

The Florida Senate  
**COMMITTEE MEETING EXPANDED AGENDA**

**CRIMINAL JUSTICE**  
**Senator Pizzo, Chair**  
**Senator Brandes, Vice Chair**

**MEETING DATE:** Tuesday, January 12, 2021  
**TIME:** 9:00—11:30 a.m.  
**PLACE:** *Mallory Horne Committee Room, 37 Senate Building*

**MEMBERS:** Senator Pizzo, Chair; Senator Brandes, Vice Chair; Senators Baxley, Boyd, Gainer, Perry, Powell, and Taddeo

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A2 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32306

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1	Committee Presentation: An Overview of the Florida Criminal Justice System		Presented
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Other Related Meeting Documents

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# An Overview of the Florida Criminal Justice System

# OFFENSE LEVELS

In Florida a crime is either a:

- ❖ Misdemeanor; or
- ❖ Felony.

# MISDEMEANOR

## Two levels of misdemeanors:

- A second degree misdemeanor is punishable by up to 60 days in jail and a \$500 fine.
- A first degree misdemeanor is punishable by up to 1 year in jail and a \$1,000 fine.

# FELONY

## Felony Levels:

- A third degree felony is punishable by up to 5 years in state prison and a \$5,000 fine.
- A second degree felony is punishable by up to 15 years in state prison and a \$10,000 fine.
- A first degree felony is generally punishable by up to 30 years in state prison and a \$10,000 fine.
- A life felony is generally punishable by a term of imprisonment for life or by “imprisonment for a term of years not exceeding life” and a \$15,000 fine.
- A capital felony is generally punishable by life imprisonment or death.

# CRIMINAL TRIAL COURTS IN FLORIDA

- ❖ **Criminal Circuit Court:** Has jurisdiction over criminal felony and juvenile cases.
- ❖ **Criminal County Court:** Has jurisdiction over misdemeanor and traffic cases.

# JUDICIAL CIRCUITS

There are 20 judicial circuits established by the Legislature.



## COUNTY TRIAL COURTS

- Each of Florida's 67 counties has a county trial court.



# REPRESENTATION

- ❖ **State Attorney:** Prosecutes or defends on behalf of the state all suits, applications, or motions, civil or criminal, in which the state is a party.

# REPRESENTATION

- ❖ **Public Defender:** Represents any person determined to be indigent under s. 27.52, F.S., who is charged with a criminal offense.
  - A defendant must apply and qualify for public defender services.

# REPRESENTATION

- ❖ **Criminal Conflict and Civil Regional Counsel:** Provides legal representation to indigent persons in criminal conflict cases in which the court grants a public defender's motion to withdraw and appoints a conflict counsel.
- ❖ **Private Counsel:** Defendants may choose to hire and pay for a private defense attorney to represent them in their criminal case.

# ARREST

A person who commits a criminal offense is subject to arrest by a law enforcement officer.

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# Probable Cause

- Probable cause is defined in terms of facts and circumstances sufficient to warrant a prudent person to believe that the suspect had committed or was committing an offense.
- The probable cause standard, based in the Fourth Amendment, represents an accommodation between the individual's right to liberty and the State's duty to control crime.
- The Fourth Amendment requires a judicial determination of probable cause as a prerequisite to extended restraint of liberty following an arrest.

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# Arrest

An arrest may occur:

- At the time a misdemeanor or felony criminal offense is committed in the presence of a law enforcement officer which gives the officer probable cause to make the arrest;
- When circumstances call for an arrest on a felony offense at or near the time the offense is committed, and the law enforcement officer has probable cause to make the arrest; or
- At a later time, when a judge finds that probable cause exists to make the arrest and the judge issues an arrest warrant.

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## Notice to Appear

**Notice to Appear:** A written order issued by a law enforcement officer in lieu of a physical arrest which requires a person accused of violating the law to appear in court on a specified date and time.

- A notice to appear may be issued for misdemeanors or violations of municipal/county ordinances.

# AFTER ARREST

- ❖ First Appearance
- ❖ Pretrial Release
  - Bond
  - Release Conditions



## FIRST APPEARANCE

Within 24 hours of a defendant's arrest the defendant is brought before the judge for first appearance.

At this hearing the judge informs the defendant of:

- The charges against the defendant;
- Advises the defendant of his or her right to counsel; and
- Explains the amount of bail/bond.

## PRETRIAL RELEASE

The Florida Constitution provides that individuals charged with a crime are entitled to pretrial release on reasonable conditions.

There are three types of pretrial release for a person who is awaiting trial:

- The posting of a monetary bail or surety bail bond;
- Pretrial release conditions; or
- Release on his or her own recognizance.

## BAIL/BOND

The purpose of bail is to ensure a defendant's appearance at subsequent criminal proceedings and to protect the public against unreasonable danger from a defendant.

The terms "bail" and "bond" include any and all forms of pretrial release.

## BAIL/BOND

Any monetary or cash components of any form of pretrial release may be met by a surety bail bond.

In lieu of posting the entire bail amount, a defendant may provide a surety bail bond executed by a bail bond agent.

- Generally, the bail bond agent is paid a nonrefundable fee equal to 10 percent of the bond amount set by the court.
- The bail bond agent is also committing to ensure that the defendant appears at all criminal proceedings for which the surety bond is posted.

