

26 Statutes, is amended to read:

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

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

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

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

48 (c) The penalty imposed is commensurate with the severity
 49 of the primary offense and the circumstances surrounding the
 50 primary offense.

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

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

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

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

73 (h) A sentence may be appealed on the basis that it
74 departs from the Criminal Punishment Code only if the sentence
75 is below the lowest permissible sentence or as enumerated in s.

76 | 924.06(1).

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

81 | Section 2. Section 944.275, Florida Statutes, is amended
82 | to read:

83 | 944.275 Outstanding deed gain-time, good behavior time,
84 | and rehabilitation credits.—

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

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

97 | (b) When a prisoner with an established maximum sentence
98 | expiration date is sentenced to an additional term or terms
99 | without having been released from custody, the department shall
100 | extend the maximum sentence expiration date by the length of

101 time imposed in the new sentence or sentences, less lawful
102 credits.

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

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

123 (b) When an initial tentative release date is
124 reestablished because of additional sentences imposed before the
125 prisoner has completely served all prior sentences, any

126 outstanding deed gain-time, good behavior time, or
 127 rehabilitation credits granted during service of a prior
 128 sentence and not forfeited shall be applied.

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

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

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

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

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

145 (b) For each month in which an inmate works diligently,
 146 participates in training or education, uses time constructively,
 147 or otherwise engages in positive activities, the department may
 148 grant rehabilitation credits ~~incentive gain-time~~ in accordance
 149 with this paragraph. The rate of rehabilitation credits
 150 ~~incentive gain-time~~ in effect on the date the inmate committed

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

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

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

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

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

172 ~~3. For sentences imposed for offenses committed on or~~
 173 ~~after October 1, 1995, the department may grant up to 10 days~~
 174 ~~per month of incentive gain-time.~~

175 (c) An inmate who performs some outstanding deed, such as

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

182 (d) Notwithstanding the monthly maximum awards of
183 rehabilitation credits ~~incentive gain-time~~ under subparagraphs
184 (b)1. ~~and, 2., and 3.,~~ the education program manager shall
185 ~~recommend,~~ and the department shall ~~of Corrections~~ may grant
186 awards, a one-time award of 60 additional days of rehabilitation
187 credits to prisoners for successful completion of each of the
188 following: incentive gain-time to an inmate who is otherwise
189 eligible and who successfully completes requirements for and is,
190 or has been during the current commitment, awarded a high school
191 equivalency diploma, college degree, or vocational certificate
192 or a drug treatment program, mental health treatment program,
193 life skills program, behavioral modification program, reentry
194 program, or any equivalent rehabilitative program. Additionally,
195 the department shall grant 5 additional days of rehabilitation
196 credits for successful completion of any other department-
197 approved program, including inmate-developed programs, or a
198 passing grade in each online or in-person educational course.
199 Rehabilitation credits awarded under this paragraph shall be
200 retroactive. ~~Under no circumstances may an inmate receive more~~

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201 ~~than 60 days for educational attainment pursuant to this~~
202 ~~section.~~

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

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

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

226 imposed.

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

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

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

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

249 (b) All outstanding deed incentive and meritorious gain-
 250 time, good behavior time, and rehabilitation credits are ~~is~~

251 granted according to this section.

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

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

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

262 316.027 Crash involving death or personal injuries.—

263 (2)

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

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

272 316.1935 Fleeing or attempting to elude a law enforcement
273 officer; aggravated fleeing or eluding.—

274 (6) Notwithstanding s. 948.01, no court may suspend,
275 defer, or withhold adjudication of guilt or imposition of

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

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

285 381.004 HIV testing.—

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

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

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

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

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

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

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

300 2. To those exceptions provided for blood, plasma, organs,

301 skin, semen, or other human tissue pursuant to s. 381.0041.

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

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

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

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

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

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

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

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

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

351 paramedic or emergency medical technician certified by the
352 department to perform life-support procedures under s. 401.23.

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

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

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

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

372 e. If the source of the exposure is not available and will
373 not voluntarily present himself or herself to a health facility
374 to be tested for HIV, the medical personnel or the employer of
375 such person acting on behalf of the employee may seek a court

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

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

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

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

401 may not be borne by the nonmedical personnel or the employer of
402 the nonmedical personnel.

