unless granted
239 pardon or clemency.

240 (5) When a prisoner is found guilty of an infraction of
241 the laws of this state or the rules of the department, good
242 behavior time not yet vested ~~gain-time~~ may be forfeited
243 according to law after due process. For purposes of this
244 subsection, good behavior time is deemed vested 2 years after
245 being granted.

246 (6) (a) Good behavior time ~~Basic gain-time~~ under this
247 section shall be computed on and applied to all sentences
248 imposed for offenses committed on or after July 1, 1978, and
249 before January 1, 1994.

250 (b) All outstanding deed ~~incentive and meritorious gain-~~

251 | time, good behavior time, and rehabilitation credits are ~~is~~
 252 | granted according to this section.

253 | (c) All additional gain-time previously awarded under
 254 | former subsections (2) and (3) and all forfeitures ordered prior
 255 | to the effective date of the act that created this section shall
 256 | remain in effect and be applied in establishing an initial
 257 | tentative release date.

258 | (7) The department shall adopt rules to implement the
 259 | granting, forfeiture, restoration, and deletion of outstanding
 260 | deed gain-time, good behavior time, and rehabilitation credits.

261 | Section 3. Paragraph (f) of subsection (2) of section
 262 | 316.027, Florida Statutes, is amended to read:

263 | 316.027 Crash involving death or personal injuries.—
 264 | (2)

265 | (f) For purposes of sentencing under chapter 921 and
 266 | determining rehabilitation credit ~~incentive gain-time~~
 267 | eligibility under chapter 944, an offense listed in this
 268 | subsection is ranked one level above the ranking specified in s.
 269 | 921.0022 or s. 921.0023 for the offense committed if the victim
 270 | of the offense was a vulnerable road user.

271 | Section 4. Subsection (6) of section 316.1935, Florida
 272 | Statutes, is amended to read:

273 | 316.1935 Fleeing or attempting to elude a law enforcement
 274 | officer; aggravated fleeing or eluding.—

275 | (6) Notwithstanding s. 948.01, no court may suspend,

276 defer, or withhold adjudication of guilt or imposition of
277 sentence for any violation of this section. A person convicted
278 and sentenced to a mandatory minimum term of incarceration under
279 paragraph (3)(b) or paragraph (4)(b) is not eligible for
280 statutory gain-time or credits under s. 944.275 or any form of
281 discretionary early release, other than pardon or executive
282 clemency or conditional medical release under s. 947.149, prior
283 to serving the mandatory minimum sentence.

284 Section 5. Paragraph (h) of subsection (2) of section
285 381.004, Florida Statutes, is amended to read:

286 381.004 HIV testing.—

287 (2) HUMAN IMMUNODEFICIENCY VIRUS TESTING; INFORMED
288 CONSENT; RESULTS; COUNSELING; CONFIDENTIALITY.—

289 (h) Paragraph (a) does not apply:

290 1. When testing for sexually transmissible diseases is
291 required by state or federal law, or by rule, including the
292 following situations:

293 a. HIV testing pursuant to s. 796.08 of persons convicted
294 of prostitution or of procuring another to commit prostitution.

295 b. HIV testing of inmates pursuant to s. 945.355 before
296 their release from prison by reason of parole, accumulation of
297 gain-time or other credits, or expiration of sentence.

298 c. Testing for HIV by a medical examiner in accordance
299 with s. 406.11.

300 d. HIV testing of pregnant women pursuant to s. 384.31.

301 2. To those exceptions provided for blood, plasma, organs,
302 skin, semen, or other human tissue pursuant to s. 381.0041.

303 3. For the performance of an HIV-related test by licensed
304 medical personnel in bona fide medical emergencies if the test
305 results are necessary for medical diagnostic purposes to provide
306 appropriate emergency care or treatment to the person being
307 tested and the patient is unable to consent, as supported by
308 documentation in the medical record. Notification of test
309 results in accordance with paragraph (c) is required.

310 4. For the performance of an HIV-related test by licensed
311 medical personnel for medical diagnosis of acute illness where,
312 in the opinion of the attending physician, providing
313 notification would be detrimental to the patient, as supported
314 by documentation in the medical record, and the test results are
315 necessary for medical diagnostic purposes to provide appropriate
316 care or treatment to the person being tested. Notification of
317 test results in accordance with paragraph (c) is required if it
318 would not be detrimental to the patient. This subparagraph does
319 not authorize the routine testing of patients for HIV infection
320 without notification.

321 5. If HIV testing is performed as part of an autopsy for
322 which consent was obtained pursuant to s. 872.04.

323 6. For the performance of an HIV test upon a defendant
324 pursuant to the victim's request in a prosecution for any type
325 of sexual battery where a blood sample is taken from the

326 defendant voluntarily, pursuant to court order for any purpose,
327 or pursuant to s. 775.0877, s. 951.27, or s. 960.003; however,
328 the results of an HIV test performed shall be disclosed solely
329 to the victim and the defendant, except as provided in ss.
330 775.0877, 951.27, and 960.003.

