

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 501 Restoration of Voting Rights Information on Sentencing Scoresheets

**SPONSOR(S):** Gantt

**TIED BILLS:** IDEN./SIM. BILLS: SB 1696

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	17 Y, 0 N	Hall	Hall
2) Ethics, Elections & Open Government Subcommittee			
3) Judiciary Committee			

### SUMMARY ANALYSIS

The Criminal Punishment Code (CPC) applies to sentencing for felony offenses, except capital felonies, committed on or after October 1, 1998. A defendant's sentence is calculated using the CPC scoresheet based on points assigned for factors including: the offense for which the defendant is being sentenced, injury to the victim, additional offenses that the defendant committed at the time of the primary offense, the defendant's prior record, and other aggravating factors. The state attorney must prepare and present the scoresheet to defense counsel who is responsible for reviewing the scoresheet for accuracy in all cases unless the judge directs otherwise. The sentencing judge must approve and sign the defendant's scoresheet. Following sentencing, the clerk of the court must submit a complete and accurate copy of the scoresheet to the Department of Corrections along with the defendant's judgment and sentence form.

Article VI, section 4 of the Florida Constitution provides that no person convicted of a felony, or adjudicated in this or any other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability. Unless a person is convicted of murder or a felony sexual offense, any disqualification from voting arising from a felony conviction shall terminate and voting rights shall be restored upon completion of all terms of sentence including parole or probation. A person convicted of murder or a felony sexual offense may only be qualified to vote if his or her civil rights are restored.

Section 98.0751, F.S., provides that a person who has been disqualified from voting based on a felony conviction for an offense other than murder or a felony sexual offense must have such disqualification terminated and his or her voting rights restored pursuant to s. 4, Art. VI of the Florida Constitution upon the completion of all terms of his or her sentence, including parole or probation. A person's disqualification from voting does not terminate unless his or her civil rights are restored pursuant to s. 8, Art. IV of the Florida Constitution if the disqualification arises from a conviction for murder or a felony sexual offense, or if the person has not completed all terms of sentence.

HB 501 amends s. 921.0024, F.S., to insert the substance of both article VI, section 4(a) and (b) of the Florida Constitution and s. 98.0571, F.S., in their entirety, making both provisions part of the CPC scoresheet. The bill requires a defendant to receive a copy of the scoresheet containing the substance of both article VI, section 4(a) and (b) of the Florida Constitution and s. 98.0571, F.S., in their entirety before his or her sentence is imposed in order for the defendant to receive notice of the impact of his or her sentence on voter eligibility.

The Department of Corrections, in consultation with the Office of State Courts Administrator, state attorneys, and public defenders must develop and submit a revised CPC scoresheet to the Supreme Court for approval each year, as necessary. The bill will require such entities to revise the CPC scoresheet, however the costs should be absorbed within existing resources.

The bill provides an effective date of July 1, 2023.

### FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives .

STORAGE NAME: h0501a.CRJ

DATE: 3/29/2023

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### Criminal Punishment Code

The Criminal Punishment Code (CPC) applies to sentencing for felony offenses, except capital felonies, committed on or after October 1, 1998.<sup>1</sup> Criminal offenses are ranked in the offense severity ranking chart from level one (least severe) to level ten (most severe) and are assigned points based on the severity of the offense as determined by the Legislature.<sup>2</sup> A defendant's sentence is calculated based on points assigned for factors including: the offense for which the defendant is being sentenced, injury to the victim, additional offenses that the defendant committed at the time of the primary offense, the defendant's prior record, and other aggravating factors.<sup>3</sup>

The points are added in order to determine the "lowest permissible sentence" for the offense.<sup>4</sup> A judge cannot impose a sentence below the lowest permissible sentence unless the judge makes written findings that there are circumstances or factors that reasonably justify a downward departure.<sup>5</sup> Absent such a downward departure, the permissible sentence for an offense ranges from the calculated lowest permissible sentence to the statutory maximum for the primary offense.<sup>6</sup>

The state attorney must prepare and present the scoresheet to defense counsel who is responsible for reviewing the scoresheet for accuracy in all cases unless the judge directs otherwise. The sentencing judge must approve and sign the defendant's scoresheet.<sup>7</sup> Following sentencing, the clerk of the court must submit a complete and accurate copy of the scoresheet to the Department of Corrections along with the defendant's judgment and sentence form.<sup>8</sup>

##### Felon Voting Rights

###### *Florida Constitution*

Article VI, section 4 of the Florida Constitution provides that no person convicted of a felony, or adjudicated in this or any other state to be mentally incompetent, shall be qualified to vote or hold office until restoration of civil rights or removal of disability. Unless a person is convicted of murder or a felony sexual offense, any disqualification from voting arising from a felony conviction shall terminate and voting rights shall be restored upon completion of all terms of sentence including parole or probation. A person convicted of murder or a felony sexual offense may only be qualified to vote if his or her civil rights are restored.<sup>9</sup>

###### *Florida Statutes*

Section 98.0751, F.S., provides that a person who has been disqualified from voting based on a felony conviction for an offense other than murder or a felony sexual offense must have such disqualification terminated and his or her voting rights restored pursuant to s. 4, Art. VI of the Florida Constitution upon the completion of all terms or his or her sentence, including parole or probation. A person's disqualification from voting does not terminate unless his or her civil rights are restored pursuant to s. 8, Art. IV of the Florida Constitution if his or her disqualification arises from a conviction for murder or a

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<sup>1</sup> S. 921.002, F.S.

