

By the Committee on Crime & Punishment and Representatives
Argenziano, Burroughs, Ball, Feeney, Culp, Byrd and Putnam

1 A bill to be entitled
2 An act relating to sentencing; amending s.
3 921.0016, F.S.; providing that addiction,
4 alcoholism, or substance abuse, or diminished
5 capacity due to the influence of alcohol or
6 controlled substances, shall not be the basis
7 for mitigating a recommended guidelines
8 sentence; reenacting s. 921.001(6), F.S.,
9 relating to Sentencing Commission and
10 sentencing guidelines, generally, to
11 incorporate a reference to said amendment;
12 providing an effective date.

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14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Paragraphs (c) and (d) of subsection (4) of
17 section 921.0016, Florida Statutes, 1996 Supplement, are
18 amended to read:

19 921.0016 Recommended sentences; departure sentences;
20 aggravating and mitigating circumstances.--

21 (4) Mitigating circumstances under which a departure
22 from the sentencing guidelines is reasonably justified
23 include, but are not limited to:

24 (c) The capacity of the defendant to appreciate the
25 criminal nature of the conduct or to conform that conduct to
26 the requirements of law was substantially impaired. However, a
27 person's capacity, if diminished by the influence of alcohol
28 or controlled substances at the time of the offense, may not
29 in any manner be considered a reason to impose a sentence
30 below the guidelines, or for any other manner of mitigation.

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1 (d) The defendant requires specialized treatment for a
2 ~~or addiction,~~ mental disorder, or physical disability, and the
3 defendant is amenable to treatment. However, addiction,
4 alcoholism, or substance abuse may not in any manner be
5 considered a reason to impose a sentence below the guidelines,
6 or for any other manner of mitigation.

7 Section 2. For the purpose of incorporating the
8 amendment to s. 921.0016, Florida Statutes, 1996 Supplement,
9 in a reference thereto, subsection (6) of section 921.001,
10 Florida Statutes, is reenacted to read:

11 921.001 Sentencing Commission and sentencing
12 guidelines generally.--

13 (6) A court may impose a departure sentence outside
14 the sentencing guidelines based upon circumstances or factors
15 which reasonably justify the aggravation or mitigation of the
16 sentence in accordance with s. 921.0016. The level of proof
17 necessary to establish facts supporting a departure from a
18 sentence under the guidelines is a preponderance of the
19 evidence. When multiple reasons exist to support a departure
20 from a guidelines sentence, the departure shall be upheld when
21 at least one circumstance or factor justifies the departure
22 regardless of the presence of other circumstances or factors
23 found not to justify departure. Any sentence imposed outside
24 the range recommended by the guidelines must be explained in
25 writing by the trial court judge.

26 Section 3. This act shall take effect July 1, 1997.

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