331 7. If an HIV test is mandated by court order.

332 8. For epidemiological research pursuant to s. 381.0031,
333 for research consistent with institutional review boards created
334 by 45 C.F.R. part 46, or for the performance of an HIV-related
335 test for the purpose of research, if the testing is performed in
336 a manner by which the identity of the test subject is not known
337 and may not be retrieved by the researcher.

338 9. If human tissue is collected lawfully without the
339 consent of the donor for corneal removal as authorized by s.
340 765.5185 or enucleation of the eyes as authorized by s. 765.519.

341 10. For the performance of an HIV test upon an individual
342 who comes into contact with medical personnel in such a way that
343 a significant exposure has occurred during the course of
344 employment, within the scope of practice, or during the course
345 of providing emergency medical assistance to the individual. The
346 term "medical personnel" includes a licensed or certified health
347 care professional; an employee of a health care professional or
348 health care facility; employees of a laboratory licensed under
349 chapter 483; personnel of a blood bank or plasma center; a
350 medical student or other student who is receiving training as a

351 health care professional at a health care facility; and a
352 paramedic or emergency medical technician certified by the
353 department to perform life-support procedures under s. 401.23.

354 a. The occurrence of a significant exposure shall be
355 documented by medical personnel under the supervision of a
356 licensed physician and recorded only in the personnel record of
357 the medical personnel.

358 b. Costs of an HIV test shall be borne by the medical
359 personnel or the employer of the medical personnel. However,
360 costs of testing or treatment not directly related to the
361 initial HIV tests or costs of subsequent testing or treatment
362 may not be borne by the medical personnel or the employer of the
363 medical personnel.

364 c. In order to use the provisions of this subparagraph,
365 the medical personnel must be tested for HIV pursuant to this
366 section or provide the results of an HIV test taken within 6
367 months before the significant exposure if such test results are
368 negative.

369 d. A person who receives the results of an HIV test
370 pursuant to this subparagraph shall maintain the confidentiality
371 of the information received and of the persons tested. Such
372 confidential information is exempt from s. 119.07(1).

373 e. If the source of the exposure is not available and will
374 not voluntarily present himself or herself to a health facility
375 to be tested for HIV, the medical personnel or the employer of

376 such person acting on behalf of the employee may seek a court
377 order directing the source of the exposure to submit to HIV
378 testing. A sworn statement by a physician licensed under chapter
379 458 or chapter 459 that a significant exposure has occurred and
380 that, in the physician's medical judgment, testing is medically
381 necessary to determine the course of treatment constitutes
382 probable cause for the issuance of an order by the court. The
383 results of the test shall be released to the source of the
384 exposure and to the person who experienced the exposure.

385 11. For the performance of an HIV test upon an individual
386 who comes into contact with nonmedical personnel in such a way
387 that a significant exposure has occurred while the nonmedical
388 personnel provides emergency medical assistance during a medical
389 emergency. For the purposes of this subparagraph, a medical
390 emergency means an emergency medical condition outside of a
391 hospital or health care facility that provides physician care.
392 The test may be performed only during the course of treatment
393 for the medical emergency.

394 a. The occurrence of a significant exposure shall be
395 documented by medical personnel under the supervision of a
396 licensed physician and recorded in the medical record of the
397 nonmedical personnel.

398 b. Costs of any HIV test shall be borne by the nonmedical
399 personnel or the employer of the nonmedical personnel. However,
400 costs of testing or treatment not directly related to the

401 initial HIV tests or costs of subsequent testing or treatment
402 may not be borne by the nonmedical personnel or the employer of
403 the nonmedical personnel.

404 c. In order to use the provisions of this subparagraph,
405 the nonmedical personnel shall be tested for HIV pursuant to
406 this section or shall provide the results of an HIV test taken
407 within 6 months before the significant exposure if such test
408 results are negative.

409 d. A person who receives the results of an HIV test
410 pursuant to this subparagraph shall maintain the confidentiality
411 of the information received and of the persons tested. Such
412 confidential information is exempt from s. 119.07(1).

413 e. If the source of the exposure is not available and will
414 not voluntarily present himself or herself to a health facility
415 to be tested for HIV, the nonmedical personnel or the employer
416 of the nonmedical personnel acting on behalf of the employee may
417 seek a court order directing the source of the exposure to
418 submit to HIV testing. A sworn statement by a physician licensed
419 under chapter 458 or chapter 459 that a significant exposure has
420 occurred and that, in the physician's medical judgment, testing
421 is medically necessary to determine the course of treatment
422 constitutes probable cause for the issuance of an order by the
423 court. The results of the test shall be released to the source
424 of the exposure and to the person who experienced the exposure.

