

By Senator Powell

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1 A bill to be entitled
2 An act relating to revising penalties for nonviolent
3 offenses; amending s. 893.13, F.S.; conforming a
4 provision to changes made by the act; creating s.
5 893.131, F.S.; authorizing the issuance of civil
6 citations for the possession of 20 grams or less of
7 cannabis and the possession of drug paraphernalia used
8 in connection with the consumption of cannabis;
9 providing for civil fines; providing for community
10 service in lieu of civil fines; limiting the number of
11 civil citations that a person may receive; providing
12 that a person who contests the violation waives a
13 specified civil penalty and may receive a larger
14 penalty upon a finding of a violation; providing for
15 entry of default judgment in cases of noncompliance;
16 amending s. 893.147, F.S.; conforming a provision to
17 changes made by the act; amending s. 921.002, F.S.;
18 revising a principle of the Criminal Punishment Code
19 relating to a prisoner's required minimum term of
20 imprisonment; amending s. 944.275, F.S.; revising the
21 incentive gain-time that the Department of Corrections
22 may grant a prisoner; providing exceptions; providing
23 an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Paragraph (b) of subsection (6) of section
28 893.13, Florida Statutes, is amended to read:
29 893.13 Prohibited acts; penalties.—

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30 (6)

31 (b) If the offense is the possession of 20 grams or less of
32 cannabis, as defined in this chapter, the person commits a
33 misdemeanor of the first degree, punishable as provided in s.
34 775.082 or s. 775.083, or the person may be issued a civil
35 citation under s. 893.131. As used in this subsection, the term
36 "cannabis" does not include the resin extracted from the plants
37 of the genus *Cannabis*, or any compound manufacture, salt,
38 derivative, mixture, or preparation of such resin.

39 Section 2. Section 893.131, Florida Statutes, is created to
40 read:

41 893.131 Cannabis offenses; civil citations.—

42 (1) The following misdemeanor violations are declared civil
43 infractions, and a person committing such violation may be
44 issued a civil citation at the discretion of a law enforcement
45 officer, provided that such violation is not charged in
46 conjunction with any criminal charge:

47 (a) Possession, by a person 18 years of age or older, of
48 cannabis in an amount of 20 grams or less, as provided in s.
49 893.13(6)(b).

50 (b) Possession, by a person 18 years of age or older, of
51 drug paraphernalia, as defined in s. 893.145, used in connection
52 with the consumption of cannabis.

53 (2) (a) A person who is issued a civil citation pursuant to
54 this section is subject to a civil fine of \$100 plus court
55 costs.

56 (b) In lieu of paying the civil fine under paragraph (a), a
57 person who is issued a civil citation pursuant to this section
58 may elect to participate in 10 hours of community service at a

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59 community service agency. The community service agency
60 supervising the person shall record the number of hours of
61 community service completed and the date on which the community
62 service hours were completed. The community service agency shall
63 submit the data to the clerk of the court on the letterhead of
64 the community service agency, which must also bear the notarized
65 signature of the person designated to represent the community
66 service agency.

67 (c) A person may not receive more than two civil citations
68 pursuant to this section.

69 (d) The county court shall have jurisdiction over all
70 violations of this section.

71 (e) The clerk of the court shall accept designated fines,
72 issue receipts for the payment of such fines, and accept proof
73 of satisfactory completion of community service.

74 (f) A person issued a civil citation pursuant to subsection
75 (1) shall comply with all directives on such citation.

76 (g) A person who fails to make payment as provided on the
77 civil citation, and fails to satisfactorily complete community
78 service within the period specified on such citation, is deemed
79 to have waived his or her right to pay the civil penalty as set
80 forth on such citation.

81 (h) A person who elects to appear before the court to
82 contest the civil citation is deemed to have waived his or her
83 right to pay the civil penalty. The court, after conducting a
84 hearing, shall determine whether a violation has occurred and
85 may impose a civil penalty not to exceed \$500 plus court costs.

86 (i) If a person fails to pay the civil penalty and fails to
87 satisfactorily complete community service, or fails to appear in

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88 court to contest the civil citation, he or she is deemed to have
89 waived his or her right to contest such citation, a default
90 judgment may be entered, and the judge shall impose a civil
91 fine. If the civil fine is paid, the case shall be disposed of.
92 If the civil fine is not paid, and no proof of satisfactory
93 completion of community service is provided, a default judgment
94 shall be entered up to the maximum civil penalty of \$500 plus
95 court costs.

96 Section 3. Subsection (1) of section 893.147, Florida
97 Statutes, is amended to read:

98 893.147 Use, possession, manufacture, delivery,
99 transportation, advertisement, or retail sale of drug
100 paraphernalia, specified machines, and materials.—

101 (1) USE OR POSSESSION OF DRUG PARAPHERNALIA.—It is unlawful
102 for any person to use, or to possess with intent to use, drug
103 paraphernalia:

104 (a) To plant, propagate, cultivate, grow, harvest,
105 manufacture, compound, convert, produce, process, prepare, test,
106 analyze, pack, repack, store, contain, or conceal a controlled
107 substance in violation of this chapter; or

108 (b) To inject, ingest, inhale, or otherwise introduce into
109 the human body a controlled substance in violation of this
110 chapter.