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# Release Conditions

A judge can release a defendant with any combination of the following pretrial release conditions:

- Release on the defendant's own recognizance without posting a bond;
- Execute an unsecured appearance bond in an amount specified by the judge;
- Comply with any court-imposed restrictions on travel, association, or place of abode;
- Be placed in the custody of a designated person or organization agreeing to supervise the defendant;
- Release to a pretrial release program, with or without a bond, for supervision using various methods, such as electronic monitoring or phone contact;
- Posting bail or surety bond in the amount specified by the judge through monetary payment to the court or by obtaining a surety bond from a bail bonds agent; or
- Comply with any other condition deemed reasonably necessary to assure the required appearance.

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# Determining Release

In determining whether to release a defendant on bail/bond, the amount of bail/bond, or other pretrial conditions, the court will consider:

- The nature and circumstances of the offense charged;
- The weight of the evidence against the defendant;
- The defendant's family and community ties, employment history, financial resources, and mental condition;
- The defendant's past and present conduct, including prior offenses, previous flight to avoid prosecution, or failure to appear at court hearings;
- The nature and probability of danger which the defendant's release poses to the community;
- The source of funds used to post bail, particularly whether the source of funds may be linked to the crime alleged or other illicit activity;
- Whether the defendant is already on release pending resolution of another criminal proceeding or on probation, parole, or other release pending completion of a sentence;
- The street value of any drug or controlled substance connected to or involved in the criminal charge;
- The nature and probability of intimidation or danger to victims;
- Whether there is probable cause to believe that the defendant committed a new crime while on pretrial release;
- Whether the offense is related to criminal gang activity;
- Whether the defendant is required to register as a sexual offender or sexual predator; and
- Any other facts the court considers relevant.

# CHARGING A CRIMINAL OFFENSE

- ❖ **Indictment:** A charging document filed by a grand jury which may indict on any crime.
- ❖ **Information:** A sworn document signed by the prosecuting authority which charges a person with violations of the law.

# ARRAIGNMENT

Arraignment is when a defendant is read the indictment or information setting forth the charges that the defendant will be tried upon and calling on the defendant to plead to the charges.

- A defendant may waive this reading of the charges.
- If a defendant is represented by counsel, counsel may file a written plea of not guilty at or before arraignment and thereupon arraignment shall be deemed waived.



# TRIAL

In all criminal prosecutions, the accused has the right to a speedy and public trial by an impartial jury in the county where the crime was committed.

- For FY 2018-2019, of all of the cases in Florida that were closed only 1.4 % were closed by a jury trial.

# PLEA

A defendant may plead guilty, or, with the consent of the court, *nolo contendere*.

- Plea negotiations
- Plea open to the court
- 98.3% of the cases for FY 2018-2019 were disposed of before trial.

# NOLLE PROSEQUI

**Nolle prosequi (nol-pros):** is a Latin phrase that means unwilling to pursue.

- In criminal cases, this is when a state attorney voluntarily ends a criminal case after the filing of formal charges but before a verdict could be rendered at trial.

# SENTENCING

**Sentence:** The pronouncement by the court of the penalty for a criminal case imposed on a defendant.

# ADJUDICATION vs. WITHHOLD OF ADJUDICATION

If a defendant enters a plea or is found guilty at trial, the trial court may enter an adjudication of guilt or withhold adjudication.

- An adjudication of guilt is a conviction.
  - A defendant who is adjudicated guilty may have to report the conviction on employment applications, may not be eligible for sealing or expunction, and may lose certain rights.
- A withhold of adjudication is not a formal conviction.

## JAIL vs. PRISON

**Jail:** Generally, Florida jails are managed by Sheriffs in the counties where they are located.

- Inmates in jail may be awaiting trial, sentencing, or have been sentenced to serve less than a year.

**Prison:** Managed by the Florida Department of Corrections.

- Inmates in prison have been convicted and sentenced to more than a year.

# THE CRIMINAL PUNISHMENT CODE

The Criminal Punishment Code establishes the sentencing criteria for all felonies, except capital felonies, committed on or after October 1, 1998.

## THE CRIMINAL PUNISHMENT CODE: Scoresheet

- A scoresheet is the worksheet used to compute the total sentence points for each case.
- The Criminal Punishment Code requires a scoresheet be filled out for all of the offenses pending before the court for sentencing.
- The Assistant State Attorney prepares the scoresheet and the defense counsel reviews the scoresheet for accuracy.



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# Offense Severity Ranking Chart

The Offense Severity Ranking Chart ranks felony offenses by severity.

- There are 10 offense levels, ranked from least severe (Level 1) to most severe (Level 10).
- The offense level determines the amount of points that each offense is assigned.
  - The higher the ranking the greater number of sentencing points.
- Sentencing points are accrued and added together on the scoresheet.
- Any offense that is not ranked within the chart will receive a “default” ranking which assigns a ranking to the offense based on the felony degree of the offense.