425 12. For the performance of an HIV test by the medical

426 examiner or attending physician upon an individual who expired
427 or could not be resuscitated while receiving emergency medical
428 assistance or care and who was the source of a significant
429 exposure to medical or nonmedical personnel providing such
430 assistance or care.

431 a. HIV testing may be conducted only after appropriate
432 medical personnel under the supervision of a licensed physician
433 documents in the medical record of the medical personnel or
434 nonmedical personnel that there has been a significant exposure
435 and that, in accordance with the written protocols based on the
436 National Centers for Disease Control and Prevention guidelines
437 on HIV postexposure prophylaxis and in the physician's medical
438 judgment, the information is medically necessary to determine
439 the course of treatment for the medical personnel or nonmedical
440 personnel.

441 b. Costs of an HIV test performed under this subparagraph
442 may not be charged to the deceased or to the family of the
443 deceased person.

444 c. For this subparagraph to be applicable, the medical
445 personnel or nonmedical personnel must be tested for HIV under
446 this section or must provide the results of an HIV test taken
447 within 6 months before the significant exposure if such test
448 results are negative.

449 d. A person who receives the results of an HIV test
450 pursuant to this subparagraph shall comply with paragraph (e).

451 13. For the performance of an HIV-related test medically
452 indicated by licensed medical personnel for medical diagnosis of
453 a hospitalized infant as necessary to provide appropriate care
454 and treatment of the infant if, after a reasonable attempt, a
455 parent cannot be contacted to provide consent. The medical
456 records of the infant must reflect the reason consent of the
457 parent was not initially obtained. Test results shall be
458 provided to the parent when the parent is located.

459 14. For the performance of HIV testing conducted to
460 monitor the clinical progress of a patient previously diagnosed
461 to be HIV positive.

462 15. For the performance of repeated HIV testing conducted
463 to monitor possible conversion from a significant exposure.

464 Section 6. Paragraph (k) of subsection (4) of section
465 775.084, Florida Statutes, is amended to read:

466 775.084 Violent career criminals; habitual felony
467 offenders and habitual violent felony offenders; three-time
468 violent felony offenders; definitions; procedure; enhanced
469 penalties or mandatory minimum prison terms.—

470 (4)

471 (k)1. A defendant sentenced under this section as a
472 habitual felony offender, a habitual violent felony offender, or
473 a violent career criminal is eligible for rehabilitation credits
474 ~~gain-time~~ granted by the Department of Corrections as provided
475 in s. 944.275(4)(b).

476 2. For an offense committed on or after October 1, 1995, a
 477 defendant sentenced under this section as a violent career
 478 criminal is not eligible for any form of discretionary early
 479 release, other than pardon or executive clemency, or conditional
 480 medical release granted pursuant to s. 947.149.

481 3. For an offense committed on or after July 1, 1999, a
 482 defendant sentenced under this section as a three-time violent
 483 felony offender shall be released only by expiration of sentence
 484 and shall not be eligible for parole, control release, or any
 485 form of early release.

486 Section 7. Paragraph (b) of subsection (1) and subsection
 487 (2) of section 775.0845, Florida Statutes, are amended to read:

488 775.0845 Wearing mask while committing offense;
 489 reclassification.—The felony or misdemeanor degree of any
 490 criminal offense, other than a violation of ss. 876.12-876.15,
 491 shall be reclassified to the next higher degree as provided in
 492 this section if, while committing the offense, the offender was
 493 wearing a hood, mask, or other device that concealed his or her
 494 identity.

495 (1)

496 (b) In the case of a misdemeanor of the first degree, the
 497 offense is reclassified to a felony of the third degree. For
 498 purposes of sentencing under chapter 921 and determining
 499 rehabilitation credit ~~incentive gain-time~~ eligibility under
 500 chapter 944, such offense is ranked in level 2 of the offense

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501 severity ranking chart.

502 (2)(a) In the case of a felony of the third degree, the
503 offense is reclassified to a felony of the second degree.

504 (b) In the case of a felony of the second degree, the
505 offense is reclassified to a felony of the first degree.

506

507 For purposes of sentencing under chapter 921 and determining
508 rehabilitation credit ~~incentive gain-time~~ eligibility under
509 chapter 944, a felony offense that is reclassified under this
510 subsection is ranked one level above the ranking under former s.
511 921.0012, former s. 921.0013, s. 921.0022, or s. 921.0023 of the
512 offense committed.

513 Section 8. Subsection (3) of section 775.0847, Florida
514 Statutes, is amended, and subsection (2) of that section is
515 republished, to read:

516 775.0847 Possession or promotion of certain images of
517 child pornography; reclassification.—

518 (2) A violation of s. 827.071, s. 847.0135, s. 847.0137,
519 or s. 847.0138 shall be reclassified to the next higher degree
520 as provided in subsection (3) if:

521 (a) The offender possesses 10 or more images of any form
522 of child pornography regardless of content; and

523 (b) The content of at least one image contains one or more
524 of the following:

525 1. A child who is younger than the age of 5.

