

1 A bill to be entitled

2 An act relating to revising penalties for nonviolent
3 offenses; amending s. 893.13, F.S.; conforming a
4 provision to changes made by the act; creating s.
5 893.131, F.S.; providing for civil citations for
6 possession of small amounts of cannabis and cannabis
7 paraphernalia offenses in certain circumstances;
8 providing for civil fines; providing for community
9 service in lieu of civil fines; limiting the number of
10 civil citations that a person may receive; providing
11 that a person who contests the violation waives a
12 specified civil penalty and may receive a larger
13 penalty upon a finding of a violation; providing for
14 entry of default judgment in cases of noncompliance;
15 amending s. 893.147, F.S.; conforming a provision to
16 changes made by the act; amending s. 921.002, F.S.;
17 revising a principle of the Criminal Punishment Code
18 relating to a prisoner's required minimum term of
19 imprisonment; amending s. 944.275, F.S.; revising the
20 incentive gain-time that the Department of Corrections
21 may grant a prisoner; providing exceptions; providing
22 an effective date.

23
24 Be It Enacted by the Legislature of the State of Florida:
25

26 Section 1. Paragraph (b) of subsection (6) of section
 27 893.13, Florida Statutes, is amended to read:

28 893.13 Prohibited acts; penalties.—

29 (6)

30 (b) If the offense is the possession of 20 grams or less
 31 of cannabis, as defined in this chapter, the person commits a
 32 misdemeanor of the first degree, punishable as provided in s.
 33 775.082 or s. 775.083, or the person may be issued a civil
 34 citation under s. 893.131. As used in this subsection, the term
 35 "cannabis" does not include the resin extracted from the plants
 36 of the genus Cannabis, or any compound manufacture, salt,
 37 derivative, mixture, or preparation of such resin.

38 Section 2. Section 893.131, Florida Statutes, is created
 39 to read:

40 893.131 Cannabis offenses; civil citations.—

41 (1) The following misdemeanor violations are declared
 42 civil infractions, and a person committing such a violation may
 43 be issued a civil citation, at the discretion of a law
 44 enforcement officer, provided that such violation is not charged
 45 in conjunction with any criminal charge:

46 (a) Possession, by a person 18 years of age or older, of
 47 cannabis in an amount of 20 grams or less, as provided in s.
 48 893.13(6)(b).

49 (b) Possession, by a person 18 years of age or older, of
 50 drug paraphernalia, as defined in s. 893.145, used in connection

51 with the consumption of cannabis.

52 (2) (a) A person who is issued a civil citation pursuant to
53 this section shall be subject to a civil fine of \$100 plus court
54 costs.

55 (b) In lieu of paying the civil fine under paragraph (a),
56 a person who is issued a civil citation pursuant to this section
57 may elect to participate in 10 hours of community service at a
58 community service agency. The community service agency
59 supervising the person shall record the number of hours of
60 community service completed and the date on which the community
61 service hours were completed. The community service agency shall
62 submit the data to the clerk of the court on the letterhead of
63 the community service agency, which must also bear the notarized
64 signature of the person designated to represent the community
65 service agency.

66 (c) A person may not receive more than two civil citations
67 pursuant to this section.

68 (d) The county court shall have jurisdiction over all
69 violations of this section.

70 (e) The clerk of the court shall accept designated fines
71 and issue receipts therefor, and accept proof of satisfactory
72 completion of community service.

73 (f) A person issued a civil citation pursuant to
74 subsection (1) shall comply with all directives on such
75 citation.

76 (g) A person who fails to make payment as provided on the
77 civil citation, and fails to satisfactorily complete community
78 service within the period specified on such citation, shall be
79 deemed to have waived his or her right to pay the civil penalty
80 as set forth on such citation.

81 (h) A person who elects to appear before the court to
82 contest the civil citation shall be deemed to have waived his or
83 her right to pay the civil penalty. The court, after conducting
84 a hearing, shall determine whether a violation has occurred and
85 may impose a civil penalty not to exceed \$500 plus court costs.

