

By Senator Bracy

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1                   A bill to be entitled  
2       An act relating to criminal sentencing; amending s.  
3       775.082, F.S.; increasing the number of sentence  
4       points below which the court is required to impose a  
5       nonstate prison sanction under certain circumstances;  
6       amending s. 921.002, F.S.; providing that a sentencing  
7       judge's decision regarding sentencing is guided by the  
8       computed recommended sentencing range, from the lowest  
9       permissible sentence to the highest recommended prison  
10      sentence; requiring a trial court judge to explain  
11      departures above the highest recommended prison  
12      sentence established by the Criminal Punishment Code  
13      and to specify his or her reasons for imposing the  
14      higher sentence; deleting a limitation on sentence  
15      appeals to cases in which the sentence imposed is  
16      lower than the lowest permissible sentence or sentence  
17      appeals under other specified circumstances; amending  
18      s. 921.0024, F.S.; increasing the minimum number of  
19      sentence points for a state prison sanction; revising  
20      the calculation of the lowest permissible sentence;  
21      requiring a calculation of the highest recommended  
22      prison sentence; providing a recommended range for  
23      sentencing; providing an effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27       Section 1. Subsection (10) of section 775.082, Florida  
28       Statutes, is amended to read:

29       775.082 Penalties; applicability of sentencing structures;

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30 mandatory minimum sentences for certain reoffenders previously  
31 released from prison.—

32 (10) If a defendant is sentenced for an offense committed  
33 on or after July 1, 2009, which is a third degree felony but not  
34 a forcible felony as defined in s. 776.08, and excluding any  
35 third degree felony violation under chapter 810, and if the  
36 total sentence points pursuant to s. 921.0024 are 44 ~~22~~ points  
37 or fewer, the court must sentence the offender to a nonstate  
38 prison sanction. However, if the court makes written findings  
39 that a nonstate prison sanction could present a danger to the  
40 public, the court may sentence the offender to a state  
41 correctional facility pursuant to this section.

42 Section 2. Present paragraph (i) of subsection (1) of  
43 section 921.002, Florida Statutes, is redesignated as paragraph  
44 (j), a new paragraph (h) is added to that subsection, and  
45 present paragraphs (f), (g), and (h) of that subsection are  
46 amended, to read:

47 921.002 The Criminal Punishment Code.—The Criminal  
48 Punishment Code shall apply to all felony offenses, except  
49 capital felonies, committed on or after October 1, 1998.

50 (1) The provision of criminal penalties and of limitations  
51 upon the application of such penalties is a matter of  
52 predominantly substantive law and, as such, is a matter properly  
53 addressed by the Legislature. The Legislature, in the exercise  
54 of its authority and responsibility to establish sentencing  
55 criteria, to provide for the imposition of criminal penalties,  
56 and to make the best use of state prisons so that violent  
57 criminal offenders are appropriately incarcerated, has  
58 determined that it is in the best interest of the state to

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59 develop, implement, and revise a sentencing policy. The Criminal  
60 Punishment Code embodies the principles that:

61 (f) The sentence imposed by the sentencing judge is guided  
62 by the computed recommended sentencing range, which is from the  
63 lowest permissible sentence to the highest recommended prison  
64 sentence, under the code.

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

72 (h) Departures above the highest recommended prison  
73 sentence established by the code must be explained by the trial  
74 court judge on the record at the time of the sentencing. The  
75 trial court judge's explanation must specify his or her reasons  
76 for imposing the higher sentence.

77 (i)~~(g)~~ The trial court judge may impose a sentence up to  
78 and including the statutory maximum for any offense, including  
79 an offense that is before the court due to a violation of  
80 probation or community control.

81 ~~(h) A sentence may be appealed on the basis that it departs~~  
82 ~~from the Criminal Punishment Code only if the sentence is below~~  
83 ~~the lowest permissible sentence or as enumerated in s.~~  
84 ~~924.06(1).~~

85 Section 3. Subsection (2) of section 921.0024, Florida  
86 Statutes, is amended to read:

87 921.0024 Criminal Punishment Code; worksheet computations;

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88 scoresheets.-

89 (2) The lowest permissible sentence is the minimum sentence  
90 that may be imposed by the trial court, absent a valid reason  
91 for departure. The lowest permissible sentence is any nonstate  
92 prison sanction in which the total sentence points equal or are  
93 ~~equals or is~~ less than 52 ~~44~~ points, unless the court determines  
94 within its discretion that a prison sentence, ~~which may be up to~~  
95 ~~the statutory maximums for the offenses committed,~~ is  
96 appropriate. When the total sentence points exceed 52 ~~exceeds 44~~  
97 points, the lowest permissible sentence in prison months is  
98 ~~shall be~~ calculated by subtracting 36 ~~28~~ points from the total  
99 sentence points and decreasing the remaining total by 25  
100 percent. When the total sentence points exceed 52 points, the  
101 highest recommended prison sentence in prison months is  
102 calculated by subtracting 36 points from the total sentence  
103 points and increasing the remaining total by 25 percent. The  
104 total sentence points are ~~shall be~~ calculated ~~only~~ as a means of  
105 determining the recommended sentencing range, which is from the  
106 lowest permissible sentence to the highest recommended prison  
107 sentence. The permissible range for sentencing is ~~shall be~~ the  
108 lowest permissible sentence up to and including the statutory  
109 maximum, as defined in s. 775.082, for the primary offense and  
110 any additional offenses before the court for sentencing. The  
111 sentencing court may impose such sentences concurrently or  
112 consecutively. However, any sentence to state prison must exceed  
113 1 year. If the lowest permissible sentence under the code  
114 exceeds the statutory maximum sentence as provided in s.  
115 775.082, the sentence required by the code must be imposed. If  
116 the total sentence points are greater than or equal to 363, the

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117 court may sentence the offender to life imprisonment. An  
118 offender sentenced to life imprisonment under this section is  
119 not eligible for any form of discretionary early release, except  
120 executive clemency or conditional medical release under s.  
121 947.149.

122 Section 4. This act shall take effect July 1, 2020.