111
112 A Any person who violates this subsection commits is guilty of a
113 misdemeanor of the first degree, punishable as provided in s.
114 775.082 or s. 775.083, or, for violations involving cannabis
115 paraphernalia, a person who violates this subsection may be
116 issued a civil citation under s. 893.131.

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117 Section 4. Paragraph (e) of subsection (1) of section
118 921.002, Florida Statutes, is amended to read:

119 921.002 The Criminal Punishment Code.—The Criminal
120 Punishment Code shall apply to all felony offenses, except
121 capital felonies, committed on or after October 1, 1998.

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

133 (e) The sentence imposed by the sentencing judge reflects
134 the length of actual time to be served, shortened only by the
135 application of incentive and meritorious gain-time as provided
136 by law, and may not be shortened if the defendant would
137 consequently serve less than 75 percent of his or her term of
138 imprisonment as provided in s. 944.275(4)(b)3.a. or less than 85
139 percent of his or her term of imprisonment as provided in s.
140 944.275(4). The provisions of chapter 947~~7~~ relating to parole
141 ~~do, shall~~ not apply to persons sentenced under the Criminal
142 Punishment Code.

143 Section 5. Paragraphs (b) and (f) of subsection (4) of
144 section 944.275, Florida Statutes, are amended to read:

145 944.275 Gain-time.—

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146 (4)

147 (b) For each month in which an inmate works diligently,
148 participates in training, uses time constructively, or otherwise
149 engages in positive activities, the department may grant
150 incentive gain-time in accordance with this paragraph. The rate
151 of incentive gain-time in effect on the date the inmate
152 committed the offense that ~~which~~ resulted in his or her
153 incarceration shall be the inmate's rate of eligibility to earn
154 incentive gain-time throughout the period of incarceration and
155 may ~~shall~~ not be altered by a subsequent change in the severity
156 level of the offense for which the inmate was sentenced.

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

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

163 a. For offenses ranked in offense severity levels 1 through
164 7, under former s. 921.0012 or former s. 921.0013, up to 25 days
165 of incentive gain-time may be granted. If granted, such gain-
166 time shall be credited and applied monthly.

167 b. For offenses ranked in offense severity levels 8, 9, and
168 10, under former s. 921.0012 or former s. 921.0013, up to 20
169 days of incentive gain-time may be granted. If granted, such
170 gain-time shall be credited and applied monthly.

171 3. For sentences imposed for offenses, regardless of the
172 date committed, up to 20 days per month of incentive gain-time
173 may be granted, except that:

174 a. If the offense is a nonviolent felony as defined in s.

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175 948.08(6)(a), the prisoner is not eligible to earn any type of
176 gain-time in an amount that would cause the prisoner's sentence
177 to expire, end, or terminate, or that would result in the
178 prisoner's release, before he or she serves a minimum of 75
179 percent of the sentence imposed. For purposes of this sub-
180 paragraph, credits awarded by the court for time physically
181 incarcerated must be credited toward satisfaction of 75 percent
182 of the sentence imposed. A prisoner who is granted incentive
183 gain-time pursuant to this sub-paragraph may not accumulate
184 further gain-time awards at any point when the prisoner's
185 tentative release date is the same as that date at which the
186 prisoner will have served 75 percent of the sentence imposed.
187 State prisoners sentenced to life imprisonment must be
188 incarcerated for the rest of their natural lives unless granted
189 pardon or clemency.

190 b. If the offense is not a nonviolent felony as defined in
191 s. 948.08(6)(a), the prisoner is not eligible to earn any type
192 of gain-time in an amount that would cause the prisoner's
193 sentence to expire, end, or terminate, or that would result in
194 the prisoner's release, before he or she serves a minimum of 85
195 percent of the sentence imposed. For purposes of this sub-
196 paragraph, credits awarded by the court for time physically
197 incarcerated must be credited toward satisfaction of 85 percent
198 of the sentence imposed. A prisoner who is granted incentive
199 gain-time pursuant to this sub-paragraph may not accumulate
200 further gain-time awards at any point when the prisoner's
201 tentative release date is the same as that date at which the
202 prisoner will have served 85 percent of the sentence imposed.
203 State prisoners sentenced to life imprisonment must be

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204 incarcerated for the rest of their natural lives unless granted
205 pardon or clemency ~~For sentences imposed for offenses committed~~
206 ~~on or after October 1, 1995, the department may grant up to 10~~
207 ~~days per month of incentive gain-time.~~

208 (f) An inmate who is subject to subparagraph (b)3. is not
209 eligible to earn or receive gain-time under paragraph (a),
210 paragraph (b), paragraph (c), or paragraph (d) or any other type
211 of gain-time in an amount that would cause a sentence to expire,
212 end, or terminate, or that would result in a prisoner's release,
213 before ~~prior to~~ serving a minimum of 85 percent of the sentence
214 imposed. For purposes of this paragraph, credits awarded by the
215 court for time physically incarcerated shall be credited toward
216 satisfaction of 85 percent of the sentence imposed. Except as
217 provided by this section, a prisoner may not accumulate further
218 gain-time awards at any point when the tentative release date is
219 the same as that date at which the prisoner will have served 85
220 percent of the sentence imposed. State prisoners sentenced to
221 life imprisonment shall be incarcerated for the rest of their
222 natural lives, unless granted pardon or clemency.

223 Section 6. This act shall take effect July 1, 2022.