# THE CRIMINAL PUNISHMENT CODE: Scoresheet

## Rule 3.992(a) Criminal Punishment Code Scoresheet

The Criminal Punishment Code Scoresheet Preparation Manual is available at: [http://www.dc.state.fl.us/pub/sen\\_cpcm/index.html](http://www.dc.state.fl.us/pub/sen_cpcm/index.html)

1. DATE OF SENTENCE	2. PREPARER'S NAME	3. COUNTY	4. SENTENCING JUDGE	
5. NAME (LAST, FIRST, MII.)	6. DOB	8. RACE <input type="checkbox"/> B <input type="checkbox"/> W <input type="checkbox"/> OTHER	10. PRIMARY OFF. DATE	12. PLEA <input checked="" type="checkbox"/>
	7. DC #	9. GENDER <input type="checkbox"/> M <input type="checkbox"/> F	11. PRIMARY DOCKET #	TRIAL <input type="checkbox"/>

I. **PRIMARY OFFENSE:** If Qualifier, please check \_\_\_A \_\_\_S \_\_\_C \_\_\_R (A=Attempt, S=Solicitation, C=Conspiracy, R=Reclassification)

FELONY DEGREE	F.S.#	DESCRIPTION	OFFENSE LEVEL	POINTS
<u>2nd</u> /	<u>810.02(3)(b)</u> /	<u>Burglary of an unoccupied dwelling</u> /	<u>7</u> /	
(Level - Points: 1=4, 2=10, 3=16, 4=22, 5=28, 6=36, 7=56, 8=74, 9=92, 10=116)				
Prior capital felony triples Primary Offense points <input type="checkbox"/>				I. <u>56</u>

# THE CRIMINAL PUNISHMENT CODE: Scoresheet

II. **ADDITIONAL OFFENSE(S):** Supplemental page attached

DOCKET#	FEL/MM DEGREE	F.S.#	OFFENSE LEVEL	QUALIFY A S C R	COUNTS	POINTS	TOTAL
Petit Theft	1st	812.014(1)(e)	M	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	1	.2	.2
DESCRIPTION _____							
_____	_____	_____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____	_____
DESCRIPTION _____							
_____	_____	_____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____	_____
DESCRIPTION _____							
_____	_____	_____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____	_____
DESCRIPTION _____							

(Level - Points: M=0.2, 1=0.7, 2=1.2, 3=2.4, 4=3.6, 5=5.4, 6=18, 7=28, 8=37, 9=46, 10=58)

Prior capital felony triples Additional Offense points

Supplemental page points II. .2

III. **VICTIM INJURY:**

	Number	Total		Number	Total
2nd Degree Murder	240 x	_____ = _____	Slight	4 x	_____ = _____
Death	120 x	_____ = _____	Sex Penetration	80 x	_____ = _____
Severe	40 x	_____ = _____	Sex Contact	40 x	_____ = _____
Moderate	18 x	_____ = _____			

III. \_\_\_\_\_

# THE CRIMINAL PUNISHMENT CODE: Scoresheet

IV. **PRIOR RECORD:** Supplemental page attached

FEL/MM DEGREE	F.S.#	OFFENSE LEVEL	QUALIFY: A S C R	DESCRIPTION	NUMBER	POINTS	TOTAL
3rd	812.014(2)(c)1,	2	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Grand Theft	1	X .8	= .8
2nd	893.13(1)(a)1.	5	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Sale of Cocaine	2	X 3.6	= 7.2
	/		<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			X	=
	/		<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			X	=
	/		<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			X	=
	/		<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			X	=
	/		<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			X	=
	/		<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			X	=
	/		<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>			X	=

(Level = Points: M=0.2, 1=0.5, 2=0.8, 3=1.6, 4=2.4, 5=3.6, 6=9, 7=14, 8=19, 9=23, 10=29)

Supplemental page points \_\_\_\_\_

**IV.** 8

**Page 1 Subtotal:** 64.2

Effective Date: For offenses committed under the Criminal Punishment Code effective for offenses committee on or after October 1, 1998 and subsequent revisions.

# THE CRIMINAL PUNISHMENT CODE: Scoresheet

NAME (LAST, FIRST, MI)	DOCKET #
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Page 1 Subtotal: 64.2

V. Legal Status violation = 4 Points

- Escape  
  Fleeing  
  Failure to appear  
  Supersedeas bond  
 Incarceration  
  Pretrial intervention or diversion program  
 Court imposed or post prison release community supervision resulting in a conviction

V. \_\_\_\_\_

VI. Community Sanction violation before the court for sentencing

- Probation  
  Community Control  
  Pretrial Intervention or diversion

VI. \_\_\_\_\_

- 6 points for any violation other than new felony conviction x \_\_\_\_\_ each successive violation OR  
 New felony conviction = 12 points x \_\_\_\_\_ each successive violation if new offense results in conviction before or at same time as sentence for violation of probation OR  
 12 points x \_\_\_\_\_ each successive violation for a violent felony offender of special concern when the violation is not based solely on failure to pay costs, fines, or restitution OR  
 New felony conviction = 24 points x \_\_\_\_\_ each successive violation for a violent felony offender of special concern if new offense results in a conviction before or at the same time for violation of probation

VII. Firearm/Semi-Automatic or Machine Gun = 18 or 25 Points

VII. \_\_\_\_\_

VIII. Prior Serious Felony - 30 Points

VIII. \_\_\_\_\_

Subtotal Sentence Points \_\_\_\_\_

IX. Enhancements (only if the primary offense qualifies for enhancement)

Law Enf. Protect.	Drug Trafficker	Motor Vehicle Theft	Criminal Gang Offense	Domestic Violence in the Presence of Related Child <small>(offenses committed on or after 3/12/07)</small>	Adult-on-Minor Sex Offense <small>(offenses committed on or after 10/1/14)</small>
____ x 1.5    ____ x 2.0    ____ x 2.5	____ x 1.5	____ x 1.5	____ x 1.5	____ x 1.5	____ x 2.0

Enhanced Subtotal Sentence Points      IX. \_\_\_\_\_

**TOTAL SENTENCE POINTS**      64.2

# THE CRIMINAL PUNISHMENT CODE: Scoresheet

## SENTENCE COMPUTATION

If total sentence points are less than or equal to 44, the lowest permissible sentence is any non-state prison sanction. If the total sentence points are 22 points or less, see Section 775.082(10), Florida Statutes, to determine if the court must sentence the offender to a non-state prison sanction.