- 526 2. Sadoomasochistic abuse involving a child.
- 527 3. Sexual battery involving a child.
- 528 4. Sexual bestiality involving a child.
- 529 5. Any movie involving a child, regardless of length and
- 530 regardless of whether the movie contains sound.

531 (3)(a) In the case of a felony of the third degree, the
 532 offense is reclassified to a felony of the second degree.

533 (b) In the case of a felony of the second degree, the
 534 offense is reclassified to a felony of the first degree.

535

536 For purposes of sentencing under chapter 921 and determining
 537 rehabilitation credit ~~incentive gain-time~~ eligibility under
 538 chapter 944, a felony offense that is reclassified under this
 539 section is ranked one level above the ranking under s. 921.0022
 540 or s. 921.0023 of the offense committed.

541 Section 9. Subsection (3) of section 775.0861, Florida
 542 Statutes, is amended to read:

543 775.0861 Offenses against persons on the grounds of
 544 religious institutions; reclassification.—

545 (3)(a) In the case of a misdemeanor of the second degree,
 546 the offense is reclassified to a misdemeanor of the first
 547 degree.

548 (b) In the case of a misdemeanor of the first degree, the
 549 offense is reclassified to a felony of the third degree. For
 550 purposes of sentencing under chapter 921, such offense is ranked

551 in level 2 of the offense severity ranking chart.

552 (c) In the case of a felony of the third degree, the
553 offense is reclassified to a felony of the second degree.

554 (d) In the case of a felony of the second degree, the
555 offense is reclassified to a felony of the first degree.

556 (e) In the case of a felony of the first degree, the
557 offense is reclassified to a life felony.

558

559 For purposes of sentencing under chapter 921 and determining
560 rehabilitation credit ~~incentive gain-time~~ eligibility under
561 chapter 944, a felony offense that is reclassified under this
562 subsection is ranked one level above the ranking under s.
563 921.0022 or s. 921.0023 of the offense committed.

564 Section 10. Subsection (3) of section 775.0862, Florida
565 Statutes, is amended to read:

566 775.0862 Sexual offenses against students by authority
567 figures; reclassification.—

568 (3)(a) In the case of a felony of the third degree, the
569 offense is reclassified to a felony of the second degree.

570 (b) In the case of a felony of the second degree, the
571 offense is reclassified to a felony of the first degree.

572 (c) In the case of a felony of the first degree, the
573 offense is reclassified to a life felony.

574

575 For purposes of sentencing under chapter 921 and determining

576 rehabilitation credit ~~incentive gain-time~~ eligibility under
 577 chapter 944, a felony offense that is reclassified under this
 578 subsection is ranked one level above the ranking under s.
 579 921.0022 or s. 921.0023 of the offense committed.

580 Section 11. Subsection (1) and paragraph (b) of subsection
 581 (2) of section 775.087, Florida Statutes, are amended to read:

582 775.087 Possession or use of weapon; aggravated battery;
 583 felony reclassification; minimum sentence.—

584 (1) Unless otherwise provided by law, whenever a person is
 585 charged with a felony, except a felony in which the use of a
 586 weapon or firearm is an essential element, and during the
 587 commission of such felony the defendant carries, displays, uses,
 588 threatens to use, or attempts to use any weapon or firearm, or
 589 during the commission of such felony the defendant commits an
 590 aggravated battery, the felony for which the person is charged
 591 shall be reclassified as follows:

592 (a) In the case of a felony of the first degree, to a life
 593 felony.

594 (b) In the case of a felony of the second degree, to a
 595 felony of the first degree.

596 (c) In the case of a felony of the third degree, to a
 597 felony of the second degree.

598
 599 For purposes of sentencing under chapter 921 and determining
 600 rehabilitation credit ~~incentive gain-time~~ eligibility under

601 chapter 944, a felony offense which is reclassified under this
 602 section is ranked one level above the ranking under s. 921.0022
 603 or s. 921.0023 of the felony offense committed.

604 (2)

605 (b) Subparagraph (a)1., subparagraph (a)2., or
 606 subparagraph (a)3. does not prevent a court from imposing a
 607 longer sentence of incarceration as authorized by law in
 608 addition to the minimum mandatory sentence, or from imposing a
 609 sentence of death pursuant to other applicable law. Subparagraph
 610 (a)1., subparagraph (a)2., or subparagraph (a)3. does not
 611 authorize a court to impose a lesser sentence than otherwise
 612 required by law.

613 Notwithstanding s. 948.01, adjudication of guilt or imposition
 614 of sentence shall not be suspended, deferred, or withheld, and
 615 the defendant is not eligible for statutory gain-time or credits
 616 under s. 944.275 or any form of discretionary early release,
 617 other than pardon or executive clemency, or conditional medical
 618 release under s. 947.149, prior to serving the minimum sentence.