86 (i) If a person fails to pay the civil penalty and fails
87 to satisfactorily complete community service, or fails to appear
88 in court to contest the civil citation, he or she shall be
89 deemed to have waived his or her right to contest such citation;
90 and in such case, a default judgment may be entered and the
91 judge shall impose a civil fine at that time. If the civil fine
92 is paid, the case shall be disposed of. If the civil fine is not
93 paid, and no proof of satisfactory completion of community
94 service is provided, default judgment shall be entered up to the
95 maximum civil penalty of \$500 plus court costs.

96 Section 3. Subsection (1) of section 893.147, Florida
97 Statutes, is amended to read:

98 893.147 Use, possession, manufacture, delivery,
99 transportation, advertisement, or retail sale of drug
100 paraphernalia, specified machines, and materials.—

101 (1) USE OR POSSESSION OF DRUG PARAPHERNALIA.—It is
 102 unlawful for any person to use, or to possess with intent to
 103 use, drug paraphernalia:

104 (a) To plant, propagate, cultivate, grow, harvest,
 105 manufacture, compound, convert, produce, process, prepare, test,
 106 analyze, pack, repack, store, contain, or conceal a controlled
 107 substance in violation of this chapter; or

108 (b) To inject, ingest, inhale, or otherwise introduce into
 109 the human body a controlled substance in violation of this
 110 chapter.

111
 112 A ~~Any~~ person who violates this subsection commits ~~is guilty of~~ a
 113 misdemeanor of the first degree, punishable as provided in s.
 114 775.082 or s. 775.083, or, for violations involving cannabis
 115 paraphernalia, a person who violates this subsection may be
 116 issued a civil citation under s. 893.131.

117 Section 4. Paragraph (e) of subsection (1) of section
 118 921.002, Florida Statutes, is amended to read:

119 921.002 The Criminal Punishment Code.—The Criminal
 120 Punishment Code shall apply to all felony offenses, except
 121 capital felonies, committed on or after October 1, 1998.

122 (1) The provision of criminal penalties and of limitations
 123 upon the application of such penalties is a matter of
 124 predominantly substantive law and, as such, is a matter properly
 125 addressed by the Legislature. The Legislature, in the exercise

126 of its authority and responsibility to establish sentencing
127 criteria, to provide for the imposition of criminal penalties,
128 and to make the best use of state prisons so that violent
129 criminal offenders are appropriately incarcerated, has
130 determined that it is in the best interest of the state to
131 develop, implement, and revise a sentencing policy. The Criminal
132 Punishment Code embodies the principles that:

133 (e) The sentence imposed by the sentencing judge reflects
134 the length of actual time to be served, shortened only by the
135 application of incentive and meritorious gain-time as provided
136 by law, and may not be shortened if the defendant would
137 consequently serve less than 75 percent of his or her term of
138 imprisonment as provided in s. 944.275(4)(b)3.a. or less than 85
139 percent of his or her term of imprisonment as provided in s.
140 944.275(4) or s. 944.275(4)(b)3.b. The provisions of chapter
141 947, relating to parole, shall not apply to persons sentenced
142 under the Criminal Punishment Code.

143 Section 5. Paragraphs (b) and (f) of subsection (4) of
144 section 944.275, Florida Statutes, are amended to read:

145 944.275 Gain-time.—

146 (4)

147 (b) For each month in which an inmate works diligently,
148 participates in training, uses time constructively, or otherwise
149 engages in positive activities, the department may grant
150 incentive gain-time in accordance with this paragraph. The rate

151 of incentive gain-time in effect on the date the inmate
152 committed the offense that ~~which~~ resulted in his or her
153 incarceration shall be the inmate's rate of eligibility to earn
154 incentive gain-time throughout the period of incarceration and
155 may ~~shall~~ not be altered by a subsequent change in the severity
156 level of the offense for which the inmate was sentenced.