If total sentence points are greater than 44:

$$\frac{64.2}{\text{total sentence points}} \text{ minus } 28 = \frac{36.2}{\text{total sentence points}} \times .75 = \frac{27.15}{\text{lowest permissible prison sentence in months}}$$

If total sentence points are 60 points or less and court makes findings pursuant to both Florida Statute 948.20 and 397.334(3), the court may place the defendant into a treatment-based drug court program.

The maximum sentence is up to the statutory maximum for the primary and any additional offenses as provided in s. 775.082, F.S., unless the lowest permissible sentence under the Code exceeds the statutory maximum. Such sentences may be imposed concurrently or consecutively. If total sentence points are greater than or equal to 363, a life sentence may be imposed.

$$\frac{15}{\text{maximum sentence in years}}$$

### TOTAL SENTENCE IMPOSED

	Years	Months	Days
<input type="checkbox"/> State Prison	_____	_____	_____
<input type="checkbox"/> County Jail	_____	_____	_____
<input type="checkbox"/> Community Control	_____	_____	_____
<input type="checkbox"/> Probation	_____	_____	_____
<input type="checkbox"/> Modified	_____	_____	_____
<input type="checkbox"/> Life	_____	_____	_____
<input type="checkbox"/> Time Served	_____	_____	_____

Please check if sentenced as  habitual offender,  habitual violent offender,  violent career criminal,  prison releasee reoffender, or a  mandatory minimum applies.

Mitigated Departure  Plea Bargain  Prison Diversion Program

Other Reason \_\_\_\_\_

JUDGE'S SIGNATURE

Effective Date: For offenses committed under the Criminal Punishment Code effective for offenses committed on or after October 1, 1998, and subsequent revisions.

## THE CRIMINAL PUNISHMENT CODE: Departures

- A court may “depart downward” from the lowest permissible sentence if there are circumstances or factors that reasonably justify the downward departure. Section 921.0026, F.S., provides a non-exclusive list of mitigating circumstances.
- A downward departure may consist of a reduction in the length of the prison sentence scored or a non-state prison sanction (where the lowest permissible sentence would otherwise be a prison sentence).

# THE CRIMINAL PUNISHMENT CODE: PRISON DIVERSION PROGRAM

Section 921.00241, F.S., provides that for offenses committed on or after July 1, 2009, a court may divert an offender from prison, who would otherwise be sentenced to prison if the court finds:

- The offender's primary offense is a third degree felony without a mandatory minimum term;
- The total sentence points score is not more than 48 points, or is 54 points of which 6 of those points are for a community supervision violation that is not a new law violation; and
- The offender has no prior forcible felony convictions (excluding any third degree felony in ch. 810, F.S.)



# OTHER SENTENCING TOPICS

- ❖ Penalty Enhancements
- ❖ Reclassifications
- ❖ Mandatory Minimums
- ❖ Youthful Offender

## SENTENCING: Penalty Enhancements

An enhancement statute stands separately from the sentencing statute for the underlying crime.

- It may require that the statutory maximum penalty under s. 775.082, F.S., be imposed or it may allow for imposition of a sentence longer than the statutory maximum or mandatory minimum.
- Chapter 775, F.S., contains numerous penalty enhancements for various types of repeat or habitual offenders. Repeat offender sentences, like habitual offender sentences, are not Code sentences; though, they are noted on the Code scoresheet.

## SENTENCING: Penalty Enhancements

An example of enhanced sentencing is prison release reoffender (PRR) sentencing (s. 775.082(9), F.S.).

- A PRR is an offender who commits a specified serious felony within 3 years of release from incarceration.
- A person sentenced as a PRR would receive the maximum penalty under s. 775.082, F.S., for the felony degree of the offense.
  - This would be a mandatory enhanced penalty, which contrasts with typical sentencing in which the judge does not have to sentence an offender to the maximum penalty.

## SENTENCING: Reclassifications

A reclassification statute is a statute that increases the degree of a crime to a higher degree based on certain factual requirements.

- Reclassification statutes operate independently from enhancement statutes.
- An example of a reclassification statute is s. 784.07, F.S., which reclassifies the degree of any misdemeanor or felony assault or battery to the next higher degree if the victim was a law enforcement officer.

## SENTENCING: Mandatory Minimums

A mandatory minimum term of imprisonment limits judicial discretion.

Mandatory minimum sentences cannot be mitigated.

## SENTENCING: Mandatory Minimums

If the lowest permissible sentence is less than the mandatory minimum sentence, the mandatory minimum sentence takes precedence.

If specified by the Legislature, the mandatory minimum term must be served day-for-day, meaning the mandatory portion of an offender's sentence cannot be reduced by gain-time.