619 Section 12. Subsection (2) of section 775.0875, Florida
 620 Statutes, is amended to read:

621 775.0875 Unlawful taking, possession, or use of law
 622 enforcement officer's firearm; crime reclassification;
 623 penalties.—

624 (2) If a person violates subsection (1) and commits any
 625 other crime involving the firearm taken from the law enforcement

626 officer, such crime shall be reclassified as follows:

627 (a)1. In the case of a felony of the first degree, to a
628 life felony.

629 2. In the case of a felony of the second degree, to a
630 felony of the first degree.

631 3. In the case of a felony of the third degree, to a
632 felony of the second degree.

633

634 For purposes of sentencing under chapter 921 and determining
635 rehabilitation credit ~~incentive gain-time~~ eligibility under
636 chapter 944, a felony offense that is reclassified under this
637 paragraph is ranked one level above the ranking under s.
638 921.0022 or s. 921.0023 of the felony offense committed.

639 (b) In the case of a misdemeanor, to a felony of the third
640 degree. For purposes of sentencing under chapter 921 and
641 determining rehabilitation credit ~~incentive gain-time~~
642 eligibility under chapter 944, such offense is ranked in level 2
643 of the offense severity ranking chart.

644 Section 13. Subsection (3) of section 777.03, Florida
645 Statutes, is amended to read:

646 777.03 Accessory after the fact.—

647 (3) Except as otherwise provided in s. 921.0022, for
648 purposes of sentencing under chapter 921 and determining
649 rehabilitation credit ~~incentive gain-time~~ eligibility under
650 chapter 944, the offense of accessory after the fact is ranked

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651 two levels below the ranking under s. 921.0022 or s. 921.0023 of
652 the felony offense committed.

653 Section 14. Paragraph (a) of subsection (4) of section
654 777.04, Florida Statutes, is amended to read:

655 777.04 Attempts, solicitation, and conspiracy.—

656 (4) (a) Except as otherwise provided in ss. 104.091(2),
657 379.2431(1), 828.125(2), 849.25(4), 893.135(5), and 921.0022,
658 the offense of criminal attempt, criminal solicitation, or
659 criminal conspiracy is ranked for purposes of sentencing under
660 chapter 921 and determining rehabilitation credit ~~incentive~~
661 ~~gain-time~~ eligibility under chapter 944 one level below the
662 ranking under s. 921.0022 or s. 921.0023 of the offense
663 attempted, solicited, or conspired to. If the criminal attempt,
664 criminal solicitation, or criminal conspiracy is of an offense
665 ranked in level 1 or level 2 under s. 921.0022 or s. 921.0023,
666 such offense is a misdemeanor of the first degree, punishable as
667 provided in s. 775.082 or s. 775.083.

668 Section 15. Subsection (3) of section 784.07, Florida
669 Statutes, is amended to read:

670 784.07 Assault or battery of law enforcement officers,
671 firefighters, emergency medical care providers, public transit
672 employees or agents, or other specified officers;
673 reclassification of offenses; minimum sentences.—

674 (3) Any person who is convicted of a battery under
675 paragraph (2) (b) and, during the commission of the offense, such

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676 person possessed:

677 (a) A "firearm" or "destructive device" as those terms are
678 defined in s. 790.001, shall be sentenced to a minimum term of
679 imprisonment of 3 years.

680 (b) A semiautomatic firearm and its high-capacity
681 detachable box magazine, as defined in s. 775.087(3), or a
682 machine gun as defined in s. 790.001, shall be sentenced to a
683 minimum term of imprisonment of 8 years.

684
685 Notwithstanding s. 948.01, adjudication of guilt or imposition
686 of sentence shall not be suspended, deferred, or withheld, and
687 the defendant is not eligible for statutory gain-time or credits
688 under s. 944.275 or any form of discretionary early release,
689 other than pardon or executive clemency, or conditional medical
690 release under s. 947.149, prior to serving the minimum sentence.

691 Section 16. Subsection (7) of section 794.011, Florida
692 Statutes, is amended to read:

693 794.011 Sexual battery.—

694 (7) A person who is convicted of committing a sexual
695 battery on or after October 1, 1992, is not eligible for ~~basic~~
696 gain-time or credits under s. 944.275. This subsection may be
697 cited as the "Junny Rios-Martinez, Jr. Act of 1992."

698 Section 17. Subsection (7) of section 794.0115, Florida
699 Statutes, is amended to read:

700 794.0115 Dangerous sexual felony offender; mandatory

701 sentencing.—

702 (7) A defendant sentenced to a mandatory minimum term of
 703 imprisonment under this section is not eligible for statutory
 704 gain-time or credits under s. 944.275 or any form of
 705 discretionary early release, other than pardon or executive
 706 clemency, or conditional medical release under s. 947.149,
 707 before serving the minimum sentence.