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

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

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

424 12. For the performance of an HIV test by the medical
425 examiner or attending physician upon an individual who expired

426 or could not be resuscitated while receiving emergency medical
427 assistance or care and who was the source of a significant
428 exposure to medical or nonmedical personnel providing such
429 assistance or care.

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

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

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

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

450 13. For the performance of an HIV-related test medically

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

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

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

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

465 775.084 Violent career criminals; habitual felony
466 offenders and habitual violent felony offenders; three-time
467 violent felony offenders; definitions; procedure; enhanced
468 penalties or mandatory minimum prison terms.—

469 (4)

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

475 2. For an offense committed on or after October 1, 1995, a

476 defendant sentenced under this section as a violent career
 477 criminal is not eligible for any form of discretionary early
 478 release, other than pardon or executive clemency, or conditional
 479 medical release granted pursuant to s. 947.149.

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

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

487 775.0845 Wearing mask while committing offense;
 488 reclassification.—The felony or misdemeanor degree of any
 489 criminal offense, other than a violation of ss. 876.12-876.15,
 490 shall be reclassified to the next higher degree as provided in
 491 this section if, while committing the offense, the offender was
 492 wearing a hood, mask, or other device that concealed his or her
 493 identity.

494 (1)

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

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

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

505

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

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

515 775.0847 Possession or promotion of certain images of
 516 child pornography; reclassification.—

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

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

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

- 524 1. A child who is younger than the age of 5.
- 525 2. Sadomasochistic abuse involving a child.

- 526 3. Sexual battery involving a child.
 527 4. Sexual bestiality involving a child.
 528 5. Any motion picture, film, video, or computer-generated
 529 motion picture, film, or video involving a child, regardless of
 530 length and regardless of whether the motion picture, film,
 531 video, or computer-generated motion picture, film, or video
 532 contains sound.

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

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

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

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

545 775.0861 Offenses against persons on the grounds of
 546 religious institutions; reclassification.-

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

550 (b) In the case of a misdemeanor of the first degree, the

551 offense is reclassified to a felony of the third degree. For
552 purposes of sentencing under chapter 921, such offense is ranked
553 in level 2 of the offense severity ranking chart.

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

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

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

560

561 For purposes of sentencing under chapter 921 and determining
562 rehabilitation credit ~~incentive gain-time~~ eligibility under
563 chapter 944, a felony offense that is reclassified under this
564 subsection is ranked one level above the ranking under s.
565 921.0022 or s. 921.0023 of the offense committed.

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

568 775.0862 Sexual offenses against students by authority
569 figures; reclassification.—

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

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

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

576
577 For purposes of sentencing under chapter 921 and determining
578 rehabilitation credit ~~incentive gain-time~~ eligibility under
579 chapter 944, a felony offense that is reclassified under this
580 subsection is ranked one level above the ranking under s.
581 921.0022 or s. 921.0023 of the offense committed.

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

584 775.087 Possession or use of weapon; aggravated battery;
585 felony reclassification; minimum sentence.—

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

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

596 (b) In the case of a felony of the second degree, to a
597 felony of the first degree.

598 (c) In the case of a felony of the third degree, to a
599 felony of the second degree.

600

601 For purposes of sentencing under chapter 921 and determining
602 rehabilitation credit ~~incentive gain-time~~ eligibility under
603 chapter 944, a felony offense which is reclassified under this
604 section is ranked one level above the ranking under s. 921.0022
605 or s. 921.0023 of the felony offense committed.

606 (2)

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

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

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

625 775.0875 Unlawful taking, possession, or use of law

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626 enforcement officer's firearm; crime reclassification;
627 penalties.—

628 (2) If a person violates subsection (1) and commits any
629 other crime involving the firearm taken from the law enforcement
630 officer, such crime shall be reclassified as follows:

631 (a)1. In the case of a felony of the first degree, to a
632 life felony.

633 2. In the case of a felony of the second degree, to a
634 felony of the first degree.