- For example, the firearm mandatory minimum terms under the “10-20-Life” statute (s. 775.087, F.S.) are not eligible for statutory gain-time prior to serving the minimum sentence.

## SENTENCING: Youthful Offender

A "youthful offender" is a defendant at least 18 years old or a defendant transferred from the juvenile court for prosecution in the circuit court:

- Who pleaded guilty or nolo contendere, or was found guilty, of a felony, excluding a capital or life felony;
- Was committed before the defendant turned 21 year old; and
- Has not previously been sentenced as a youthful offender.

There are various sentencing options, including probation/community control with or without incarceration (e.g., split sentence), or incarceration alone (up to 6 years).

- The Code and mandatory minimum sentencing are not applicable to a defendant sentenced as a youthful offender.

# GAIN-TIME

Gain-time offers an opportunity for an incarcerated person to reduce the length of his or her sentence imposed by the court.

- ❖ The Department of Corrections is authorized to grant deductions from sentences in the form of gain-time in order to:
  - Encourage satisfactory prisoner behavior;
  - To provide incentive for prisoners to participate in productive activities; and
  - To reward prisoners who perform outstanding deeds or services.



## GAIN-TIME: Types of Gain-time

### Types of Gain-time:

- **Incentive Gain-time:** Up to 10 days per month may be awarded to eligible inmates who have worked diligently, participated in training, used time constructively, or otherwise engaged in positive activities.
- **Meritorious Gain-time:** Up to 60 days may be awarded to an inmate who performs an outstanding deed, such as saving a life or helping to recapture an escaped inmate, or who in some manner performs an outstanding service that would merit the granting of additional deductions from his or her sentence length.
- **Educational Achievement Gain-time:** A one-time award of up to 60 days may be awarded to an inmate who successfully completes and is awarded a high school equivalency diploma or a technical certificate.

## 85% REQUIREMENT

Inmates are required to serve 85% of each sentence imposed for a crime committed on or after October 1, 1995.

# SENTENCING ALTERNATIVES

- ❖ Probation
- ❖ Community Control
- ❖ Restitution

## SENTENCING ALTERNATIVES: Probation

Probation is a form of community supervision requiring specified contacts with probation officers and other conditions a court may impose.

- Florida law enumerates standard conditions of probation with which offenders must comply, but are not required to be announced on the record.
- Special conditions of probation imposed by the court must be announced orally and be provided in writing.

## SENTENCING ALTERNATIVES: Community Control

Community control is a form of intensive, supervised custody in the community, including surveillance on weekends and holidays, administered by officers with restricted caseloads.

- Community control is rigidly structured and designed to accommodate offenders who, in the absence of such a program, would be committed to Department of Corrections' custody or a county jail.
- The programs are individualized and the freedom of the offender is restricted within the community, home, or non-institutional residential placement unless working, attending school, performing public service hours, participating in treatment or another special activity that has been approved in advance by his or her probation (or parole) officer.

## SENTENCING ALTERNATIVES: Restitution

Section 775.089, F.S., states that the court must order a defendant to make restitution to the victim for:

- Damage or loss caused directly or indirectly by the defendant's offense; and
- Damage or loss related to the defendant's criminal episode,
- Unless it finds clear and compelling reasons not to order restitution.

Any order of restitution for a defendant who is placed on probation (or parole) must be a condition of his or her probation (or parole).

# JUVENILES

- ❖ Florida treats juveniles that are alleged to have committed a crime differently than adults.
- ❖ “Juvenile” is defined as a person under the age of 18.
- ❖ Department of Juvenile Justice (DJJ)

# JUVENILE JUSTICE SYSTEM: Juvenile Justice Process

How does a juvenile get referred to the DJJ?

- Law enforcement charges a juvenile with a criminal violation.

Then, depending on the seriousness of the offense and the law enforcement officer, the next step may be:

- Release the juvenile to a parent or guardian with a direct referral to a diversion program.
- Release the juvenile to a parent or guardian and forward charges to the court.
- A juvenile is “taken into custody” and taken to a Juvenile Assessment Center for intake and further screening to assess the juvenile’s risk to the community and if some type of detention is needed.



## JUVENILE JUSTICE SYSTEM: Juvenile Justice Process

If a state attorney files a petition in juvenile court, the state attorney reviews the case and the recommendation of the DJJ and has three options:

1. A diversion program;
2. Adjudication hearing; or
3. Transfer to adult court.

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## **Diversion**

A diversion program is a form of non-judicial handling of a juvenile's case.

- If a juvenile successfully completes the program, no further court action will be pursued. However, if a juvenile does not complete the diversion program, the state attorney may file a petition with the juvenile court, formally charging the juvenile with the delinquent offense.

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## Adjudication Hearing

An adjudication hearing is essentially a trial in juvenile court where the judge is the jury and determines the outcome of the case and any sanctions.

If a judge determines a juvenile has committed a delinquent act, the judge can either:

- Withhold adjudication – which is withholding the formal pronouncement of adjudication; or
- Adjudicated delinquent – which is the formal pronouncement of delinquency (this is not a conviction).

Then the judge determines the sanctions which can range from diversion, probation, or residential commitment.

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## Residential Commitment

A residential facility for juveniles is a place where the juvenile will live and receive treatment after the judge determined that the juvenile committed a delinquent act.