157 1. For sentences imposed for offenses committed before
158 ~~prior to~~ January 1, 1994, up to 20 days of incentive gain-time
159 may be granted. If granted, such gain-time shall be credited and
160 applied monthly.

161 2. For sentences imposed for offenses committed on or
162 after January 1, 1994, and before October 1, 1995:

163 a. For offenses ranked in offense severity levels 1
164 through 7, under former s. 921.0012 or former s. 921.0013, up to
165 25 days of incentive gain-time may be granted. If granted, such
166 gain-time shall be credited and applied monthly.

167 b. For offenses ranked in offense severity levels 8, 9,
168 and 10, under former s. 921.0012 or former s. 921.0013, up to 20
169 days of incentive gain-time may be granted. If granted, such
170 gain-time shall be credited and applied monthly.

171 3. For sentences imposed for offenses, regardless of the
172 date committed, the department may grant up to 20 days per month
173 of incentive gain-time, except that:

174 a. If the offense is a nonviolent felony, as defined in s.
175 948.08(6)(a), the prisoner is not eligible to earn any type of

176 gain-time in an amount that would cause a sentence to expire,
177 end, or terminate, or that would result in a prisoner's release,
178 before he or she serves a minimum of 75 percent of the sentence
179 imposed. For purposes of this sub-subparagraph, credits awarded
180 by the court for time physically incarcerated must be credited
181 toward satisfaction of 75 percent of the sentence imposed. A
182 prisoner who is granted incentive gain-time pursuant to this
183 sub-subparagraph may not accumulate further gain-time awards at
184 any point when the tentative release date is the same as that
185 date at which the prisoner will have served 75 percent of the
186 sentence imposed. State prisoners sentenced to life imprisonment
187 must be incarcerated for the rest of their natural lives, unless
188 granted pardon or clemency.

189 b. If the offense is not a nonviolent felony, as defined
190 in s. 948.08(6)(a), the prisoner is not eligible to earn any
191 type of gain-time in an amount that would cause a sentence to
192 expire, end, or terminate, or that would result in a prisoner's
193 release, before he or she serves a minimum of 85 percent of the
194 sentence imposed. For purposes of this sub-subparagraph, credits
195 awarded by the court for time physically incarcerated must be
196 credited toward satisfaction of 85 percent of the sentence
197 imposed. A prisoner who is granted incentive gain-time pursuant
198 to this sub-subparagraph may not accumulate further gain-time
199 awards at any point when the tentative release date is the same
200 as that date at which the prisoner will have served 85 percent

201 of the sentence imposed. State prisoners sentenced to life
202 imprisonment must be incarcerated for the rest of their natural
203 lives, unless granted pardon or clemency ~~For sentences imposed~~
204 ~~for offenses committed on or after October 1, 1995, the~~
205 ~~department may grant up to 10 days per month of incentive gain-~~
206 ~~time.~~

207 (f) An inmate who is subject to subparagraph (b)3. is not
208 eligible to earn or receive gain-time under paragraph (a),
209 paragraph (b), paragraph (c), or paragraph (d) or any other type
210 of gain-time in an amount that would cause a sentence to expire,
211 end, or terminate, or that would result in a prisoner's release,
212 before ~~prior to~~ serving a minimum of 85 percent of the sentence
213 imposed. For purposes of this paragraph, credits awarded by the
214 court for time physically incarcerated shall be credited toward
215 satisfaction of 85 percent of the sentence imposed. Except as
216 provided by this section, a prisoner may not accumulate further
217 gain-time awards at any point when the tentative release date is
218 the same as that date at which the prisoner will have served 85
219 percent of the sentence imposed. State prisoners sentenced to
220 life imprisonment shall be incarcerated for the rest of their
221 natural lives, unless granted pardon or clemency.

222 Section 6. This act shall take effect July 1, 2021.