635 3. In the case of a felony of the third degree, to a
636 felony of the second degree.

637

638 For purposes of sentencing under chapter 921 and determining
639 rehabilitation credit ~~incentive gain-time~~ eligibility under
640 chapter 944, a felony offense that is reclassified under this
641 paragraph is ranked one level above the ranking under s.
642 921.0022 or s. 921.0023 of the felony offense committed.

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

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

650 777.03 Accessory after the fact.—

651 (3) Except as otherwise provided in s. 921.0022, for
652 purposes of sentencing under chapter 921 and determining
653 rehabilitation credit ~~incentive gain-time~~ eligibility under
654 chapter 944, the offense of accessory after the fact is ranked
655 two levels below the ranking under s. 921.0022 or s. 921.0023 of
656 the felony offense committed.

657 Section 14. Paragraph (a) of subsection (4) of section
658 777.04, Florida Statutes, is amended to read:

659 777.04 Attempts, solicitation, and conspiracy.—

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

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

674 784.07 Assault or battery of law enforcement officers,
675 firefighters, emergency medical care providers, public transit

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676 employees or agents, or other specified officers;
677 reclassification of offenses; minimum sentences.—

678 (3) Any person who is convicted of a battery under
679 paragraph (2)(b) and, during the commission of the offense, such
680 person possessed:

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

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

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

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

698 794.011 Sexual battery.—

699 (7) A person who is convicted of committing a sexual
700 battery on or after October 1, 1992, is not eligible for ~~base~~

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701 gain-time or credits under s. 944.275. This subsection may be
702 cited as the "Junny Rios-Martinez, Jr. Act of 1992."

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

705 794.0115 Dangerous sexual felony offender; mandatory
706 sentencing.—

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

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

715 794.023 Sexual battery by multiple perpetrators;
716 reclassification of offenses.—

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

722 (a) A felony of the second degree is reclassified to a
723 felony of the first degree.

724 (b) A felony of the first degree is reclassified to a life
725 felony.

726
 727 This subsection does not apply to life felonies or capital
 728 felonies. For purposes of sentencing under chapter 921 and
 729 determining rehabilitation credit ~~incentive gain-time~~
 730 eligibility under chapter 944, a felony offense that is
 731 reclassified under this subsection is ranked one level above the
 732 ranking under s. 921.0022 or s. 921.0023 of the offense
 733 committed.

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

736 812.081 Theft of or trafficking in trade secrets;
 737 definitions; penalties; providing to foreign entities;
 738 restitution.—

739 (4) Whenever a person is charged with a violation of this
 740 section which was committed with the intent to benefit a foreign
 741 government, a foreign agent, or a foreign instrumentality, the
 742 offense for which the person is charged shall be reclassified as
 743 follows:

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

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

748
 749 For purposes of sentencing under chapter 921 and determining
 750 incentive gain-time or credit eligibility under chapter 944, a

751 felony offense that is reclassified under this subsection is
 752 ranked one level above the ranking under s. 921.0022 of the
 753 offense committed.

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

756 817.568 Criminal use of personal identification
 757 information.—

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

762 (a) A misdemeanor of the first degree is reclassified as a
 763 felony of the third degree.

764 (b) A felony of the third degree is reclassified as a
 765 felony of the second degree.

766 (c) A felony of the second degree is reclassified as a
 767 felony of the first degree.

768

769 For purposes of sentencing under chapter 921 and rehabilitation
 770 credit ~~incentive gain-time~~ eligibility under chapter 944, a
 771 felony offense that is reclassified under this subsection is
 772 ranked one level above the ranking under s. 921.0022 of the
 773 felony offense committed, and a misdemeanor offense that is
 774 reclassified under this subsection is ranked in level 2 of the
 775 offense severity ranking chart in s. 921.0022.

776 Section 21. Paragraph (b) of subsection (3) of section
 777 831.032, Florida Statutes, is amended to read:

778 831.032 Offenses involving forging or counterfeiting
 779 private labels.—

780 (3)

781 (b) For any person who, having previously been convicted
 782 for an offense under this section, is subsequently convicted for
 783 another offense under this section, such subsequent offense
 784 shall be reclassified as follows:

785 1. In the case of a felony of the second degree, to a
 786 felony of the first degree.