Four levels of residential commitment:

- Minimum-risk Non-residential;
- Nonsecure Residential Commitment;
- High-risk Residential; and
- Maximum-Risk Residential.

The court retains jurisdiction over a juvenile committed to the DJJ until the juvenile reaches 21 years of age specifically for the purpose of allowing the juvenile to complete the commitment program, including conditional release supervision.

# WHO HAS THE POWER TO....

- ❖ Determine Bond/Bail?
- ❖ Make plea offers?
- ❖ Decide whether to plea or go to trial?
- ❖ Determine the sentence of a defendant?
- ❖ Determine if a juvenile's case is sent to adult court?



Thank you

Questions?

**Rule 3.992(a) Criminal Punishment Code Scoresheet**

The Criminal Punishment Code Scoresheet Preparation Manual is available at: [http://www.dc.state.fl.us/pub/sen\\_cpcm/index.html](http://www.dc.state.fl.us/pub/sen_cpcm/index.html)

1. DATE OF SENTENCE	2. PREPARER'S NAME	3. COUNTY	4. SENTENCING JUDGE	
5. NAME (LAST, FIRST, MI.L.)		6. DOB	8. RACE <input type="checkbox"/> B <input type="checkbox"/> W <input type="checkbox"/> OTHER	10. PRIMARY OFF. DATE
		7. DC #	9. GENDER <input type="checkbox"/> M <input type="checkbox"/> F	11. PRIMARY DOCKET #
				12. PLEA <input checked="" type="checkbox"/> TRIAL <input type="checkbox"/>

I. **PRIMARY OFFENSE:** If Qualifier, please check \_\_\_A \_\_\_S \_\_\_C \_\_\_R (A=Attempt, S=Solicitation, C=Conspiracy, R=Reclassification)

FELONY DEGREE	F.S.#	DESCRIPTION	OFFENSE LEVEL	POINTS
2nd	810.02(3)(b)	Burglary of an unoccupied dwelling	7	

(Level - Points: 1=4, 2=10, 3=16, 4=22, 5=28, 6=36, 7=56, 8=74, 9=92, 10=116)

Prior capital felony triples Primary Offense points  I. 56

II. **ADDITIONAL OFFENSE(S):** Supplemental page attached

DOCKET#	FEL/MM DEGREE	F.S.#	OFFENSE LEVEL	QUALIFY A S C R	COUNTS	POINTS	TOTAL
Petit Theft	1st	812.014(1)(e)	M	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	1 x	.2	.2

DESCRIPTION				<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	x		=	
DESCRIPTION				<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	x		=	
DESCRIPTION				<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	x		=	

(Level - Points: M=0.2, 1=0.7, 2=1.2, 3=2.4, 4=3.6, 5=5.4, 6=18, 7=28, 8=37, 9=46, 10=58)

Prior capital felony triples Additional Offense points  II. .2

III. **VICTIM INJURY:**

	Number	Total		Number	Total
2nd Degree Murder	240 x	=	Slight	4 x	=
Death	120 x	=	Sex Penetration	80 x	=
Severe	40 x	=	Sex Contact	40 x	=
Moderate	18 x	=			

III.         

IV. **PRIOR RECORD:** Supplemental page attached

FEL/MM DEGREE	F.S.#	OFFENSE LEVEL	QUALIFY: A S C R	DESCRIPTION	NUMBER	POINTS	TOTAL
3rd	812.014(2)(c)1	2	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Grand Theft	1	.8	.8
2nd	893.13(1)(a)1	5	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	Sale of Cocaine	2	3.6	7.2
			<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>				
			<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>				
			<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>				
			<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>				
			<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>				
			<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>				

(Level = Points: M=0.2, 1=0.5, 2=0.8, 3=1.6, 4=2.4, 5=3.6, 6=9, 7=14, 8=19, 9=23, 10=29)

Supplemental page points         

IV. 8

**Page 1 Subtotal:** 64.2

V. Legal Status violation = 4 Points

- Escape  Fleeing  Failure to appear  Supersedeas bond  Incarceration  Pretrial intervention or diversion program  
 Court imposed or post prison release community supervision resulting in a conviction

V. \_\_\_\_\_

VI. Community Sanction violation before the court for sentencing

- Probation  Community Control  Pretrial Intervention or diversion
- 6 points for any violation other than new felony conviction x \_\_\_\_\_ each successive violation OR
- New felony conviction = 12 points x \_\_\_\_\_ each successive violation if new offense results in conviction before or at same time as sentence for violation of probation OR
- 12 points x \_\_\_\_\_ each successive violation for a violent felony offender of special concern when the violation is not based solely on failure to pay costs, fines, or restitution OR
- New felony conviction = 24 points x \_\_\_\_\_ each successive violation for a violent felony offender of special concern if new offense results in a conviction before or at the same time for violation of probation

VI. \_\_\_\_\_

VII. Firearm/Semi-Automatic or Machine Gun = 18 or 25 Points

VII. \_\_\_\_\_

VIII. Prior Serious Felony - 30 Points

VIII. \_\_\_\_\_

Subtotal Sentence Points \_\_\_\_\_

IX. Enhancements (only if the primary offense qualifies for enhancement)

Law Enf. Protect.	Drug Trafficker	Motor Vehicle Theft	Criminal Gang Offense	Domestic Violence in the Presence of Related Child <small>(offenses committed on or after 3/12/07)</small>	Adult-on-Minor Sex Offense <small>(offenses committed on or after 10/1/14)</small>
____ x 1.5	____ x 2.0	____ x 2.5	____ x 1.5	____ x 1.5	____ x 2.0

Enhanced Subtotal Sentence Points **IX.** \_\_\_\_\_

**TOTAL SENTENCE POINTS** 64.2

**SENTENCE COMPUTATION**

If total sentence points are less than or equal to 44, the lowest permissible sentence is any non-state prison sanction. If the total sentence points are 22 points or less, see Section 775.082(10), Florida Statutes, to determine if the court must sentence the offender to a non-state prison sanction.