708 Section 18. Subsection (2) of section 794.023, Florida
 709 Statutes, is amended to read:

710 794.023 Sexual battery by multiple perpetrators;
 711 reclassification of offenses.—

712 (2) A violation of s. 794.011 shall be reclassified as
 713 provided in this subsection if it is charged and proven by the
 714 prosecution that, during the same criminal transaction or
 715 episode, more than one person committed an act of sexual battery
 716 on the same victim.

717 (a) A felony of the second degree is reclassified to a
 718 felony of the first degree.

719 (b) A felony of the first degree is reclassified to a life
 720 felony.

721
 722 This subsection does not apply to life felonies or capital
 723 felonies. For purposes of sentencing under chapter 921 and
 724 determining rehabilitation credit incentive ~~gain-time~~
 725 eligibility under chapter 944, a felony offense that is

726 reclassified under this subsection is ranked one level above the
 727 ranking under s. 921.0022 or s. 921.0023 of the offense
 728 committed.

729 Section 19. Subsection (4) of section 812.081, Florida
 730 Statutes, is amended to read:

731 812.081 Theft of or trafficking in trade secrets;
 732 definitions; penalties; providing to foreign entities;
 733 restitution.—

734 (4) Whenever a person is charged with a violation of this
 735 section which was committed with the intent to benefit a foreign
 736 government, a foreign agent, or a foreign instrumentality, the
 737 offense for which the person is charged shall be reclassified as
 738 follows:

739 (a) In the case of theft of a trade secret, from a felony
 740 of the third degree to a felony of the second degree.

741 (b) In the case of trafficking in trade secrets, from a
 742 felony of the second degree to a felony of the first degree.

743
 744 For purposes of sentencing under chapter 921 and determining
 745 incentive gain-time or credit eligibility under chapter 944, a
 746 felony offense that is reclassified under this subsection is
 747 ranked one level above the ranking under s. 921.0022 of the
 748 offense committed.

749 Section 20. Subsection (5) of section 817.568, Florida
 750 Statutes, is amended to read:

751 817.568 Criminal use of personal identification
752 information.—

753 (5) If an offense prohibited under this section was
754 facilitated or furthered by the use of a public record, as
755 defined in s. 119.011, the offense is reclassified to the next
756 higher degree as follows:

757 (a) A misdemeanor of the first degree is reclassified as a
758 felony of the third degree.

759 (b) A felony of the third degree is reclassified as a
760 felony of the second degree.

761 (c) A felony of the second degree is reclassified as a
762 felony of the first degree.

763
764 For purposes of sentencing under chapter 921 and rehabilitation
765 credit ~~incentive gain-time~~ eligibility under chapter 944, a
766 felony offense that is reclassified under this subsection is
767 ranked one level above the ranking under s. 921.0022 of the
768 felony offense committed, and a misdemeanor offense that is
769 reclassified under this subsection is ranked in level 2 of the
770 offense severity ranking chart in s. 921.0022.

771 Section 21. Subsection (3) of section 831.032, Florida
772 Statutes, is amended to read:

773 831.032 Offenses involving forging or counterfeiting
774 private labels.—

775 (3)(a) Violation of subsection (1) or subsection (2) is a

776 | misdemeanor of the first degree, punishable as provided in s.
777 | 775.082 or s. 775.083, except that:

778 | 1. A violation of subsection (1) or subsection (2) is a
779 | felony of the third degree, punishable as provided in s.
780 | 775.082, s. 775.083, or s. 775.084, if the offense involves 100
781 | or more but less than 1,000 items bearing one or more
782 | counterfeit marks or if the goods involved in the offense have a
783 | total retail value of more than \$2,500, but less than \$20,000.

784 | 2. A violation of subsection (1) or subsection (2) is a
785 | felony of the second degree, punishable as provided in s.
786 | 775.082, s. 775.083, or s. 775.084, if the offense involves
787 | 1,000 or more items bearing one or more counterfeit marks or if
788 | the goods involved in the offense have a total retail value of
789 | \$20,000 or more.

790 | 3. A violation of subsection (1) or subsection (2) is a
791 | felony of the third degree, punishable as provided in s.
792 | 775.082, s. 775.083, or s. 775.084 if, during the commission or
793 | as a result of the commission of the offense, the person
794 | engaging in the offense knowingly or by culpable negligence
795 | causes or allows to be caused bodily injury to another.

796 | 4. A violation of subsection (1) or subsection (2) is a
797 | felony of the second degree, punishable as provided in s.
798 | 775.082, s. 775.083, or s. 775.084 if, during the commission or
799 | as a result of the commission of the offense, the person
800 | engaging in the offense knowingly or by culpable negligence

801 causes or allows to be caused serious bodily injury to another.

802 5. A violation of subsection (1) or subsection (2) is a
 803 felony of the first degree, punishable as provided in s.
 804 775.082, s. 775.083, or s. 775.084 if, during the commission or
 805 as a result of the commission of the offense, the person
 806 engaging in the offense knowingly or by culpable negligence
 807 causes or allows to be caused death to another.