787 2. In the case of a felony of the third degree, to a
 788 felony of the second degree.

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

794

795 For purposes of sentencing under chapter 921 and determining
 796 rehabilitation credit ~~incentive gain-time~~ eligibility under
 797 chapter 944, a felony offense that is reclassified under this
 798 paragraph is ranked one level above the ranking under s.
 799 921.0022 or s. 921.0023 of the felony offense committed.

800 (c) In lieu of a fine otherwise authorized by law, when

801 any person has been convicted of an offense under this section,
 802 the court may fine the person up to three times the retail value
 803 of the goods seized, manufactured, or sold, whichever is
 804 greater, and may enter orders awarding court costs and the costs
 805 of investigation and prosecution, reasonably incurred. The court
 806 shall hold a hearing to determine the amount of the fine
 807 authorized by this paragraph.

808 (d) When a person is convicted of an offense under this
 809 section, the court, pursuant to s. 775.089, shall order the
 810 person to pay restitution to the trademark owner and any other
 811 victim of the offense. In determining the value of the property
 812 loss to the trademark owner, the court shall include expenses
 813 incurred by the trademark owner in the investigation or
 814 prosecution of the offense as well as the disgorgement of any
 815 profits realized by a person convicted of the offense.

816 Section 22. Subsection (2) of section 843.22, Florida
 817 Statutes, is amended to read:

818 843.22 Traveling across county lines with intent to commit
 819 a burglary.—

820 (2) If a person who commits a burglary travels any
 821 distance with the intent to commit the burglary in a county in
 822 this state other than the person's county of residence, the
 823 degree of the burglary shall be reclassified to the next higher
 824 degree. For purposes of sentencing under chapter 921 and
 825 determining rehabilitation credit ~~incentive gain-time~~

826 eligibility under chapter 944, a burglary that is reclassified
 827 under this section is ranked one level above the ranking
 828 specified in s. 921.0022 or s. 921.0023 for the burglary
 829 committed.

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

832 874.04 Gang-related offenses; enhanced penalties.—Upon a
 833 finding by the factfinder that the defendant committed the
 834 charged offense for the purpose of benefiting, promoting, or
 835 furthering the interests of a criminal gang, the penalty for any
 836 felony or misdemeanor, or any delinquent act or violation of law
 837 which would be a felony or misdemeanor if committed by an adult,
 838 may be enhanced. Penalty enhancement affects the applicable
 839 statutory maximum penalty only. Each of the findings required as
 840 a basis for such sentence shall be found beyond a reasonable
 841 doubt. The enhancement will be as follows:

842 (1)

843 (b) A misdemeanor of the first degree may be punished as
 844 if it were a felony of the third degree. For purposes of
 845 sentencing under chapter 921 and determining rehabilitation
 846 credit ~~incentive gain time~~ eligibility under chapter 944, such
 847 offense is ranked in level 1 of the offense severity ranking
 848 chart. The criminal gang multiplier in s. 921.0024 does not
 849 apply to misdemeanors enhanced under this paragraph.

850 (2) (a) A felony of the third degree may be punished as if

851 | it were a felony of the second degree.

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

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

856 |

857 | For purposes of sentencing under chapter 921 and determining
858 | rehabilitation credit ~~incentive gain-time~~ eligibility under
859 | chapter 944, such felony offense is ranked as provided in s.
860 | 921.0022 or s. 921.0023, and without regard to the penalty
861 | enhancement in this subsection.

862 | Section 24. Section 944.281, Florida Statutes, is amended
863 | to read:

864 | 944.281 Ineligibility to earn gain-time due to
865 | disciplinary action.—The department may declare that a prisoner
866 | who commits a violation of any law of the state or rule or
867 | regulation of the department or institution on or after January
868 | 1, 1996, and who is found guilty pursuant to s. 944.28(2), shall
869 | not be eligible to earn rehabilitation credits ~~incentive gain-~~
870 | ~~time~~ for up to 6 months following the month in which the
871 | violation occurred. The department shall adopt rules to
872 | administer ~~the provisions of~~ this section.

873 | Section 25. Subsection (1) of section 944.473, Florida
874 | Statutes, is amended to read:

875 | 944.473 Inmate substance abuse testing program.—

876 (1) RULES AND PROCEDURES.—The department shall establish
 877 programs for random and reasonable suspicion drug and alcohol
 878 testing by urinalysis or other noninvasive procedure for inmates
 879 to effectively identify those inmates abusing drugs, alcohol, or
 880 both. The department shall also adopt rules relating to fair,
 881 economical, and accurate operations and procedures of a random
 882 inmate substance abuse testing program and a reasonable
 883 suspicion substance abuse testing program by urinalysis or other
 884 noninvasive procedure which enumerate penalties for positive
 885 test results, including but not limited to the forfeiture of
 886 both basic and rehabilitation credits ~~incentive gain-time~~, and
 887 which do not limit the number of times an inmate may be tested
 888 in any one fiscal or calendar year.

889 Section 26. Paragraph (b) of subsection (1) of section
 890 944.70, Florida Statutes, is amended to read:

891 944.70 Conditions for release from incarceration.—

892 (1)

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

- 895 1. Upon expiration of the person's sentence;
- 896 2. Upon expiration of the person's sentence as reduced by
 897 accumulated outstanding deed ~~meritorious~~ or rehabilitation
 898 credit ~~incentive gain-time~~;
- 899 3. As directed by an executive order granting clemency;
- 900 4. Upon placement in a conditional release program

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901 pursuant to s. 947.1405 or a conditional medical release program
902 pursuant to s. 947.149; or

903 5. Upon the granting of control release, including
904 emergency control release, pursuant to s. 947.146.

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

907 944.801 Education for state prisoners.—

908 (3) The responsibilities of the Correctional Education
909 Program shall be to:

910 (i) Ensure that every inmate who has 2 years or more
911 remaining to serve on his or her sentence at the time that he or
912 she is received at an institution and who lacks basic and
913 functional literacy skills as defined in s. 1004.02 attends not
914 fewer than 150 hours of sequential instruction in a correctional
915 adult basic education program. The basic and functional literacy
916 level of an inmate shall be determined by the average composite
917 test score obtained on a test approved for this purpose by the
918 State Board of Education.

919 1. Upon completion of the 150 hours of instruction, the
920 inmate shall be retested and, if a composite test score of
921 functional literacy is not attained, the department is
922 authorized to require the inmate to remain in the instructional
923 program.

924 2. Highest priority of inmate participation shall be
925 focused on youthful offenders and those inmates nearing release

926 | from the correctional system.

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

929 | a. Is serving a life sentence or is under sentence of
930 | death.

931 | b. Is specifically exempted for security or health
932 | reasons.

933 | c. Is housed at a community correctional center, road
934 | prison, work camp, or vocational center.

935 | d. Attains a functional literacy level after attendance in
936 | fewer than 150 hours of adult basic education instruction.

937 | e. Is unable to enter such instruction because of
938 | insufficient facilities, staff, or classroom capacity.

939 | 4. The department ~~of Corrections~~ shall provide classes to
940 | accommodate those inmates assigned to correctional or public
941 | work programs after normal working hours. The department shall
942 | develop a plan to provide academic and vocational classes on a
943 | more frequent basis and at times that accommodate the increasing
944 | number of inmates with work assignments, to the extent that
945 | resources permit.

946 | 5. If an inmate attends and actively participates in the
947 | 150 hours of instruction, the department ~~of Corrections~~ may
948 | grant a one-time award of up to 6 additional days of
949 | rehabilitation credit ~~incentive gain-time~~, which must be
950 | credited and applied as provided by law. Active participation

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951 means, at a minimum, that the inmate is attentive, responsive,
952 cooperative, and completes assigned work.

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

956 Section 28. Subsection (15) of section 947.005, Florida
957 Statutes, is amended to read:

958 947.005 Definitions.—As used in this chapter, unless the
959 context clearly indicates otherwise:

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

963 Section 29. This act shall take effect July 1, 2023.