

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 260

INTRODUCER: Senator Pizzo

SUBJECT: Renaming the Criminal Punishment Code

DATE: November 1, 2021

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|----------------|-----------|--------------------|
| 1. | <u>Erickson</u> | <u>Jones</u> | <u>CJ</u> | <u>Pre-meeting</u> |
| 2. | _____ | _____ | <u>JU</u> | _____ |
| 3. | _____ | _____ | <u>RC</u> | _____ |

I. Summary:

SB 260 renames the Criminal Punishment Code (Code), Florida’s primary sentencing policy for noncapital felonies, as the Criminal Public Safety Code.

The Code currently emphasizes that while *rehabilitation* is a desired goal of the criminal justice system, it remains subordinate to the goal of *punishment*. The bill revises this statement to provide that: *rehabilitation*, while a desired goal, is subordinate to the goal of *public safety*. The bill retains the provision of current law which states that the primary purpose of sentencing is to punish the offender.

The bill should not have any prison bed impact because it does not change how sentences are currently calculated under the Code, modify existing penalties, or create new penalties.

The effective date of the bill is July 1, 2022.

II. Present Situation:

In 1997, the Legislature enacted the Criminal Punishment Code¹ (Code) as Florida’s “primary sentencing policy.”² The primary purpose of the Code is to “punish the offender.”³ “Rehabilitation is a desired goal of the criminal justice system but is subordinate to the goal of punishment.”⁴ Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).⁵ Points are assigned and accrue based upon the level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the level escalates. Points may be added or multiplied for other factors such as victim injury or the

¹ Sections 921.002-921.0027, F.S. The Code is effective for offenses committed on or after October 1, 1998.

² See chs. 97-194 and 98-204, L.O.F.

³ Section 921.002(1)(b), F.S.

⁴ *Id.*

⁵ Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.

commission of certain drug trafficking offenses. The lowest permissible sentence is any nonstate prison sanction in which total sentence points equal or are less than 44 points, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence *in prison* months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.⁶

Absent mitigation,⁷ the permissible sentencing range under the Code is generally the scored lowest permissible sentence up to, and including, the maximum sentence provided in s. 775.082, F.S.⁸ However, if the offender's offense has a mandatory minimum term that is greater than the scored lowest permissible sentence, the mandatory minimum term supersedes the lowest permissible sentence scored.⁹ Further, some offenders may qualify for prison diversion under various sections of the Florida Statutes.¹⁰

III. Effect of Proposed Changes:

The bill amends numerous statutes (see "Statutes Affected" section of this analysis) to rename the Criminal Punishment Code (Code), Florida's primary sentencing policy for noncapital felonies, as the Criminal Public Safety Code.

The bill amends s. 921.002, F.S., of the Code, which, in part, specifies that *rehabilitation*, while a desired goal of the criminal justice system, is subordinate to the goal of *punishment*. The bill revises this statement to emphasize that *rehabilitation*, while a desired goal, is subordinate to the goal of *public safety*.

The effective date of the bill is July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by article VII, section 18 of the Florida Constitution.

⁶ Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.

⁷ The court may "mitigate" (reduce) the scored lowest permissible sentence if the court finds a mitigating circumstance. Sections 921.002(1)(g) and (3), 921.0026(1), and 921.00265(1) and (2), F.S. Section 921.0026(2), F.S., provides a list of mitigating circumstances. This type of sentence is often referred to as a "downward departure" sentence.

⁸ Sections 921.002(1)(g) and 921.0024(2), F.S. The sentencing court may impose sentences concurrently or consecutively. A prison sentence must exceed 1 year. If the scored lowest permissible sentence exceeds the maximum penalty in s. 775.082, F.S., the sentence required by the Code must be imposed. If total sentence points are greater than or equal to 363 points, the court may sentence the offender to life imprisonment. Section 921.0024(2), F.S.

⁹ Fla. R. Crim. P. 3.704(d)(26).

¹⁰ See e.g., s. 775.082(10), F.S. (diversion for an offender whose offense is a nonviolent third degree felony and whose total sentence points are 22 points or fewer); s. 921.00241, F.S. (diversion into a Department of Corrections' prison diversion program for certain nonviolent third degree felony offenders); and s. 948.01, F.S. (diversion into a postadjudicatory treatment-based drug court program for certain nonviolent felony offenders).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill should not have any prison bed impact because it does not change how sentences are currently calculated under the Code, modify existing penalties, or create new penalties.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 775.082, 775.087, 782.051, 817.568, 893.13, 893.20, 910.035, 921.002, 921.0022, 921.0023, 921.0024, 921.0025, 921.0026, 921.0027, 924.06, 924.07, 944.17, 948.01, 948.015, 948.06, 948.20, 948.51, 958.04, and 985.465.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