808 (b) For any person who, having previously been convicted
 809 for an offense under this section, is subsequently convicted for
 810 another offense under this section, such subsequent offense
 811 shall be reclassified as follows:

812 1. In the case of a felony of the second degree, to a
 813 felony of the first degree.

814 2. In the case of a felony of the third degree, to a
 815 felony of the second degree.

816 3. In the case of a misdemeanor of the first degree, to a
 817 felony of the third degree. For purposes of sentencing under
 818 chapter 921 and determining rehabilitation credit ~~incentive~~
 819 ~~gain-time~~ eligibility under chapter 944, such offense is ranked
 820 in level 4 of the offense severity ranking chart.

821
 822 For purposes of sentencing under chapter 921 and determining
 823 rehabilitation credit ~~incentive-gain-time~~ eligibility under
 824 chapter 944, a felony offense that is reclassified under this
 825 paragraph is ranked one level above the ranking under s.

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826 | 921.0022 or s. 921.0023 of the felony offense committed.

827 | (c) In lieu of a fine otherwise authorized by law, when
828 | any person has been convicted of an offense under this section,
829 | the court may fine the person up to three times the retail value
830 | of the goods seized, manufactured, or sold, whichever is
831 | greater, and may enter orders awarding court costs and the costs
832 | of investigation and prosecution, reasonably incurred. The court
833 | shall hold a hearing to determine the amount of the fine
834 | authorized by this paragraph.

835 | (d) When a person is convicted of an offense under this
836 | section, the court, pursuant to s. 775.089, shall order the
837 | person to pay restitution to the trademark owner and any other
838 | victim of the offense. In determining the value of the property
839 | loss to the trademark owner, the court shall include expenses
840 | incurred by the trademark owner in the investigation or
841 | prosecution of the offense as well as the disgorgement of any
842 | profits realized by a person convicted of the offense.

843 | Section 22. Subsection (2) of section 843.22, Florida
844 | Statutes, is amended to read:

845 | 843.22 Traveling across county lines with intent to commit
846 | a burglary.-

847 | (2) If a person who commits a burglary travels any
848 | distance with the intent to commit the burglary in a county in
849 | this state other than the person's county of residence, the
850 | degree of the burglary shall be reclassified to the next higher

851 degree if the purpose of the person's travel is to thwart law
852 enforcement attempts to track the items stolen in the burglary.
853 For purposes of sentencing under chapter 921 and determining
854 rehabilitation credit ~~incentive gain-time~~ eligibility under
855 chapter 944, a burglary that is reclassified under this section
856 is ranked one level above the ranking specified in s. 921.0022
857 or s. 921.0023 for the burglary committed.

858 Section 23. Paragraph (b) of subsection (1) and subsection
859 (2) of section 874.04, Florida Statutes, are amended to read:

860 874.04 Gang-related offenses; enhanced penalties.—Upon a
861 finding by the factfinder that the defendant committed the
862 charged offense for the purpose of benefiting, promoting, or
863 furthering the interests of a criminal gang, the penalty for any
864 felony or misdemeanor, or any delinquent act or violation of law
865 which would be a felony or misdemeanor if committed by an adult,
866 may be enhanced. Penalty enhancement affects the applicable
867 statutory maximum penalty only. Each of the findings required as
868 a basis for such sentence shall be found beyond a reasonable
869 doubt. The enhancement will be as follows:

870 (1)

871 (b) A misdemeanor of the first degree may be punished as
872 if it were a felony of the third degree. For purposes of
873 sentencing under chapter 921 and determining rehabilitation
874 credit ~~incentive gain-time~~ eligibility under chapter 944, such
875 offense is ranked in level 1 of the offense severity ranking

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876 | chart. The criminal gang multiplier in s. 921.0024 does not
877 | apply to misdemeanors enhanced under this paragraph.

878 | (2)(a) A felony of the third degree may be punished as if
879 | it were a felony of the second degree.

880 | (b) A felony of the second degree may be punished as if it
881 | were a felony of the first degree.

882 | (c) A felony of the first degree may be punished as if it
883 | were a life felony.

884 |

885 | For purposes of sentencing under chapter 921 and determining
886 | rehabilitation credit ~~incentive gain-time~~ eligibility under
887 | chapter 944, such felony offense is ranked as provided in s.
888 | 921.0022 or s. 921.0023, and without regard to the penalty
889 | enhancement in this subsection.

890 | Section 24. Section 944.281, Florida Statutes, is amended
891 | to read:

892 | 944.281 Ineligibility to earn gain-time due to
893 | disciplinary action.—The department may declare that a prisoner
894 | who commits a violation of any law of the state or rule or
895 | regulation of the department or institution on or after January
896 | 1, 1996, and who is found guilty pursuant to s. 944.28(2), shall
897 | not be eligible to earn rehabilitation credits ~~incentive gain-~~
898 | ~~time~~ for up to 6 months following the month in which the
899 | violation occurred. The department shall adopt rules to
900 | administer ~~the provisions of~~ this section.