If total sentence points are greater than 44:

$$\frac{64.2}{\text{total sentence points}} \text{ minus } 28 = \frac{36.2}{\text{lowest permissible prison sentence in months}} \times .75 = 27.15$$

If total sentence points are 60 points or less and court makes findings pursuant to both Florida Statute 948.20 and 397.334(3), the court may place the defendant into a treatment-based drug court program.

The maximum sentence is up to the statutory maximum for the primary and any additional offenses as provided in s. 775.082, F.S., unless the lowest permissible sentence under the Code exceeds the statutory maximum. Such sentences may be imposed concurrently or consecutively. If total sentence points are greater than or equal to 363, a life sentence may be imposed.

$$\frac{15}{\text{maximum sentence In years}}$$

**TOTAL SENTENCE IMPOSED**

	Years	Months	Days
<input type="checkbox"/> State Prison	_____	_____	_____
<input type="checkbox"/> County Jail	_____	_____	_____
<input type="checkbox"/> Community Control	_____	_____	_____
<input type="checkbox"/> Probation <input type="checkbox"/> Modified	_____	_____	_____

Please check if sentenced as  habitual offender,  habitual violent offender,  violent career criminal,  prison releasee reoffender, or a  mandatory minimum applies.

Mitigated Departure  Plea Bargain  Prison Diversion Program

Other Reason \_\_\_\_\_

<b>JUDGE'S SIGNATURE</b>	
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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

JAN 12<sup>th</sup> 2021  
Meeting Date

Bill Number (if applicable)

Topic Breathalyzer in Every Motor Vehicle

Amendment Barcode (if applicable)

Name DAVID GORDON

Job Title Concerned Citizen Stateman

Address 104 Wintergreen Dr

Phone 352 805 6597

Street Fruitland Park

Email golferdave1955@gmail.com

City FL State FL Zip 34731

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Citizens of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/12/2021  
Meeting Date

482/69  
Bill Number (if applicable)

Topic Prison Reform

Amendment Barcode (if applicable)

Name Anta Wilson

Job Title \_\_\_\_\_

Address 1411 Melvin St  
Street

Phone 850321-7607

Tallahassee  
City State Zip

Email MEKEK1957@gmail

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Care

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/12/21  
Meeting Date

Bill Number (if applicable)

Topic CS

Amendment Barcode (if applicable)

Name AYNES FURLEY

Job Title RETIRED

Address 2919 WOODRICH DR

Phone <sup>850</sup> 321-7756

Street TALLAHASSEE State FL Zip 32301

Email aynes.furley@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/10  
Meeting Date

\_\_\_\_\_  
Bill Number (if applicable)

Topic Second Look

\_\_\_\_\_  
Amendment Barcode (if applicable)

Name Karen L Roberts

Job Title Advocate

Address 9315 E University Ave  
Street

Phone 727 346-4080

Orange City, FL 3270  
City State Zip

Email ucf87cpe@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida CARES

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-12-21

Meeting Date

232

Bill Number (if applicable)

Topic Criminal Justice Reform

Amendment Barcode (if applicable)

Name Angela Boucher

Job Title customer service rep.

Address 2435 W. JONAS DR  
Street

Phone 860-294-1718

CITRUS SPRINGS FLA 34434  
City State Zip

Email angelaboucherr1@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing myself

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/12/2021  
Meeting Date

\_\_\_\_\_  
Bill Number (if applicable)

Topic Criminal Justice Reform

\_\_\_\_\_  
Amendment Barcode (if applicable)

Name Anne Williams

Job Title Registered Nurse, mother of incarcerated son

Address 4835 Andrade

Phone 850-712-0108

Pensacola Fl. 32504  
City State Zip

Email AnneWilliamsRN@yahoo.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Smart Justice  
myself

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-12-2021  
Meeting Date

\_\_\_\_\_  
Bill Number (if applicable)

Topic Criminal Justice Reform

\_\_\_\_\_  
Amendment Barcode (if applicable)

Name Candyn Jones

Job Title disabled

Address 6002 Forest Lake Dr  
Street

Phone 517.554.9669

Zephyrhills, FL 33540  
City State Zip

Email Candyn-Renee1@yahoo.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/12/21  
Meeting Date

\_\_\_\_\_  
Bill Number (if applicable)

Topic Prison Reform

\_\_\_\_\_  
Amendment Barcode (if applicable)

Name Philipson, Laurette

Job Title 6

Address 7240 Westwind Drive  
Street

Phone 727-484-0237

Port Richey FL 34668  
City State Zip

Email dizney@gmail.com

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing my self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**



