

# FLORIDA HOUSE OF REPRESENTATIVES

## FINAL BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

<b>BILL #:</b> <a href="#">HB 91</a>	<b>COMPANION BILL:</b> <a href="#">SB 878</a> (Martin)
<b>TITLE:</b> Probation for Misdemeanor Offenses	<b>LINKED BILLS:</b> None
<b>SPONSOR(S):</b> Rayner and Jacques	<b>RELATED BILLS:</b> None
<b>FINAL HOUSE FLOOR ACTION:</b> 115 Y's 0 N's	<b>GOVERNOR'S ACTION:</b> Pending

### SUMMARY

#### Effect of the Bill:

The bill authorizes a court to sentence a defendant who is found guilty of any misdemeanor to a term of probation of up to one year if the court finds that a controlled substance, a controlled substance analog, or a chemical substance is a significant factor in the commission of the offense.

#### Fiscal or Economic Impact:

The bill may have an indeterminate fiscal impact on local governments and, depending on the terms of the contract between a private entity and a county, private entities that provide probationary and supervision services. To the extent that courts sentence eligible defendants to longer terms of probation as authorized under the bill, the bill may require local governments or such private entities to expend funds to provide supervision for defendants for a longer time period. However, any such expenditures may be offset by the supervision fees a defendant is required to contribute while he or she is on misdemeanor probation.

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### ANALYSIS

#### EFFECT OF THE BILL:

HB 91 passed as [SB 878](#).

The bill authorizes a court to sentence a defendant who is found guilty of any offense other than a felony (i.e. a misdemeanor) to a term of [probation](#) of up to one year if the court finds that a controlled substance as defined in [s. 893.02, F.S.](#), a controlled substance analog as described in [s. 893.0356, F.S.](#), or a chemical substance as described in [s. 877.111\(1\), F.S.](#), is a significant factor in the commission of the offense. (Section [1](#))

Since a court may currently sentence a defendant to a term of probation of up to one year for committing a first degree misdemeanor, the bill only increases the [maximum term of probation](#) for those defendants who commit second degree misdemeanors and only where the court finds that a controlled substance, controlled substance analog, or a chemical substance is a significant factor. Such authority is consistent with the court's existing sentencing authority for second degree misdemeanors in which alcohol is a significant factor.

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2025. (Section [2](#))

#### FISCAL OR ECONOMIC IMPACT:

##### LOCAL GOVERNMENT:

The bill may have an indeterminate fiscal impact on local governments. To the extent that courts sentence eligible misdemeanor defendants to longer terms of probation as authorized under the bill, the bill may require local governments to expend funds to provide supervision for defendants for a longer time period. However, any such expenditures may be offset by the supervision fees a defendant is required to contribute while he or she is on misdemeanor probation.

**STORAGE NAME:** h0091z

**DATE:** 5/2/2025

## PRIVATE SECTOR:

The bill may have an indeterminate fiscal impact on private entities that contract with counties to provide probationary or supervision services. To the extent that courts sentence eligible defendants to longer terms of probation as authorized under the bill, private entities will be required to supervise defendants over longer periods of time. Depending on the contract between such a private entity and a county, the bill may require such private entities to expend funds to provide supervision for defendants who are sentenced to extended terms of probation. However, such expenditures may be offset by the supervision fees a defendant is required to contribute while he or she is on misdemeanor probation.

## RELEVANT INFORMATION

### SUBJECT OVERVIEW:

#### Probation

At sentencing for a criminal conviction, a judge may place an offender on probation in lieu of, or in addition to, a term of incarceration.<sup>1</sup> Probation is a form of community supervision requiring specified contacts with probation officers and other terms and conditions.<sup>2</sup> Several standard conditions of probation or community control apply automatically, including requirements to report to a probation officer as directed and to live without violating any law.<sup>3</sup> The court may also impose special conditions, such as community service hours, regular drug or alcohol testing, no contact orders, and treatment programs.<sup>4</sup>

#### Maximum Term of Probation

Generally, the maximum term of probation to which a judge may sentence a defendant is equal to the maximum term of imprisonment for the offense that the defendant committed.<sup>5</sup> For example, a court may sentence a defendant who is convicted of committing a first degree misdemeanor,<sup>6</sup> which is punishable by a maximum of one year in jail, to a maximum term of one year of probation. However, for a second degree misdemeanor,<sup>7</sup> which is punishable by a maximum of 60 days in jail, [s. 948.15\(1\), F.S.](#), authorizes a court to sentence a defendant to a maximum term of six months of probation.<sup>8</sup> In addition, for any misdemeanor offense in which the use of alcohol is a significant factor, a court may sentence a defendant to a term of probation of up to one year.<sup>9</sup> In sum, under current law, the only crimes for which a court is limited to a maximum term of six months of probation are offenses that are second degree misdemeanors in which alcohol is not a significant factor.