901 Section 25. Subsection (1) of section 944.473, Florida
 902 Statutes, is amended to read:

903 944.473 Inmate substance abuse testing program.—

904 (1) RULES AND PROCEDURES.—The department shall establish
 905 programs for random and reasonable suspicion drug and alcohol
 906 testing by urinalysis or other noninvasive procedure for inmates
 907 to effectively identify those inmates abusing drugs, alcohol, or
 908 both. The department shall also adopt rules relating to fair,
 909 economical, and accurate operations and procedures of a random
 910 inmate substance abuse testing program and a reasonable
 911 suspicion substance abuse testing program by urinalysis or other
 912 noninvasive procedure which enumerate penalties for positive
 913 test results, including but not limited to the forfeiture of
 914 both basic and rehabilitation credits ~~incentive gain-time~~, and
 915 which do not limit the number of times an inmate may be tested
 916 in any one fiscal or calendar year.

917 Section 26. Paragraph (b) of subsection (1) of section
 918 944.70, Florida Statutes, is amended to read:

919 944.70 Conditions for release from incarceration.—

920 (1)

921 (b) A person who is convicted of a crime committed on or
 922 after January 1, 1994, may be released from incarceration only:

- 923 1. Upon expiration of the person's sentence;
- 924 2. Upon expiration of the person's sentence as reduced by
- 925 accumulated outstanding deed ~~meritorious~~ or rehabilitation

926 | credit incentive gain-time;

927 | 3. As directed by an executive order granting clemency;

928 | 4. Upon placement in a conditional release program
 929 | pursuant to s. 947.1405 or a conditional medical release program
 930 | pursuant to s. 947.149; or

931 | 5. Upon the granting of control release, including
 932 | emergency control release, pursuant to s. 947.146.

933 | Section 27. Paragraphs (i) and (j) of subsection (3) of
 934 | section 944.801, Florida Statutes, are amended to read:

935 | 944.801 Education for state prisoners.—

936 | (3) The responsibilities of the Correctional Education
 937 | Program shall be to:

938 | (i) Ensure that every inmate who has 2 years or more
 939 | remaining to serve on his or her sentence at the time that he or
 940 | she is received at an institution and who lacks basic and
 941 | functional literacy skills as defined in s. 1004.02 attends not
 942 | fewer than 150 hours of sequential instruction in a correctional
 943 | adult basic education program. The basic and functional literacy
 944 | level of an inmate shall be determined by the average composite
 945 | test score obtained on a test approved for this purpose by the
 946 | State Board of Education.

947 | 1. Upon completion of the 150 hours of instruction, the
 948 | inmate shall be retested and, if a composite test score of
 949 | functional literacy is not attained, the department is
 950 | authorized to require the inmate to remain in the instructional

951 program.

952 2. Highest priority of inmate participation shall be
953 focused on youthful offenders and those inmates nearing release
954 from the correctional system.

955 3. An inmate shall be required to attend the 150 hours of
956 adult basic education instruction unless such inmate:

957 a. Is serving a life sentence or is under sentence of
958 death.

959 b. Is specifically exempted for security or health
960 reasons.

961 c. Is housed at a community correctional center, road
962 prison, work camp, or vocational center.

963 d. Attains a functional literacy level after attendance in
964 fewer than 150 hours of adult basic education instruction.

965 e. Is unable to enter such instruction because of
966 insufficient facilities, staff, or classroom capacity.

967 4. The Department of Corrections shall provide classes to
968 accommodate those inmates assigned to correctional or public
969 work programs after normal working hours. The department shall
970 develop a plan to provide academic and vocational classes on a
971 more frequent basis and at times that accommodate the increasing
972 number of inmates with work assignments, to the extent that
973 resources permit.

974 5. If an inmate attends and actively participates in the
975 150 hours of instruction, the Department of Corrections may

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976 | grant a one-time award of up to 6 additional days of
977 | rehabilitation credit ~~incentive gain-time~~, which must be
978 | credited and applied as provided by law. Active participation
979 | means, at a minimum, that the inmate is attentive, responsive,
980 | cooperative, and completes assigned work.

981 | (j) Recommend the award of additional rehabilitation
982 | credit ~~incentive gain-time~~ for inmates who receive a high school
983 | equivalency diploma or a vocational certificate.

984 | Section 28. Subsection (15) of section 947.005, Florida
985 | Statutes, is amended to read:

986 | 947.005 Definitions.—As used in this chapter, unless the
987 | context clearly indicates otherwise:

988 | (15) "Tentative release date" means the date projected for
989 | the prisoner's release from custody by virtue of gain-time and
990 | credits granted or forfeited pursuant to s. 944.275(3)(a).

991 | Section 29. This act shall take effect July 1, 2022.