# CourtSmart Tag Report

Room: SB 37

Case No.:

Type:

Caption: Committee on Criminal Justice

Started: 1/12/2021 9:02:31 AM

Ends: 1/12/2021 10:39:33 AM

Length: 01:37:03

9:02:30 AM Meeting called to order by Chair Pizzo  
9:02:32 AM Roll call by Administrative Assistant Sue Arnold  
9:02:42 AM Quorum present  
9:02:46 AM Comments from Chair Pizzo  
9:03:15 AM Overview of the Florida Criminal Justice System by Staff Director Lauren Jones  
9:11:26 AM Question from Senator Brandes  
9:11:31 AM Response from Mrs. Jones  
9:11:40 AM Comments from Chair Pizzo  
9:12:14 AM Continued presentation by Mrs. Jones  
9:15:13 AM Question from Chair Pizzo  
9:15:20 AM Response from Mrs. Jones  
9:15:32 AM Follow-up question from Chair Pizzo  
9:15:43 AM Response from Mrs. Jones  
9:16:38 AM Continued presentation by Mrs. Jones  
9:20:52 AM Comments from Chair Pizzo  
9:22:03 AM Question from Senator Boyd  
9:22:14 AM Response from Mrs. Jones  
9:22:31 AM Comment from Senator Brandes  
9:22:40 AM Response from Mrs. Jones  
9:22:44 AM Comments from Chair Pizzo  
9:23:50 AM Continued presentation by Mrs. Jones  
9:25:50 AM Comments from Chair Pizzo  
9:27:00 AM Continued presentation by Mrs. Jones  
9:27:48 AM Question from Senator Brandes  
9:27:53 AM Response from Mrs. Jones  
9:28:00 AM Comments from Chair Pizzo  
9:28:15 AM Response from Senator Brandes  
9:28:25 AM Comments from Chair Pizzo  
9:28:57 AM Question from Senator Brandes  
9:29:03 AM Response from Mrs. Jones  
9:29:27 AM Question from Chair Pizzo  
9:29:32 AM Response from Mrs. Jones  
9:29:37 AM Comments from Chair Pizzo  
9:30:32 AM Question from Senator Perry  
9:30:38 AM Response from Mrs. Jones  
9:31:25 AM Continued presentation by Mrs. Jones  
9:33:59 AM Question from Senator Brandes  
9:34:04 AM Response from Mrs. Jones  
9:34:14 AM Question from Senator Baxley  
9:34:22 AM Response from Mrs. Jones  
9:35:11 AM Continued presentation by Mrs. Jones  
9:36:06 AM Comments from Chair Pizzo  
9:36:43 AM Comments from Senator Brandes  
9:36:51 AM Comments from Chair Pizzo  
9:36:59 AM Question from Senator Perry  
9:37:08 AM Response from Mrs. Jones  
9:37:30 AM Comments from Chair Pizzo  
9:37:36 AM Continued presentation by Mrs. Jones  
9:39:51 AM Question from Senator Boyd  
9:40:01 AM Response from Mrs. Jones  
9:40:17 AM Comments from Chair Pizzo  
9:41:21 AM Comments from Mrs. Jones

9:41:58 AM Question from Senator Perry  
9:42:05 AM Response from Mrs. Jones  
9:42:57 AM Comments from Senator Perry  
9:43:25 AM Question from Senator Brandes  
9:43:31 AM Response from Mrs. Jones  
9:44:27 AM Continued presentation by Mrs. Jones  
9:45:50 AM Comments from Chair Pizzo  
9:46:50 AM Question from Senator Perry  
9:46:57 AM Response from Chair Pizzo  
9:47:10 AM Additional question from Senator Perry  
9:47:24 AM Response from Chair Pizzo  
9:48:15 AM Continued presentation by Mrs. Jones  
9:50:39 AM Comments from Chair Pizzo  
9:50:52 AM Comments from Mrs. Jones  
9:51:05 AM Continued presentation by Mrs. Jones  
9:54:46 AM Comments from Chair Pizzo  
9:56:48 AM Comments from Mrs. Jones  
9:57:15 AM Comments from Senator Brandes  
10:00:15 AM Comments from Chair Pizzo  
10:02:31 AM Comments from Mrs. Jones  
10:02:54 AM Comments from Chair Pizzo  
10:03:28 AM Speaker David Serdan, Citizens of Florida (will return)  
10:06:36 AM Recess  
10:07:39 AM Recording Paused  
10:10:27 AM Recording Resumed  
10:10:31 AM Speaker Anita Wilson, Florida Care  
10:12:18 AM Speaker Agnes Furey  
10:12:58 AM Response from Chair Pizzo  
10:13:48 AM Speaker Karen Roberts, Florida Cares  
10:17:41 AM Speaker Angela Boucher  
10:21:48 AM Speaker Anne Williams  
10:26:33 AM Speaker Carolyn Jones  
10:29:32 AM Speaker Laurette Philipson  
10:32:08 AM Comments from Chair Pizzo  
10:33:28 AM Ms. Philipson continues to speak  
10:35:38 AM Speaker David Serdan, Citizens of Florida  
10:37:10 AM Comments from Chair Pizzo  
10:37:28 AM Mr. Serdan continues to speak  
10:39:11 AM Comments from Chair Pizzo  
10:39:15 AM Senator Perry moves to adjourn, meeting adjourned