#### **Sentencing for Reckless Driving Offenses**

A person commits the offense of reckless driving if he or she drives any vehicle in willful or wanton disregard for the safety of persons or property.<sup>10</sup> A first conviction for reckless driving is punishable as a second degree misdemeanor.<sup>11</sup> In addition to the other penalties required for a reckless driving conviction, if the court has reasonable cause to believe that the use of alcohol, chemical substances<sup>12</sup> set forth in [s. 877.111, F.S.](#), or controlled

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<sup>1</sup> [S. 948.01\(2\), F.S.](#)

<sup>2</sup> [S. 948.001\(8\), F.S.](#)

<sup>3</sup> [S. 948.03\(1\), F.S.](#)

<sup>4</sup> [S. 948.03\(2\), F.S.](#)

<sup>5</sup> *State v. Summers*, 642 So. 2d 742 (Fla. 1994). *State v. Holmes*, 360 So. 2d 380 (Fla. 1978).

<sup>6</sup> A first degree misdemeanor is punishable by up to one year in jail and a \$1,000 fine. [Ss. 775.082](#) and [775.083, F.S.](#)

<sup>7</sup> A second degree misdemeanor is punishable by up to 60 days in jail and a \$500 fine. [Ss. 775.082](#) and [775.083, F.S.](#)

<sup>8</sup> [S. 948.15\(1\), F.S.](#)

<sup>9</sup> *Id.*

<sup>10</sup> [S. 316.192\(1\)\(a\), F.S.](#)

<sup>11</sup> [S. 316.192\(2\)\(a\), F.S.](#) [Section 316.192, F.S.](#), does not explicitly make a first conviction for reckless driving a second degree misdemeanor. Under [s. 775.08\(2\), F.S.](#), the term “misdemeanor” means any criminal offense that is punishable by imprisonment in the county jail for less than one year. Further, under [s. 775.081\(2\), F.S.](#), “...a misdemeanor without specification of degree is of the second degree.”

<sup>12</sup> A “chemical substance” means any compound, liquid, or chemical containing toluol, hexane, trichloroethylene, acetone, toluene, ethyl acetate, methyl ethyl ketone, trichloroethane, isopropanol, methyl isobutyl ketone, ethylene glycol monomethyl ether acetate, cyclohexanone, nitrous oxide, diethyl ether, alkyl nitrites (butyl nitrite), or any similar substance that is used for the purpose of inducing a condition of intoxication or which distorts or disturbs the auditory, visual, or mental processes. [S. 877.111\(1\), F.S.](#)

substances<sup>13</sup> under [ch. 893, F.S.](#), contributed to the conviction, the court must place the defendant on probation and require the defendant to complete a DUI substance abuse education course and evaluation and, if necessary, substance abuse treatment.<sup>14</sup>

Generally, since a first conviction for reckless driving is a second degree misdemeanor, the maximum term of probation to which a court may sentence a defendant is six months. However, if the court finds that alcohol is a significant factor, [s. 948.15\(1\), F.S.](#), authorizes the court to sentence a defendant to a term of probation of up to one year.<sup>15</sup> The extended term of probation allows a defendant more time to complete the DUI substance abuse education course and any required substance abuse treatment. In contrast, if a defendant is convicted of reckless driving and the court finds that a controlled substance or chemical substance contributed to committing the offense, the defendant is required to complete the same DUI substance abuse education course and substance abuse treatment but, under current law, the court is limited to sentencing the defendant to a maximum term of six months of probation to complete such treatment.

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<sup>13</sup> A “controlled substance” means any substance named or described in Schedules I–V of [s. 893.03, F.S.](#) [S. 893.02\(4\), F.S.](#) A “controlled substance analog” means a substance which, due to its chemical structure and potential for abuse, is substantially similar to that of a controlled substance listed in Schedule I or Schedule II of [s. 893.03, F.S.](#), and either has or is represented to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than that of a controlled substance listed in Schedule I or Schedule II of [s. 893.03, F.S.](#) [S. 893.0356\(2\)\(a\), F.S.](#)

<sup>14</sup> [S. 316.193\(5\), F.S.](#)

<sup>15</sup> *Smith v. State*, 365 So. 2d 487 (Fla. 6th DCA 2023).