<sup>2</sup> S. 921.0022, F.S.

<sup>3</sup> S. 921.0024, F.S.

<sup>4</sup> *Id.*

<sup>5</sup> S. 921.0026, F.S.

<sup>6</sup> S. 921.0024(2), F.S.

<sup>7</sup> S. 921.0024(3), F.S.

<sup>8</sup> S. 921.0024(7), F.S.

<sup>9</sup> Art. VI, s. 4, Fla. Const.

felony sexual offense, or if the person has not completed all terms of sentence as defined in s. 98.0751(2), F.S.

Under s. 98.0751, F.S., “completion of all terms of sentence” means any portion of a sentence that is contained in the four corners of the sentencing document, including, but not limited to:

- Release from any term of imprisonment ordered by a court as part of the sentence;
- Termination from any term of probation or community control ordered by the court as part of the sentence;
- Termination from any term of supervision, including parole, monitored by the Florida Commission on Offender Review;
- Fulfillment of any term ordered by the court as part of the sentence;
- Full payment of restitution ordered to a victim by the court as part of the sentence; and
- Full payment of any fines or fees ordered by the court as part of the sentence or ordered as a condition of any form of supervision.

The term “felony sexual offense” is defined as a felony violation for committing or attempting to commit one of the following crimes or a similar offense from another jurisdiction:

- Any felony offense that serves as a predicate to registration as a sexual offender under s. 943.0435, F.S.;
- Female genital mutilation;<sup>10</sup>
- Prostitution or soliciting prostitution while HIV positive;<sup>11</sup>
- Incest;<sup>12</sup>
- Sexual offenses against a student by an authority figure;<sup>13</sup>
- Sexual cyberharassment, second or subsequent offense;<sup>14</sup>
- Sexual misconduct between a detention facility employee and an inmate;<sup>15</sup>
- Sexual misconduct by a psychotherapist with a client, or former client when the professional relationship was terminated primarily for the purpose of engaging in sexual contact;<sup>16</sup>
- Sexually abusing a dead human body;<sup>17</sup>
- Sexual misconduct by a correctional facility employee with an inmate;<sup>18</sup> and
- Selling or distributing to minors or using minors to produce harmful materials.<sup>19</sup>

The term “murder” is defined as a conviction for any of the following crimes, or a similar offense from another jurisdiction, that results in the actual killing of a human being:

- First degree murder; and
- Second degree murder.<sup>20</sup>

Section 98.0751(3), F.S., requires the Department of State to obtain and review all information it receives regarding a felony conviction from a clerk of court, the Board of Executive Clemency, the Department of Corrections, the Department of Law Enforcement, or a United States Attorney’s Office<sup>21</sup> regarding whether a person who registers to vote is eligible under s. 4, Art. VI of the Florida Constitution and s. 98.0751, F.S. Upon making an initial determination of the credibility and reliability of such information, the department must forward the information to the local supervisor of elections. The local supervisor of elections must verify and make a final determination regarding whether a person who registers to vote is eligible to vote. The supervisor of elections may request additional assistance from the department if necessary to make such a determination. For the purpose of determining a voter

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<sup>10</sup> S. 794.08, F.S.

<sup>11</sup> S. 796.08, F.S.

<sup>12</sup> S. 826.04, F.S.

<sup>13</sup> S. 800.101(2), F.S.

<sup>14</sup> S. 784.049(3)(b), F.S.

<sup>15</sup> S. 951.221(1), F.S.

<sup>16</sup> S. 491.0112(1) and (2), F.S.

<sup>17</sup> S. 872.06(2), F.S.

<sup>18</sup> S. 944.35(3)(b)2., F.S.

<sup>19</sup> S. 847.012, F.S.

<sup>20</sup> S. 782.04 (1)-(3), F.S.

<sup>21</sup> See s. 98.075(5), F.S.

registrant's eligibility, s. 98.0751, F.S., must be strictly construed and if a provision is susceptible to differing interpretations, it must be construed in favor of the registrant.<sup>22</sup>

### **Effect of Proposed Changes**

HB 501 amends s. 921.0024, F.S., to insert the substance of both article VI, section 4(a) and (b) of the Florida Constitution and s. 98.0571, F.S., in their entirety, making both provisions part of the CPC scoresheet.

The bill requires a defendant to receive a copy of the scoresheet containing the substance of both article VI, section 4(a) and (b) of the Florida Constitution and s. 98.0571, F.S., in their entirety before his or her sentence is imposed in order for the defendant to receive notice of the impact of his or her sentence on voter eligibility.

The bill provides an effective date of July 1, 2023.

#### **B. SECTION DIRECTORY:**

**Section 1:** Amends s. 921.0024, F.S., relating to Criminal Punishment Code; worksheet computations; scoresheets.

**Section 2:** Provides an effective date of July 1, 2023.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The Department of Corrections, in consultation with the Office of State Courts Administrator, state attorneys, and public defenders must develop and submit a revised CPC scoresheet to the Supreme Court for approval each year, as necessary. The bill will require such entities to revise the CPC scoresheet, however the costs should be absorbed within existing resources.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

#### **D. FISCAL COMMENTS:**

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

The entities required to revise the CPC scoresheet each year, as necessary, and submit the revisions to the Supreme Court for approval are required to do so by June 15 of each year. The bill does not take effect until July 1, 2023. As such, the addition of the provisions required under the bill would likely not appear on the scoresheet until 2024.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES