

CHAPTER 97-194

Committee Substitute for House Bill No. 241

An act relating to criminal justice; repealing ss. 921.0001, 921.001, 921.0011, 921.0012, 921.0013, 921.0014, 921.0015, 921.0016, 921.005, F.S., relating to the statewide sentencing guidelines; providing for application; creating the Florida Criminal Punishment Code; providing for the code to apply to felonies committed on or after a specified date; creating s. 921.002, F.S.; providing for the Legislature to develop, implement, and revise a sentencing policy; specifying the principles embodied by the Criminal Punishment Code; providing requirements for sentencing a defendant for more than one felony; authorizing a court to impose a sentence below the permissible sentencing range; specifying the level of proof required to justify such a sentence; creating s. 921.0021, F.S.; providing definitions; creating s. 921.0022, F.S.; providing an offense severity ranking chart to be used in computing a sentence score for a felony offender; creating s. 921.0023, F.S.; providing for ranking felony offenses that are unlisted on the severity ranking chart; creating s. 921.0024, F.S.; providing a worksheet for computing sentence points under the Criminal Punishment Code; providing for points to be assessed based on the offender's legal status; providing for sentencing multipliers; providing requirements for the state attorney and the Department of Corrections in preparing scoresheets; requiring the clerk of the circuit court to distribute scoresheets and transmit copies to the Department of Corrections; creating s. 921.0026, F.S.; specifying circumstances that constitute mitigating circumstances for purposes of sentencing; amending s. 20.315, F.S.; deleting a requirement that the Florida Corrections Commission review proposed changes to the statewide sentencing guidelines; amending s. 39.0581, F.S.; providing for the criteria under which a juvenile is committed to a maximum-risk residential program to be based on the ranking of the offense under the Criminal Punishment Code; amending s. 775.0823, F.S.; providing for a person convicted of certain violent offenses against a law enforcement officer, correctional officer, state attorney, assistant state attorney, justice, or judge to be sentenced under the Criminal Punishment Code; amending s. 775.084, F.S.; deleting a requirement that the courts submit reports to the Sentencing Commission; conforming a reference to changes made by the act; amending ss. 775.0845, 775.087, 775.0875, F.S., relating to wearing a mask while committing an offense, possessing a weapon while committing a felony, and taking a law enforcement officer's firearm; requiring that such offenses be ranked under the Criminal Punishment Code; amending s. 777.03, F.S., relating to the offense of being an accessory to a crime; providing for ranking such offense; amending s. 777.04, F.S.; requiring that a person convicted of criminal attempt, criminal solicitation, or criminal conspiracy be sentenced under the Criminal Punishment Code; amending s. 782.051, F.S.; requiring that certain offenses that result in bodily injury be ranked under the Criminal Punishment Code; amending

s. 784.08, F.S.; requiring that a person convicted of assault and battery against an elderly person be sentenced under the Criminal Punishment Code; amending ss. 794.023, 874.04, F.S., relating to sexual battery by multiple perpetrators and to criminal street-gang activity; requiring that such offenses be ranked under the offense severity ranking chart of the Criminal Punishment Code; amending s. 893.13, F.S., relating to the offense of selling, manufacturing, or possessing certain controlled substances; conforming provisions to changes made by the act; amending s. 893.135, F.S.; requiring that a person convicted of certain drug-trafficking offenses be sentenced under the Criminal Punishment Code; amending s. 893.20, F.S.; requiring that a person convicted of engaging in a continuing criminal enterprise be sentenced under the Criminal Punishment Code; amending s. 921.187, F.S., relating to disposition and sentencing; conforming provisions to changes made by the act; amending s. 921.188, F.S.; providing certain conditions based on the Criminal Punishment Code under which a felon may be placed in a local detention facility; amending ss. 924.06, 924.07, F.S., relating to appeals; deleting a provision that allows a defendant to appeal a sentence imposed outside a range formerly permitted under chapter 921, F.S.; authorizing the state to appeal a sentence imposed below the range permitted by the Criminal Punishment Code; amending s. 944.17, F.S.; requiring that the sentencing scoresheet for a prisoner be submitted to the Department of Corrections; amending ss. 947.141, 947.146, 947.168, F.S., relating to violations of conditional release or control release and parole eligibility; conforming provisions to changes made by the act; amending s. 948.015, F.S., relating to presentence reports; conforming provisions to changes made by the act; amending s. 948.034, F.S., relating to terms and conditions of probation; conforming references; amending s. 948.51, F.S.; revising requirements for a county or county consortium in developing a public safety plan to conform to changes made by the act; amending s. 958.04, F.S., relating to judicial disposition of youthful offenders; providing certain limitations on sentences based on the Criminal Punishment Code; amending s. 921.0014, F.S.; providing requirements for the state attorney with respect to preparing sentencing scoresheets; amending ss. 397.705, 893.15, F.S.; requiring that a referral of an offender to a treatment provider or to drug rehabilitation be in addition to adjudication or imposition of sentence rather than as an alternative to adjudication or imposition of sentence; amending s. 921.001, F.S.; providing for certain persons sentenced on or after a specified date whose recommended sentence is a non-state prison sanction or less than 22 months to be eligible for incarceration up to a specified period; providing that capital felonies are excluded from the punishment code; providing clarification for application of future code revisions; amending s. 921.0016, F.S.; deleting a provision that allows and expressly prohibits addiction to be a mitigating circumstance for purposes of sentencing; providing a directive to the Division of Statutory Revision to maintain certain repealed provisions in the Florida Statutes for ten years; providing effective dates.

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

Section 1. Sections 921.0001, 921.001, 921.0011, 921.0012, 921.0013, 921.0014, 921.0015, 921.0016, and 921.005, Florida Statutes, as amended by this act, are repealed effective October 1, 1998, except that those sections shall remain in effect with respect to any crime committed before October 1, 1998.

Section 2. The Florida Criminal Punishment Code, consisting of sections 921.002-921.0026, Florida Statutes, is established effective October 1, 1998, and applies to any felony committed on or after that date.

Section 3. Section 921.002, Florida Statutes, is created to read:

921.002 The Criminal Punishment Code.—

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

(a) The Criminal Punishment Code embodies the principles that:

1. Sentencing is neutral with respect to race, gender, and social and economic status.

2. The primary purpose of sentencing is to punish the offender. Rehabilitation is a desired goal of the criminal justice system but is subordinate to the goal of punishment.

3. The penalty imposed is commensurate with the severity of the primary offense and the circumstances surrounding the primary offense.

4. The severity of the sentence increases with the length and nature of the offender's prior record.

5. The sentence imposed by the sentencing judge reflects the length of actual time to be served, shortened only by the application of incentive and meritorious gain-time. The provisions of chapter 947, relating to parole, shall not apply to persons sentenced under the Criminal Punishment Code.

6. Departures below the permissible sentencing range established in the code must be articulated in writing and made only when circumstances or factors reasonably justify the aggravation or mitigation of the sentence. The level of proof necessary to establish facts that support a departure from the permissible sentencing range is a preponderance of the evidence.

7. The trial judge may impose a sentence up to and including the statutory maximum for any offense, including an offense that is before the court due to a violation of probation.

8. A sentence may be appealed only if the sentence is below the permissible sentencing range.

9. Use of incarcerative sanctions is prioritized toward offenders convicted of serious offenses and certain offenders who have long prior records, in order to maximize the finite capacities of state and local correctional facilities.

(2) When a defendant is before the court for sentencing for more than one felony and the felonies were committed under more than one version or revision of the guidelines or the code, each felony shall be sentenced under the guidelines or the code in effect at the time the particular felony was committed. This subsection does not apply to sentencing for any capital felony.

(3) A court may impose a departure below the permissible sentencing range based upon circumstances or factors that reasonably justify the mitigation of the sentence in accordance with s. 921.0026. The level of proof necessary to establish facts supporting the mitigation of a sentence is a preponderance of the evidence. When multiple reasons exist to support the mitigation, the mitigation shall be upheld when at least one circumstance or factor justifies the mitigation regardless of the presence of other circumstances or factors found not to justify mitigation. Any sentence imposed below the permissible sentencing range must be explained in writing by the trial court judge.

Section 4. Section 921.0021, Florida Statutes, is created to read:

921.0021 Definitions.—As used in this chapter, the term:

(1) “Additional offense” means any offense other than the primary offense for which an offender is convicted and which is pending before the court for sentencing at the time of the primary offense.

(2) “Conviction” means a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld.

(3) “Legal status” means an offender’s status if the offender:

(a) Escapes from incarceration;

(b) Flees to avoid prosecution;

(c) Fails to appear for a criminal proceeding;

(d) Violates any condition of a supersedeas bond;

(e) Is incarcerated;

(f) Is under any form of a pretrial intervention or diversion program; or

(g) Is under any form of court-imposed or post-prison release community supervision.

(4) “Primary offense” means the offense at conviction pending before the court for sentencing for which the total sentence points recommend a sanction that is as severe as, or more severe than, the sanction recommended for any other offense committed by the offender and pending before the court at sentencing. Only one count of one offense before the court for sentencing shall be classified as the primary offense.

(5) “Prior record” means a conviction for a crime committed by the offender, as an adult or a juvenile, prior to the time of the primary offense. Convictions by federal, out-of-state, military, or foreign courts, and convictions for violations of county or municipal ordinances that incorporate by reference a penalty under state law, are included in the offender’s prior record. Convictions for offenses committed by the offender more than 10 years before the primary offense are not included in the offender’s prior record if the offender has not been convicted of any other crime for a period of 10 consecutive years from the most recent date of release from confinement, supervision, or sanction, whichever is later, to the date of the primary offense. Juvenile dispositions of offenses committed by the offender within 3 years before the primary offense are included in the offender’s prior record when the offense would have been a crime had the offender been an adult rather than a juvenile. Juvenile dispositions of sexual offenses committed by the offender which were committed 3 years or more before the primary offense are included in the offender’s prior record if the offender has not maintained a conviction-free record, either as an adult or a juvenile, for a period of 3 consecutive years from the most recent date of release from confinement, supervision, or sanction, whichever is later, to the date of the primary offense.

(6) “Community sanction” includes:

(a) Probation.

(b) Community control.

(c) Pretrial intervention or diversion.

(7)(a) “Victim injury” means the physical injury or death suffered by a person as a direct result of the primary offense, or any additional offense, for which an offender is convicted and which is pending before the court for sentencing at the time of the primary offense.

(b) Except as provided in paragraph (c) or paragraph (d),

1. If the conviction is for an offense involving sexual contact that includes sexual penetration, the sexual penetration must be scored in accordance with the sentence points provided under s. 921.0024 for sexual penetration, regardless of whether there is evidence of any physical injury.

2. If the conviction is for an offense involving sexual contact that does not include sexual penetration, the sexual contact must be scored in accordance with the sentence points provided under s. 921.0024 for sexual contact, regardless of whether there is evidence of any physical injury.

If the victim of an offense involving sexual contact suffers any physical injury as a direct result of the primary offense or any additional offense committed by the offender resulting in conviction, such physical injury must be scored separately and in addition to the points scored for the sexual contact or the sexual penetration.

(c) The sentence points provided under s. 921.0024 for sexual contact or sexual penetration may not be assessed for a violation of s. 944.35(3)(b)2.

(d) If the conviction is for the offense described in s. 872.06, the sentence points provided under s. 921.0024 for sexual contact or sexual penetration may not be assessed.

Section 5. Section 921.0022, Florida Statutes, is created to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(1) The offense severity ranking chart must be used with the Criminal Punishment Code worksheet to compute a sentence score for each felony offender.

(2) The offense severity ranking chart has 10 offense levels, ranked from least severe to most severe, and each felony offense is assigned to a level according to the severity of the offense. For purposes of determining which felony offenses are specifically listed in the offense severity ranking chart and which severity level has been assigned to each of these offenses, the numerical statutory references in the left column of the chart and the felony degree designations in the middle column of the chart are controlling; the language in the right column of the chart is provided solely for descriptive purposes. Reclassification of the degree of the felony through the application of s. 775.0845, s. 775.087, s. 775.0875, or s. 794.023, to any offense listed in the offense severity ranking chart in this section shall not cause the offense to become unlisted and is not subject to the provisions of s. 921.0023.

(3) OFFENSE SEVERITY RANKING CHART

<u>Florida Statute</u>	<u>Felony Degree</u>	<u>Description</u>
		<u>(a) LEVEL 1</u>
<u>24.118(3)(a)</u>	<u>3rd</u>	<u>Counterfeit or altered state lottery ticket.</u>
<u>212.054(2)(b)</u>	<u>3rd</u>	<u>Discretionary sales surtax; limitations, administration, and collection.</u>
<u>212.15(2)(b)</u>	<u>3rd</u>	<u>Failure to remit sales taxes, amount greater than \$300 but less than \$20,000.</u>
<u>319.30(5)</u>	<u>3rd</u>	<u>Sell, exchange, give away certificate of title or identification number plate.</u>
<u>319.35(1)(a)</u>	<u>3rd</u>	<u>Tamper, adjust, change, etc., an odometer.</u>
<u>320.26(1)(a)</u>	<u>3rd</u>	<u>Counterfeit, manufacture, or sell registration license plates or validation stickers.</u>

<u>Florida Statute</u>	<u>Felony Degree</u>	<u>Description</u>
<u>322.212(1)</u>	<u>3rd</u>	<u>Possession of forged, stolen, counterfeit, or unlawfully issued driver's license.</u>
<u>322.212(4)</u>	<u>3rd</u>	<u>Supply or aid in supplying unauthorized driver's license.</u>
<u>322.212(5)</u>	<u>3rd</u>	<u>False application for driver's license.</u>
<u>370.13(4)(a)</u>	<u>3rd</u>	<u>Molest any stone crab trap, line, or buoy which is property of licenseholder.</u>
<u>370.135(1)</u>	<u>3rd</u>	<u>Molest any blue crab trap, line, or buoy which is property of licenseholder.</u>
<u>372.663(1)</u>	<u>3rd</u>	<u>Poach any alligator or crocodilia.</u>
<u>414.39(2)</u>	<u>3rd</u>	<u>Unauthorized use, possession, forgery, or alteration of food stamps, Medicaid ID, value greater than \$200.</u>
<u>414.39(3)(a)</u>	<u>3rd</u>	<u>Fraudulent misappropriation of public assistance funds by employee/official, value more than \$200.</u>
<u>443.071(1)</u>	<u>3rd</u>	<u>False statement or representation to obtain or increase unemployment compensation benefits.</u>
<u>458.327(1)(a)</u>	<u>3rd</u>	<u>Unlicensed practice of medicine.</u>
<u>466.026(1)(a)</u>	<u>3rd</u>	<u>Unlicensed practice of dentistry or dental hygiene.</u>
<u>509.151(1)</u>	<u>3rd</u>	<u>Defraud an innkeeper, food or lodging value greater than \$300.</u>
<u>517.302(1)</u>	<u>3rd</u>	<u>Violation of the Florida Securities and Investor Protection Act.</u>
<u>562.27(1)</u>	<u>3rd</u>	<u>Possess still or still apparatus.</u>
<u>713.69</u>	<u>3rd</u>	<u>Tenant removes property upon which lien has accrued, value more than \$50.</u>
<u>812.014(3)(c)</u>	<u>3rd</u>	<u>Petit theft (3rd conviction); theft of any property not specified in subsection (2).</u>
<u>812.081(2)</u>	<u>3rd</u>	<u>Unlawfully makes or causes to be made a reproduction of a trade secret.</u>
<u>815.04(4)(a)</u>	<u>3rd</u>	<u>Offense against intellectual property (i.e., computer programs, data).</u>
<u>817.52(2)</u>	<u>3rd</u>	<u>Hiring with intent to defraud, motor vehicle services.</u>
<u>826.01</u>	<u>3rd</u>	<u>Bigamy.</u>
<u>828.122(3)</u>	<u>3rd</u>	<u>Fighting or baiting animals.</u>
<u>831.04(1)</u>	<u>3rd</u>	<u>Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.</u>

<u>Florida Statute</u>	<u>Felony Degree</u>	<u>Description</u>
<u>831.31(1)(a)</u>	<u>3rd</u>	<u>Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.</u>
<u>832.041(1)</u>	<u>3rd</u>	<u>Stopping payment with intent to defraud \$150 or more.</u>
<u>832.05 (2)(b) & (4)(c)</u>	<u>3rd</u>	<u>Knowing, making, issuing worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more.</u>
<u>838.015(3)</u>	<u>3rd</u>	<u>Bribery.</u>
<u>838.016(1)</u>	<u>3rd</u>	<u>Public servant receiving unlawful compensation.</u>
<u>838.15(2)</u>	<u>3rd</u>	<u>Commercial bribe receiving.</u>
<u>838.16</u>	<u>3rd</u>	<u>Commercial bribery.</u>
<u>843.18</u>	<u>3rd</u>	<u>Fleeing by boat to elude a law enforcement officer.</u>
<u>847.011(1)(a)</u>	<u>3rd</u>	<u>Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).</u>
<u>849.01</u>	<u>3rd</u>	<u>Keeping gambling house.</u>
<u>849.09(1)(a)-(d)</u>	<u>3rd</u>	<u>Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.</u>
<u>849.23</u>	<u>3rd</u>	<u>Gambling-related machines; "common offender" as to property rights.</u>
<u>849.25(2)</u>	<u>3rd</u>	<u>Engaging in bookmaking.</u>
<u>860.08</u>	<u>3rd</u>	<u>Interfere with a railroad signal.</u>
<u>860.13(1)(a)</u>	<u>3rd</u>	<u>Operate aircraft while under the influence.</u>
<u>893.13(2)(a)2.</u>	<u>3rd</u>	<u>Purchase of cannabis.</u>
<u>893.13(6)(a)</u>	<u>3rd</u>	<u>Possession of cannabis (more than 20 grams).</u>
<u>893.13(7)(a)10.</u>	<u>3rd</u>	<u>Affix false or forged label to package of controlled substance.</u>
<u>934.03(1)(a)</u>	<u>3rd</u>	<u>Intercepts, or procures any other person to intercept, any wire or oral communication.</u>
		<u>(b) LEVEL 2</u>
<u>403.413(5)(c)</u>	<u>3rd</u>	<u>Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.</u>
<u>517.07</u>	<u>3rd</u>	<u>Registration of securities and furnishing of prospectus required.</u>

<u>Florida Statute</u>	<u>Felony Degree</u>	<u>Description</u>
<u>590.28(1)</u>	<u>3rd</u>	<u>Willful, malicious, or intentional burning.</u>
<u>784.05(3)</u>	<u>3rd</u>	<u>Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.</u>
<u>787.04(1)</u>	<u>3rd</u>	<u>In violation of court order, take, entice, etc., minor beyond state limits.</u>
<u>806.13(1)(b)3.</u>	<u>3rd</u>	<u>Criminal mischief; damage \$1,000 or more to public communication or any other public service.</u>
<u>810.09(2)(e)</u>	<u>3rd</u>	<u>Trespassing on posted commercial horticulture property.</u>
<u>812.014(2)(c)1.</u>	<u>3rd</u>	<u>Grand theft, 3rd degree; \$300 or more but less than \$5,000.</u>
<u>812.014(2)(d)</u>	<u>3rd</u>	<u>Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling.</u>
<u>817.234(1)(a)2.</u>	<u>3rd</u>	<u>False statement in support of insurance claim.</u>
<u>817.481(3)(a)</u>	<u>3rd</u>	<u>Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.</u>
<u>817.52(3)</u>	<u>3rd</u>	<u>Failure to redeliver hired vehicle.</u>
<u>817.54</u>	<u>3rd</u>	<u>With intent to defraud, obtain mortgage note, etc., by false representation.</u>
<u>817.60(5)</u>	<u>3rd</u>	<u>Dealing in credit cards of another.</u>
<u>817.60(6)(a)</u>	<u>3rd</u>	<u>Forgery; purchase goods, services with false card.</u>
<u>817.61</u>	<u>3rd</u>	<u>Fraudulent use of credit cards over \$100 or more within 6 months.</u>
<u>826.04</u>	<u>3rd</u>	<u>Knowingly marries or has sexual intercourse with person to whom related.</u>
<u>831.01</u>	<u>3rd</u>	<u>Forgery.</u>
<u>831.02</u>	<u>3rd</u>	<u>Uttering forged instrument; utters or publishes alteration with intent to defraud.</u>
<u>831.07</u>	<u>3rd</u>	<u>Forging bank bills or promissory note.</u>
<u>831.08</u>	<u>3rd</u>	<u>Possession of 10 or more forged notes.</u>
<u>831.09</u>	<u>3rd</u>	<u>Uttering forged bills; passes as bank bill or promissory note.</u>
<u>832.05(3)(a)</u>	<u>3rd</u>	<u>Cashing or depositing item with intent to defraud.</u>
<u>843.08</u>	<u>3rd</u>	<u>Falsely impersonating an officer.</u>

<u>Florida Statute</u>	<u>Felony Degree</u>	<u>Description</u>
<u>893.13(2)(a)2.</u>	<u>3rd</u>	<u>Purchase of any s. 893.03(1)(c), (2)(c), (3), or (4) drugs other than cannabis.</u>
<u>893.147(2)</u>	<u>3rd</u>	<u>Manufacture or delivery of drug paraphernalia.</u>
		<u>(c) LEVEL 3</u>
<u>39.061</u>	<u>3rd</u>	<u>Escapes from juvenile facility (secure detention or residential commitment facility).</u>
<u>319.30(4)</u>	<u>3rd</u>	<u>Possession by junkyard of motor vehicle with identification number plate removed.</u>
<u>319.33(1)(a)</u>	<u>3rd</u>	<u>Alter or forge any certificate of title to a motor vehicle or mobile home.</u>
<u>319.33(1)(c)</u>	<u>3rd</u>	<u>Procure or pass title on stolen vehicle.</u>
<u>319.33(4)</u>	<u>3rd</u>	<u>With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.</u>
<u>328.05(2)</u>	<u>3rd</u>	<u>Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.</u>
<u>328.07(4)</u>	<u>3rd</u>	<u>Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.</u>
<u>376.302(5)</u>	<u>3rd</u>	<u>Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.</u>
<u>501.001(2)(b)</u>	<u>2nd</u>	<u>Tampers with a consumer product or the container using materially false/misleading information.</u>
<u>697.08</u>	<u>3rd</u>	<u>Equity skimming.</u>
<u>790.15(3)</u>	<u>3rd</u>	<u>Person directs another to discharge firearm from a vehicle.</u>
<u>796.05(1)</u>	<u>3rd</u>	<u>Live on earnings of a prostitute.</u>
<u>806.10(1)</u>	<u>3rd</u>	<u>Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.</u>
<u>806.10(2)</u>	<u>3rd</u>	<u>Interferes with or assaults firefighter in performance of duty.</u>
<u>810.09(2)(c)</u>	<u>3rd</u>	<u>Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.</u>
<u>812.014(2)(c)2.</u>	<u>3rd</u>	<u>Grand theft; \$5,000 or more but less than \$10,000.</u>

<u>Florida Statute</u>	<u>Felony Degree</u>	<u>Description</u>
<u>815.04(4)(b)</u>	<u>2nd</u>	<u>Computer offense devised to defraud or obtain property.</u>
<u>817.034(4)(a)3.</u>	<u>3rd</u>	<u>Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.</u>
<u>817.233</u>	<u>3rd</u>	<u>Burning to defraud insurer.</u>
<u>828.12(2)</u>	<u>3rd</u>	<u>Tortures any animal with intent to inflict intense pain, serious physical injury, or death.</u>
<u>831.29</u>	<u>2nd</u>	<u>Possession of instruments for counterfeiting drivers' licenses.</u>
<u>838.021(3)(b)</u>	<u>3rd</u>	<u>Threatens unlawful harm to public servant.</u>
<u>843.19</u>	<u>3rd</u>	<u>Injure, disable, or kill police dog or horse.</u>
<u>870.01(2)</u>	<u>3rd</u>	<u>Riot; inciting or encouraging.</u>
<u>893.13(1)(a)2.</u>	<u>3rd</u>	<u>Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs).</u>
<u>893.13(1)(d)2.</u>	<u>2nd</u>	<u>Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c), (3), or (4) drugs within 200 feet of university, public housing facility, or public park.</u>
<u>893.13(6)(a)</u>	<u>3rd</u>	<u>Possession of any controlled substance other than felony possession of cannabis.</u>
<u>893.13(7)(a)9.</u>	<u>3rd</u>	<u>Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.</u>
<u>893.13(7)(a)11.</u>	<u>3rd</u>	<u>Furnish false or fraudulent material information on any document or record required by chapter 893.</u>
<u>918.13(1)(a)</u>	<u>3rd</u>	<u>Alter, destroy, or conceal investigation evidence.</u>
<u>944.47</u> <u>(1)(a)1.-2.</u>	<u>3rd</u>	<u>Introduce contraband to correctional facility.</u>
<u>944.47(1)(c)</u>	<u>2nd</u>	<u>Possess contraband while upon the grounds of a correctional institution.</u>
		<u>(d) LEVEL 4</u>
<u>316.1935(2)</u>	<u>3rd</u>	<u>Fleeing or attempting to elude law enforcement officer resulting in high-speed pursuit.</u>
<u>784.07(2)(b)</u>	<u>3rd</u>	<u>Battery of law enforcement officer, firefighter, intake officer, etc.</u>

<u>Florida Statute</u>	<u>Felony Degree</u>	<u>Description</u>
<u>784.075</u>	<u>3rd</u>	<u>Battery on detention or commitment facility staff.</u>
<u>784.08(2)(c)</u>	<u>3rd</u>	<u>Battery on a person 65 years of age or older.</u>
<u>784.081(3)</u>	<u>3rd</u>	<u>Battery on specified official or employee.</u>
<u>784.082(3)</u>	<u>3rd</u>	<u>Battery by detained person on visitor or other detainee.</u>
<u>787.03(1)</u>	<u>3rd</u>	<u>Interference with custody; wrongly takes child from appointed guardian.</u>
<u>787.04(2)</u>	<u>3rd</u>	<u>Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.</u>
<u>787.04(3)</u>	<u>3rd</u>	<u>Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.</u>
<u>790.115(1)</u>	<u>3rd</u>	<u>Exhibiting firearm or weapon within 1,000 feet of a school.</u>
<u>790.115(2)(b)</u>	<u>3rd</u>	<u>Possessing electric weapon or device, destructive device, or other weapon on school property.</u>
<u>790.115(2)(c)</u>	<u>3rd</u>	<u>Possessing firearm on school property.</u>
<u>810.02(4)(a)</u>	<u>3rd</u>	<u>Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.</u>
<u>810.02(4)(b)</u>	<u>3rd</u>	<u>Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.</u>
<u>810.06</u>	<u>3rd</u>	<u>Burglary; possession of tools.</u>
<u>810.08(2)(c)</u>	<u>3rd</u>	<u>Trespass on property, armed with firearm or dangerous weapon.</u>
<u>812.014(2)(c)3.</u>	<u>3rd</u>	<u>Grand theft, 3rd degree \$10,000 or more but less than \$20,000.</u>
<u>812.014 (2)(c)4.-10.</u>	<u>3rd</u>	<u>Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.</u>
<u>817.563(1)</u>	<u>3rd</u>	<u>Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.</u>
<u>828.125(1)</u>	<u>2nd</u>	<u>Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.</u>
<u>837.02(1)</u>	<u>3rd</u>	<u>Perjury in official proceedings.</u>

<u>Florida Statute</u>	<u>Felony Degree</u>	<u>Description</u>
<u>837.021(1)</u>	<u>3rd</u>	<u>Make contradictory statements in official proceedings.</u>
<u>843.025</u>	<u>3rd</u>	<u>Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.</u>
<u>843.15(1)(a)</u>	<u>3rd</u>	<u>Failure to appear while on bail for felony (bond estreature or bond jumping).</u>
<u>874.05(1)</u>	<u>3rd</u>	<u>Encouraging or recruiting another to join a criminal street gang.</u>
<u>893.13(2)(a)1.</u>	<u>2nd</u>	<u>Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), or (2)(a) or (b) drugs).</u>
<u>914.14(2)</u>	<u>3rd</u>	<u>Witnesses accepting bribes.</u>
<u>914.22(1)</u>	<u>3rd</u>	<u>Force, threaten, etc., witness, victim, or informant.</u>
<u>914.23(2)</u>	<u>3rd</u>	<u>Retaliation against a witness, victim, or informant, no bodily injury.</u>
<u>918.12</u>	<u>3rd</u>	<u>Tampering with jurors.</u>
		<u>(e) LEVEL 5</u>
<u>316.027(1)(a)</u>	<u>3rd</u>	<u>Accidents involving personal injuries, failure to stop; leaving scene.</u>
<u>316.1935(3)</u>	<u>3rd</u>	<u>Aggravated fleeing or eluding.</u>
<u>322.34(3)</u>	<u>3rd</u>	<u>Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.</u>
<u>327.30(5)</u>	<u>3rd</u>	<u>Vessel accidents involving personal injury; leaving scene.</u>
<u>381.0041(11)(b)</u>	<u>3rd</u>	<u>Donate blood, plasma, or organs knowing HIV positive.</u>
<u>790.01(2)</u>	<u>3rd</u>	<u>Carrying a concealed firearm.</u>
<u>790.162</u>	<u>2nd</u>	<u>Threat to throw or discharge destructive device.</u>
<u>790.163</u>	<u>2nd</u>	<u>False report of deadly explosive.</u>
<u>790.165(2)</u>	<u>3rd</u>	<u>Manufacture, sell, possess, or deliver hoax bomb.</u>
<u>790.221(1)</u>	<u>2nd</u>	<u>Possession of short-barreled shotgun or machine gun.</u>
<u>790.23</u>	<u>2nd</u>	<u>Felons in possession of firearms or electronic weapons or devices.</u>
<u>806.111(1)</u>	<u>3rd</u>	<u>Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.</u>

<u>Florida Statute</u>	<u>Felony Degree</u>	<u>Description</u>
<u>812.019(1)</u>	<u>2nd</u>	<u>Stolen property; dealing in or trafficking in.</u>
<u>812.16(2)</u>	<u>3rd</u>	<u>Owning, operating, or conducting a chop shop.</u>
<u>817.034(4)(a)2.</u>	<u>2nd</u>	<u>Communications fraud, value \$20,000 to \$50,000.</u>
<u>825.1025(4)</u>	<u>3rd</u>	<u>Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.</u>
<u>827.071(4)</u>	<u>2nd</u>	<u>Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.</u>
<u>843.01</u>	<u>3rd</u>	<u>Resist officer with violence to person; resist arrest with violence.</u>
<u>874.05(2)</u>	<u>2nd</u>	<u>Encouraging or recruiting another to join a criminal street gang; second or subsequent offense.</u>
<u>893.13(1)(a)1.</u>	<u>2nd</u>	<u>Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).</u>
<u>893.13(1)(c)2.</u>	<u>2nd</u>	<u>Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs) within 1,000 feet of a school.</u>
<u>893.13(1)(d)1.</u>	<u>1st</u>	<u>Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 200 feet of university, public housing facility, or public park.</u>
<u>893.13(4)(b)</u>	<u>2nd</u>	<u>Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs).</u>
		<u>(f) LEVEL 6</u>
<u>316.027(1)(b)</u>	<u>2nd</u>	<u>Accident involving death, failure to stop; leaving scene.</u>
<u>316.193(2)(b)</u>	<u>3rd</u>	<u>Felony DUI, 4th or subsequent conviction.</u>
<u>775.0875(1)</u>	<u>3rd</u>	<u>Taking firearm from law enforcement officer.</u>
<u>784.021(1)(a)</u>	<u>3rd</u>	<u>Aggravated assault; deadly weapon without intent to kill.</u>
<u>784.021(1)(b)</u>	<u>3rd</u>	<u>Aggravated assault; intent to commit felony.</u>
<u>784.048(3)</u>	<u>3rd</u>	<u>Aggravated stalking; credible threat.</u>
<u>784.07(2)(c)</u>	<u>2nd</u>	<u>Aggravated assault on law enforcement officer.</u>

<u>Florida Statute</u>	<u>Felony Degree</u>	<u>Description</u>
<u>784.08(2)(b)</u>	<u>2nd</u>	<u>Aggravated assault on a person 65 years of age or older.</u>
<u>784.081(2)</u>	<u>2nd</u>	<u>Aggravated assault on specified official or employee.</u>
<u>784.082(2)</u>	<u>2nd</u>	<u>Aggravated assault by detained person on visitor or other detainee.</u>
<u>787.02(2)</u>	<u>3rd</u>	<u>False imprisonment; restraining with purpose other than those in s. 787.01.</u>
<u>790.115(2)(d)</u>	<u>2nd</u>	<u>Discharging firearm or weapon on school property.</u>
<u>790.161(2)</u>	<u>2nd</u>	<u>Make, possess, or throw destructive device with intent to do bodily harm or damage property.</u>
<u>790.164(1)</u>	<u>2nd</u>	<u>False report of deadly explosive or act of arson or violence to state property.</u>
<u>790.19</u>	<u>2nd</u>	<u>Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.</u>
<u>794.011(8)(a)</u>	<u>3rd</u>	<u>Solicitation of minor to participate in sexual activity by custodial adult.</u>
<u>794.05(1)</u>	<u>2nd</u>	<u>Unlawful sexual activity with specified minor.</u>
<u>806.031(2)</u>	<u>2nd</u>	<u>Arson resulting in great bodily harm to firefighter or any other person.</u>
<u>810.02(3)(c)</u>	<u>2nd</u>	<u>Burglary of occupied structure; unarmed; no assault or battery.</u>
<u>812.014(2)(b)</u>	<u>2nd</u>	<u>Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.</u>
<u>812.13(2)(c)</u>	<u>2nd</u>	<u>Robbery, no firearm or other weapon (strong-arm robbery).</u>
<u>817.034(4)(a)1.</u>	<u>1st</u>	<u>Communications fraud, value greater than \$50,000.</u>
<u>817.4821(5)</u>	<u>2nd</u>	<u>Possess cloning paraphernalia with intent to create cloned cellular telephones.</u>
<u>825.102(1)</u>	<u>3rd</u>	<u>Abuse of an elderly person or disabled adult.</u>
<u>825.102(3)(c)</u>	<u>3rd</u>	<u>Neglect of an elderly person or disabled adult.</u>
<u>825.1025(3)</u>	<u>3rd</u>	<u>Lewd or lascivious molestation of an elderly person or disabled adult.</u>
<u>825.103(2)(c)</u>	<u>3rd</u>	<u>Exploiting an elderly person or disabled adult and property is valued at \$100 or more, but less than \$20,000.</u>

<u>Florida Statute</u>	<u>Felony Degree</u>	<u>Description</u>
<u>827.03(1)</u>	<u>3rd</u>	<u>Abuse of a child.</u>
<u>827.03(3)(c)</u>	<u>3rd</u>	<u>Neglect of a child.</u>
<u>827.071(2)&(3)</u>	<u>2nd</u>	<u>Use or induce a child in a sexual performance, or promote or direct such performance.</u>
<u>836.05</u>	<u>2nd</u>	<u>Threats; extortion.</u>
<u>836.10</u>	<u>2nd</u>	<u>Written threats to kill or do bodily injury.</u>
<u>843.12</u>	<u>3rd</u>	<u>Aids or assists person to escape.</u>
<u>914.23</u>	<u>2nd</u>	<u>Retaliation against a witness, victim, or informant, with bodily injury.</u>
<u>944.35(3)(a)2.</u>	<u>3rd</u>	<u>Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.</u>
<u>944.40</u>	<u>2nd</u>	<u>Escapes.</u>
<u>944.46</u>	<u>3rd</u>	<u>Harboring, concealing, aiding escaped prisoners.</u>
<u>944.47(1)(a)5.</u>	<u>2nd</u>	<u>Introduction of contraband (firearm, weapon, or explosive) into correctional facility.</u>
<u>951.22(1)</u>	<u>3rd</u>	<u>Intoxicating drug, firearm, or weapon introduced into county facility.</u>
		<u>(g) LEVEL 7</u>
<u>316.193(3)(c)2.</u>	<u>3rd</u>	<u>DUI resulting in serious bodily injury.</u>
<u>327.35(3)(c)2.</u>	<u>3rd</u>	<u>Vessel BUI resulting in serious bodily injury.</u>
<u>409.920(2)</u>	<u>3rd</u>	<u>Medicaid provider fraud.</u>
<u>494.0018(2)</u>	<u>1st</u>	<u>Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.</u>
<u>782.07(1)</u>	<u>2nd</u>	<u>Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).</u>
<u>782.071</u>	<u>3rd</u>	<u>Killing of human being by the operation of a motor vehicle in a reckless manner (vehicular homicide).</u>
<u>782.072</u>	<u>3rd</u>	<u>Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).</u>

<u>Florida Statute</u>	<u>Felony Degree</u>	<u>Description</u>
<u>784.045(1)(a)1.</u>	<u>2nd</u>	<u>Aggravated battery; intentionally causing great bodily harm or disfigurement.</u>
<u>784.045(1)(a)2.</u>	<u>2nd</u>	<u>Aggravated battery; using deadly weapon.</u>
<u>784.045(1)(b)</u>	<u>2nd</u>	<u>Aggravated battery; perpetrator aware victim pregnant.</u>
<u>784.048(4)</u>	<u>3rd</u>	<u>Aggravated stalking; violation of injunction or court order.</u>
<u>784.07(2)(d)</u>	<u>1st</u>	<u>Aggravated battery on law enforcement officer.</u>
<u>784.08(2)(a)</u>	<u>1st</u>	<u>Aggravated battery on a person 65 years of age or older.</u>
<u>784.081(1)</u>	<u>1st</u>	<u>Aggravated battery on specified official or employee.</u>
<u>784.082(1)</u>	<u>1st</u>	<u>Aggravated battery by detained person on visitor or other detainee.</u>
<u>790.07(4)</u>	<u>1st</u>	<u>Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).</u>
<u>790.16(1)</u>	<u>1st</u>	<u>Discharge of a machine gun under specified circumstances.</u>
<u>796.03</u>	<u>2nd</u>	<u>Procuring any person under 16 years for prostitution.</u>
<u>800.04</u>	<u>2nd</u>	<u>Handle, fondle, or assault child under 16 years in lewd, lascivious, or indecent manner.</u>
<u>806.01(2)</u>	<u>2nd</u>	<u>Maliciously damage structure by fire or explosive.</u>
<u>810.02(3)(a)</u>	<u>2nd</u>	<u>Burglary of occupied dwelling; unarmed; no assault or battery.</u>
<u>810.02(3)(b)</u>	<u>2nd</u>	<u>Burglary of unoccupied dwelling; unarmed; no assault or battery.</u>
<u>810.02(3)(d)</u>	<u>2nd</u>	<u>Burglary of occupied conveyance; unarmed; no assault or battery.</u>
<u>812.014(2)(a)</u>	<u>1st</u>	<u>Property stolen, valued at \$100,000 or more; property stolen while causing other property damage; 1st degree grand theft.</u>
<u>812.019(2)</u>	<u>1st</u>	<u>Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.</u>
<u>812.133(2)(b)</u>	<u>1st</u>	<u>Carjacking; no firearm, deadly weapon, or other weapon.</u>
<u>825.102(3)(b)</u>	<u>2nd</u>	<u>Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.</u>

<u>Florida Statute</u>	<u>Felony Degree</u>	<u>Description</u>
<u>825.1025(2)</u>	<u>2nd</u>	<u>Lewd or lascivious battery upon an elderly person or disabled adult.</u>
<u>825.103(2)(b)</u>	<u>2nd</u>	<u>Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.</u>
<u>827.03(3)(b)</u>	<u>2nd</u>	<u>Neglect of a child causing great bodily harm, disability, or disfigurement.</u>
<u>827.04(4)</u>	<u>3rd</u>	<u>Impregnation of a child under 16 years of age by person 21 years of age or older.</u>
<u>872.06</u>	<u>2nd</u>	<u>Abuse of a dead human body.</u>
<u>893.13(1)(c)1.</u>	<u>1st</u>	<u>Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 1,000 feet of a school.</u>
<u>893.13(4)(a)</u>	<u>1st</u>	<u>Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).</u>
<u>893.135(1)(a)1.</u>	<u>1st</u>	<u>Trafficking in cannabis, more than 50 lbs., less than 2,000 lbs.</u>
<u>893.135(1)(b)1.a.</u>	<u>1st</u>	<u>Trafficking in cocaine, more than 28 grams, less than 200 grams.</u>
<u>893.135(1)(c)1.a.</u>	<u>1st</u>	<u>Trafficking in illegal drugs, more than 4 grams, less than 14 grams.</u>
<u>893.135(1)(d)1.</u>	<u>1st</u>	<u>Trafficking in phencyclidine, more than 28 grams, less than 200 grams.</u>
<u>893.135(1)(e)1.</u>	<u>1st</u>	<u>Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.</u>
<u>893.135(1)(f)1.</u>	<u>1st</u>	<u>Trafficking in amphetamine, more than 14 grams, less than 28 grams.</u>
		<u>(h) LEVEL 8</u>
<u>316.193(3)(c)3.a.</u>	<u>2nd</u>	<u>DUI manslaughter.</u>
<u>327.35(3)(c)3.</u>	<u>2nd</u>	<u>Vessel BUI manslaughter.</u>
<u>777.03(2)(a)</u>	<u>1st</u>	<u>Accessory after the fact, capital felony.</u>
<u>782.04(4)</u>	<u>2nd</u>	<u>Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.</u>
<u>782.071(2)</u>	<u>2nd</u>	<u>Committing vehicular homicide and failing to render aid or give information.</u>

<u>Florida Statute</u>	<u>Felony Degree</u>	<u>Description</u>
<u>782.072(2)</u>	<u>2nd</u>	<u>Committing vessel homicide and failing to render aid or give information.</u>
<u>790.161(3)</u>	<u>1st</u>	<u>Discharging a destructive device which results in bodily harm or property damage.</u>
<u>794.011(5)</u>	<u>2nd</u>	<u>Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.</u>
<u>806.01(1)</u>	<u>1st</u>	<u>Maliciously damage dwelling or structure by fire or explosive, believing person in structure.</u>
<u>810.02(2)(a)</u>	<u>1st,PBL</u>	<u>Burglary with assault or battery.</u>
<u>810.02(2)(b)</u>	<u>1st,PBL</u>	<u>Burglary; armed with explosives or dangerous weapon.</u>
<u>810.02(2)(c)</u>	<u>1st</u>	<u>Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.</u>
<u>812.13(2)(b)</u>	<u>1st</u>	<u>Robbery with a weapon.</u>
<u>812.135(2)</u>	<u>1st</u>	<u>Home-invasion robbery.</u>
<u>825.102(2)</u>	<u>2nd</u>	<u>Aggravated abuse of an elderly person or disabled adult.</u>
<u>825.103(2)(a)</u>	<u>1st</u>	<u>Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.</u>
<u>827.03(2)</u>	<u>2nd</u>	<u>Aggravated child abuse.</u>
<u>860.121(2)(c)</u>	<u>1st</u>	<u>Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.</u>
<u>860.16</u>	<u>1st</u>	<u>Aircraft piracy.</u>
<u>893.13(1)(b)</u>	<u>1st</u>	<u>Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).</u>
<u>893.13(2)(b)</u>	<u>1st</u>	<u>Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).</u>
<u>893.13(6)(c)</u>	<u>1st</u>	<u>Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).</u>
<u>893.135(1)(a)2.</u>	<u>1st</u>	<u>Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.</u>
<u>893.135(1)(b)1.b.</u>	<u>1st</u>	<u>Trafficking in cocaine, more than 200 grams, less than 400 grams.</u>
<u>893.135(1)(c)1.b.</u>	<u>1st</u>	<u>Trafficking in illegal drugs, more than 14 grams, less than 28 grams.</u>

<u>Florida Statute</u>	<u>Felony Degree</u>	<u>Description</u>
<u>893.135(1)(d)1.b.</u>	<u>1st</u>	<u>Trafficking in phencyclidine, more than 200 grams, less than 400 grams.</u>
<u>893.135(1)(e)1.b.</u>	<u>1st</u>	<u>Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.</u>
<u>893.135(1)(f)1.b.</u>	<u>1st</u>	<u>Trafficking in amphetamine, more than 28 grams, less than 200 grams.</u>
<u>895.03(1)</u>	<u>1st</u>	<u>Use or invest proceeds derived from pattern of racketeering activity.</u>
<u>895.03(2)</u>	<u>1st</u>	<u>Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.</u>
<u>895.03(3)</u>	<u>1st</u>	<u>Conduct or participate in any enterprise through pattern of racketeering activity.</u>
		<u>(i) LEVEL 9</u>
<u>316.193 (3)(c)3.b.</u>	<u>1st</u>	<u>DUI manslaughter; failing to render aid or give information.</u>
<u>782.04(1)</u>	<u>1st</u>	<u>Attempt, conspire, or solicit to commit premeditated murder.</u>
<u>782.04(3)</u>	<u>1st,PBL</u>	<u>Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.</u>
<u>782.07(2)</u>	<u>1st</u>	<u>Aggravated manslaughter of an elderly person or disabled adult.</u>
<u>782.07(3)</u>	<u>1st</u>	<u>Aggravated manslaughter of a child.</u>
<u>787.01(1)(a)1.</u>	<u>1st,PBL</u>	<u>Kidnapping; hold for ransom or reward or as a shield or hostage.</u>
<u>787.01(1)(a)2.</u>	<u>1st,PBL</u>	<u>Kidnapping with intent to commit or facilitate commission of any felony.</u>
<u>787.01(1)(a)4.</u>	<u>1st,PBL</u>	<u>Kidnapping with intent to interfere with performance of any governmental or political function.</u>
<u>787.02(3)(a)</u>	<u>1st</u>	<u>False imprisonment; child under age 13; perpetrator also commits child abuse, sexual battery, lewd, or lascivious act, etc.</u>
<u>790.161</u>	<u>1st</u>	<u>Attempted capital destructive device offense.</u>
<u>794.011(2)</u>	<u>1st</u>	<u>Attempted sexual battery; victim less than 12 years of age.</u>
<u>794.011(2)</u>	<u>Life</u>	<u>Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.</u>

<u>Florida Statute</u>	<u>Felony Degree</u>	<u>Description</u>
<u>794.011(4)</u>	<u>1st</u>	<u>Sexual battery; victim 12 years or older, certain circumstances.</u>
<u>794.011(8)(b)</u>	<u>1st</u>	<u>Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.</u>
<u>812.13(2)(a)</u>	<u>1st,PBL</u>	<u>Robbery with firearm or other deadly weapon.</u>
<u>812.133(2)(a)</u>	<u>1st,PBL</u>	<u>Carjacking; firearm or other deadly weapon.</u>
<u>847.0145(1)</u>	<u>1st</u>	<u>Selling, or otherwise transferring custody or control, of a minor.</u>
<u>847.0145(2)</u>	<u>1st</u>	<u>Purchasing, or otherwise obtaining custody or control, of a minor.</u>
<u>859.01</u>	<u>1st</u>	<u>Poisoning food, drink, medicine, or water with intent to kill or injure another person.</u>
<u>893.135</u>	<u>1st</u>	<u>Attempted capital trafficking offense.</u>
<u>893.135(1)(a)3.</u>	<u>1st</u>	<u>Trafficking in cannabis, more than 10,000 lbs.</u>
<u>893.135 (1)(b)1.c.</u>	<u>1st</u>	<u>Trafficking in cocaine, more than 400 grams, less than 150 kilograms.</u>
<u>893.135 (1)(c)1.c.</u>	<u>1st</u>	<u>Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.</u>
<u>893.135(1)(d)1.c.</u>	<u>1st</u>	<u>Trafficking in phencyclidine, more than 400 grams.</u>
<u>893.135(1)(e)1.c.</u>	<u>1st</u>	<u>Trafficking in methaqualone, more than 25 kilograms.</u>
<u>893.135(1)(f)1.c.</u>	<u>1st</u>	<u>Trafficking in amphetamine, more than 200 grams.</u>
		(j) <u>LEVEL 10</u>
<u>782.04(2)</u>	<u>1st,PBL</u>	<u>Unlawful killing of human; act is homicide, unpremeditated.</u>
<u>787.01(1)(a)3.</u>	<u>1st,PBL</u>	<u>Kidnapping; inflict bodily harm upon or terrorize victim.</u>
<u>787.01(3)(a)</u>	<u>Life</u>	<u>Kidnapping; child under age 13, perpetrator also commits child abuse, sexual battery, lewd, or lascivious act, etc.</u>
<u>794.011(3)</u>	<u>Life</u>	<u>Sexual battery; victim 12 years or older, offender uses or threatens to use deadly weapon or physical force to cause serious injury.</u>

<u>Florida Statute</u>	<u>Felony Degree</u>	<u>Description</u>
876.32	1st	Treason against the state.

Section 6. Section 921.0023, Florida Statutes, is created to read:

921.0023 Criminal Punishment Code; ranking unlisted felony offenses.—A felony offense not listed in s. 921.0022 is ranked with respect to offense severity level by the Legislature, commensurate with the harm or potential harm that is caused by the offense to the community. Until the Legislature specifically assigns an offense to a severity level in the offense severity ranking chart, the severity level is within the following parameters:

- (1) A felony of the third degree within offense level 1.
- (2) A felony of the second degree within offense level 4.
- (3) A felony of the first degree within offense level 7.
- (4) A felony of the first degree punishable by life within offense level 9.
- (5) A life felony within offense level 10.

For purposes of determining whether a felony offense has been specifically listed in the offense ranking chart provided in s. 921.0022(3), and the severity level that has been assigned to an offense listed in the chart, the numerical statutory reference in the left column of the chart, and the felony degree designation in the middle column of the chart, are controlling; the language in the right column of the chart is provided solely for descriptive purposes.

Section 7. Section 921.0024, Florida Statutes, is created to read:

921.0024 Criminal Punishment Code; worksheet computations; scoresheets.—

(1)

(a) The Criminal Punishment Code worksheet is used to compute the subtotal and total sentence points as follows:

FLORIDA CRIMINAL PUNISHMENT CODE WORKSHEET

OFFENSE SCORE

<u>Level</u>	<u>Primary Offense Sentence Points</u>	<u>Total</u>
<u>10</u>	<u>116</u>	<u>....</u>
<u>9</u>	<u>92</u>	<u>....</u>
<u>8</u>	<u>74</u>	<u>....</u>
<u>7</u>	<u>56</u>	<u>....</u>
<u>6</u>	<u>36</u>	<u>....</u>
<u>5</u>	<u>28</u>	<u>....</u>
<u>4</u>	<u>22</u>	<u>....</u>
<u>3</u>	<u>16</u>	<u>....</u>

		<u>Primary Offense</u>		
<u>Level</u>	<u>Sentence Points</u>			<u>Total</u>
<u>2</u>	<u>10</u>		=	....
<u>1</u>	<u>4</u>		=	....
				<u>Total</u>

		<u>Additional Offenses</u>		
<u>Level</u>	<u>Sentence Points</u>	<u>Counts</u>		<u>Total</u>
<u>10</u>	<u>58</u>	X	....	=
<u>9</u>	<u>46</u>	X	....	=
<u>8</u>	<u>37</u>	X	....	=
<u>7</u>	<u>28</u>	X	....	=
<u>6</u>	<u>18</u>	X	....	=
<u>5</u>	<u>5.4</u>	X	....	=
<u>4</u>	<u>3.6</u>	X	....	=
<u>3</u>	<u>2.4</u>	X	....	=
<u>2</u>	<u>1.2</u>	X	....	=
<u>1</u>	<u>0.7</u>	X	....	=
<u>M</u>	<u>0.2</u>	X	....	=
				<u>Total</u>

		<u>Victim Injury</u>		
<u>Level</u>	<u>Sentence Points</u>	<u>Number</u>		<u>Total</u>
<u>2nd degree</u>				
<u>murder-</u>				
<u>death</u>	<u>240</u>	X	....	=
<u>Death</u>	<u>120</u>	X	....	=
<u>Severe</u>	<u>40</u>	X	....	=
<u>Sexual</u>				
<u>penetration</u>	<u>80</u>	X	....	=
<u>Moderate</u>	<u>18</u>	X	....	=
<u>Sexual</u>				
<u>contact</u>	<u>40</u>	X	....	=
<u>Slight</u>	<u>4</u>	X	....	=
				<u>Total</u>

Primary Offense + Additional Offenses + Victim Injury =
TOTAL OFFENSE SCORE

PRIOR RECORD SCORE

		<u>Prior Record</u>		
<u>Level</u>	<u>Sentence Points</u>	<u>Number</u>		<u>Total</u>
<u>10</u>	<u>29</u>	X	....	=
<u>9</u>	<u>23</u>	X	....	=
<u>8</u>	<u>19</u>	X	....	=
<u>7</u>	<u>14</u>	X	....	=

<u>Level</u>	<u>Prior Record</u>		<u>Number</u>		<u>Total</u>
	<u>Sentence Points</u>				
<u>6</u>	<u>9</u>	<u>X</u>	<u>....</u>	<u>=</u>	<u>....</u>
<u>5</u>	<u>3.6</u>	<u>X</u>	<u>....</u>	<u>=</u>	<u>....</u>
<u>4</u>	<u>2.4</u>	<u>X</u>	<u>....</u>	<u>=</u>	<u>....</u>
<u>3</u>	<u>1.6</u>	<u>X</u>	<u>....</u>	<u>=</u>	<u>....</u>
<u>2</u>	<u>0.8</u>	<u>X</u>	<u>....</u>	<u>=</u>	<u>....</u>
<u>1</u>	<u>0.5</u>	<u>X</u>	<u>....</u>	<u>=</u>	<u>....</u>
<u>M</u>	<u>0.2</u>	<u>X</u>	<u>....</u>	<u>=</u>	<u>....</u>
					<u>Total</u>

TOTAL OFFENSE SCORE

TOTAL PRIOR RECORD SCORE

LEGAL STATUS

COMMUNITY SANCTION VIOLATION

PRIOR SERIOUS FELONY

PRIOR CAPITAL FELONY

FIREARM OR SEMIAUTOMATIC WEAPON

SUBTOTAL.....

VIOLENT CAREER CRIMINAL (no)(yes)

VIOLENT HABITUAL OFFENDER (no)(yes)

HABITUAL OFFENDER (no)(yes)

DRUG TRAFFICKER (no)(yes) (x multiplier)

LAW ENF. PROTECT. (no)(yes) (x multiplier)

MOTOR VEHICLE THEFT (no)(yes) (x multiplier)

CRIMINAL STREET GANG MEMBER (no)(yes) (x multiplier)

TOTAL SENTENCE POINTS.....

(b) WORKSHEET KEY:

Legal status points are assessed when any form of legal status existed at the time the offender committed an offense before the court for sentencing. Four (4) sentence points are assessed for an offender's legal status.

Community sanction violation points are assessed when a community sanction violation is before the court for sentencing. Six (6) sentence points are assessed for each community sanction violation, and each successive community sanction violation; however, if the community sanction violation includes a new felony conviction before the sentencing court, twelve (12)

community sanction violation points are assessed for such violation, and for each successive community sanction violation involving a new felony conviction. Multiple counts of community sanction violations before the sentencing court shall not be a basis for multiplying the assessment of community sanction violation points.

Prior serious felony points: If the offender has a primary offense or any additional offense ranked in level 8, level 9, or level 10, and one or more prior serious felonies, a single assessment of 30 points shall be added. For purposes of this section, a prior serious felony is an offense in the offender's prior record that is ranked in level 8, level 9, or level 10 under s. 921.0022 or s. 921.0023 and for which the offender is serving a sentence of confinement, supervision, or other sanction or for which the offender's date of release from confinement, supervision, or other sanction, whichever is later, is within 3 years before the date the primary offense or any additional offense was committed.

Prior capital felony points: If the offender has one or more prior capital felonies, points shall be added to the subtotal sentence points of the offender equal to twice the number of points the offender receives for the primary offense and any additional offense. A prior capital felony is a capital felony offense for which the offender has been found guilty; or a felony in another jurisdiction which is a capital felony in that jurisdiction, or would be a capital felony if the offense were committed in this state.

Possession of a firearm, semiautomatic firearm, or machine gun: If the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087(2) while having in his possession: a firearm as defined in s. 790.001(6), an additional 18 sentence points are assessed; or if the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087(3) while having in his possession a semiautomatic firearm as defined in s. 775.087(3) or a machine gun as defined in s. 790.001(9), an additional 25 sentence points are assessed.

Sentencing multipliers:

Drug trafficking: If the primary offense is drug trafficking under s. 893.135, the subtotal sentence points are multiplied, at the discretion of the court, for a level 7 or level 8 offense, by 1.5. The state attorney may move the sentencing court to reduce or suspend the sentence of a person convicted of a level 7 or level 8 offense, if the offender provides substantial assistance as described in s. 893.135(4).

Law enforcement protection: If the primary offense is a violation of the Law Enforcement Protection Act under s. 775.0823(2), the subtotal sentence points are multiplied by 2.5. If the primary offense is a violation of s. 775.0823(3), (4), (5), (6), (7), or (8), the subtotal sentence points are multiplied by 2.0. If the primary offense is a violation of s. 784.07(3) or s.

775.0875(1), or of the Law Enforcement Protection Act under s. 775.0823(9) or (10), the subtotal sentence points are multiplied by 1.5.

Grand theft of a motor vehicle: If the primary offense is grand theft of the third degree involving a motor vehicle and in the offender's prior record, there are three or more grand thefts of the third degree involving a motor vehicle, the subtotal sentence points are multiplied by 1.5.

Criminal street gang member: If the offender is convicted of the primary offense and is found to have been a member of a criminal street gang at the time of the commission of the primary offense pursuant to s. 874.04, the subtotal sentence points are multiplied by 1.5.

(2) The lowest permissible sentence in prison months that may be imposed by the court, absent a valid reason to depart, shall be calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent. If the lowest permissible sentence in prison months is less than or equal to 12, a nonstate prison sanction may be imposed. The total sentence points shall be calculated only as a means of determining the lowest permissible sentence. The permissible range for sentencing shall be the lowest permissible sentence up to and including the statutory maximum, as defined in s. 775.082, for the primary offense.

(3) A single scoresheet shall be prepared for each defendant, except that if the defendant is before the court for sentencing for more than one felony and the felonies were committed under more than one version or revision of the guidelines or the code, separate scoresheets must be prepared. The scoresheet or scoresheets must cover all the defendant's offenses pending before the court for sentencing. Either the office of the state attorney or the Department of Corrections, or both where appropriate, shall prepare the scoresheet or scoresheets, which must be presented to the defense counsel for review for accuracy in all cases unless the judge directs otherwise. The defendant's scoresheet or scoresheets must be approved and signed by the sentencing judge.

(4) The clerks of the circuit courts for the individual counties shall distribute sufficient copies of the Criminal Punishment Code scoresheets to those persons charged with the responsibility for preparing scoresheets, either the office of the state attorney or the Department of Corrections, or both where appropriate.

(5) The clerk of the circuit court shall transmit a complete, accurate, and legible copy of the Criminal Punishment Code scoresheet used in each guidelines sentencing proceeding to the Department of Corrections. Scoresheets must be transmitted no less frequently than monthly, by the first of each month, and may be sent collectively.

(6) A copy of the individual offender's Criminal Punishment Code scoresheet and any attachments thereto prepared pursuant to Rule 3.701, Florida Rules of Criminal Procedure, must be attached to the copy of the uniform judgment and sentence form provided to the Department of Corrections.

Section 8. Section 921.0026, Florida Statutes, is created to read:

921.0026 Mitigating circumstances.—

(1) A downward departure from the permissible sentence is discouraged unless there are circumstances or factors that reasonably justify the downward departure. Mitigating factors to be considered include, but are not limited to, those listed in subsection (2). The imposition of a sentence below the permissible sentencing range is subject to appellate review under chapter 924, but the extent of downward departure is not subject to appellate review.

(2) Mitigating circumstances under which a departure from the permissible sentencing range is reasonably justified include, but are not limited to:

(a) The departure results from a legitimate, uncoerced plea bargain.

(b) The defendant was an accomplice to the offense and was a relatively minor participant in the criminal conduct.

(c) The capacity of the defendant to appreciate the criminal nature of the conduct or to conform that conduct to the requirements of law was substantially impaired.

(d) The defendant requires specialized treatment for a mental disorder that is unrelated to substance abuse or addiction or for a physical disability, and the defendant is amenable to treatment.

(e) The need for payment of restitution to the victim outweighs the need for a prison sentence.

(f) The victim was an initiator, willing participant, aggressor, or provoker of the incident.

(g) The defendant acted under extreme duress or under the domination of another person.

(h) Before the identity of the defendant was determined, the victim was substantially compensated.

(i) The defendant cooperated with the state to resolve the current offense or any other offense.

(j) The offense was committed in an unsophisticated manner and was an isolated incident for which the defendant has shown remorse.

(k) At the time of the offense the defendant was too young to appreciate the consequences of the offense.

(l) The defendant is to be sentenced as a youthful offender.

(3) The defendant's substance abuse or addiction, including intoxication at the time of the offense, is not a mitigating factor under subsection (2) and does not, under any circumstances, justify a downward departure from the permissible sentencing range.

Section 9. Paragraph (b) of subsection (6) of section 20.315, Florida Statutes, 1996 Supplement, is amended to read:

20.315 Department of Corrections.—There is created a Department of Corrections.

(6) FLORIDA CORRECTIONS COMMISSION.—

(b) The primary functions of the commission are to:

1. Recommend major correctional policies for the Governor's approval, and assure that approved policies and any revisions thereto are properly executed.

2. Periodically review the status of the state correctional system and recommend improvements therein to the Governor and the Legislature.

~~3. Perform an in-depth review of the recommendations of the Sentencing Guidelines Commission on the need for changes in the guidelines and of any alternative proposals submitted by the Division of Economic and Demographic Research of the Joint Legislative Management Committee to revise statewide sentencing guidelines.~~

3.4. Annually perform an in-depth review of community-based intermediate sanctions and recommend to the Governor and the Legislature intergovernmental approaches through the Community Corrections Partnership Act for planning and implementing such sanctions and programs.

4.5. Perform an in-depth evaluation of the annual budget request of the Department of Corrections, the comprehensive correctional master plan, and the tentative construction program for compliance with all applicable laws and established departmental policies. The commission may not consider individual construction projects, but shall consider methods of accomplishing the department's goals in the most effective, efficient, and business-like manner.

5.6. Routinely monitor the financial status of the Department of Corrections to assure that the department is managing revenue and any applicable bond proceeds responsibly and in accordance with law and established policy.

6.7. Evaluate, at least quarterly, the efficiency, productivity, and management of the Department of Corrections, using performance and production standards developed by the department under subsection (18).

7.8. Provide public education on corrections and criminal justice issues.

8.9. Report to the President of the Senate, the Speaker of the House of Representatives, and the Governor by November 1 of each year. ~~The first annual report of the commission shall be made by November 1, 1995.~~

Section 10. Subsection (4) of section 39.0581, Florida Statutes, 1996 Supplement, is amended to read:

39.0581 Maximum-risk residential program.—A maximum-risk residential program is a physically secure residential commitment program with a designated length of stay from 18 months to 36 months, primarily serving children 13 years of age to 19 years of age, or until the jurisdiction of the court expires. The court may retain jurisdiction over the child until the child reaches the age of 21, specifically for the purpose of the child completing the program. Each child committed to this level must meet one of the following criteria:

(4) The youth is at least 13 years of age at the time of the disposition for the current offense, the youth is eligible for prosecution as an adult for the current offense, and the current offense is ranked at level 7 or higher on the Criminal Punishment Code sentencing guidelines offense severity ranking chart pursuant to s. 921.0022 ~~s. 921.0012~~.

Section 11. Section 775.0823, Florida Statutes, is amended to read:

775.0823 Violent offenses committed against law enforcement officers, correctional officers, state attorneys, assistant state attorneys, justices, or judges.—Any provision of law to the contrary notwithstanding, the Legislature does hereby provide for an increase and certainty of penalty for any person convicted of a violent offense against any law enforcement or correctional officer, as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against any state attorney elected pursuant to s. 27.01 or assistant state attorney appointed under s. 27.181; or against any justice or judge of a court described in Art. V of the State Constitution, which offense arises out of or in the scope of the officer's duty as a law enforcement or correctional officer, the state attorney's or assistant state attorney's duty as a prosecutor or investigator, or the justice's or judge's duty as a judicial officer, as follows:

(1) For murder in the first degree as described in s. 782.04(1), if the death sentence is not imposed, a sentence of imprisonment for life without eligibility for release.

(2) For attempted murder in the first degree as described in s. 782.04(1), a sentence pursuant to the Criminal Punishment Code sentencing guidelines.

(3) For murder in the second degree as described in s. 782.04(2) and (3), a sentence pursuant to the Criminal Punishment Code sentencing guidelines.

(4) For attempted murder in the second degree as described in s. 782.04(2) and (3), a sentence pursuant to the Criminal Punishment Code sentencing guidelines.

(5) For murder in the third degree as described in s. 782.04(4), a sentence pursuant to the Criminal Punishment Code sentencing guidelines.

(6) For attempted murder in the third degree as described in s. 782.04(4), a sentence pursuant to the Criminal Punishment Code sentencing guidelines.

(7) For manslaughter as described in s. 782.07 during the commission of a crime, a sentence pursuant to the Criminal Punishment Code sentencing guidelines.

(8) For kidnapping as described in s. 787.01, a sentence pursuant to the Criminal Punishment Code sentencing guidelines.

(9) For aggravated battery as described in s. 784.045, a sentence pursuant to the Criminal Punishment Code sentencing guidelines.

(10) For aggravated assault as described in s. 784.021, a sentence pursuant to the Criminal Punishment Code sentencing guidelines.

Notwithstanding the provisions of s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld.

Section 12. Paragraphs (a) and (b) of subsection (3) and paragraph (g) of subsection (4) of section 775.084, Florida Statutes, 1996 Supplement, are amended to read:

775.084 Violent career criminals; habitual felony offenders and habitual violent felony offenders; definitions; procedure; enhanced penalties.—

(3)(a) In a separate proceeding, the court shall determine if the defendant is a habitual felony offender or a habitual violent felony offender. The procedure shall be as follows:

1. The court shall obtain and consider a presentence investigation prior to the imposition of a sentence as a habitual felony offender or a habitual violent felony offender.

2. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.

3. Except as provided in subparagraph 1., all evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

4. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable to the extent normally applicable to similar findings.

5. For the purpose of identification of a habitual felony offender or a habitual violent felony offender, the court shall fingerprint the defendant pursuant to s. 921.241.

6. For an offense committed on or after October 1, 1995, if the state attorney pursues a habitual felony offender sanction or a habitual violent felony offender sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant

meets the criteria under subsection (1) for imposing such sanction, the court must sentence the defendant as a habitual felony offender or a habitual violent felony offender, subject to imprisonment pursuant to this section unless the court finds that such sentence is not necessary for the protection of the public. If the court finds that it is not necessary for the protection of the public to sentence the defendant as a habitual felony offender or a habitual violent felony offender, the court shall provide written reasons; a written transcript of orally stated reasons is permissible, if filed by the court within 7 days after the date of sentencing. ~~Each month, the court shall submit to the Sentencing Commission the written reasons or transcripts in each case in which the court determines not to impose a habitual felony offender sanction or a habitual violent felony offender sanction.~~

(b) In a separate proceeding, the court shall determine whether the defendant is a violent career criminal with respect to a primary offense committed on or after October 1, 1995. The procedure shall be as follows:

1. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.

2. All evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

3. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable only as provided in paragraph (c).

4. For the purpose of identification, the court shall fingerprint the defendant pursuant to s. 921.241.

5. For an offense committed on or after October 1, 1995, if the state attorney pursues a violent career criminal sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the defendant as a violent career criminal, subject to imprisonment pursuant to this section unless the court finds that such sentence is not necessary for the protection of the public. If the court finds that it is not necessary for the protection of the public to sentence the defendant as a violent career criminal, the court shall provide written reasons; a written transcript of orally stated reasons is permissible, if filed by the court within 7 days after the date of sentencing. ~~Each month, the court shall submit to the Sentencing Commission the written reasons or transcripts in each case in which the court determines not to impose a violent career criminal sanction.~~

(4)

(g) A sentence imposed under this section is not subject to s. 921.002 ~~s. 921.001~~.

Section 13. Section 775.0845, Florida Statutes, is amended to read:

775.0845 Wearing mask while committing offense; reclassification enhanced penalties.—~~The felony or misdemeanor degree of penalty for any criminal offense, other than a violation of ss. 876.12-876.15, shall be reclassified to the next higher degree increased as provided in this section if, while committing the offense, the offender was wearing a hood, mask, or other device that concealed his or her identity.~~

(1)(a) In the case of a misdemeanor of the second degree, the offense is reclassified to shall be punishable as if it were a misdemeanor of the first degree.

(b) In the case of a misdemeanor of the first degree, the offense is reclassified to shall be punishable as if it were a felony of the third degree. For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such offense is ranked in level 2 of the offense severity ranking chart.

(2)(a) In the case of a felony of the third degree, the offense is reclassified to shall be punishable as if it were a felony of the second degree.

(b) In the case of a felony of the second degree, the offense is reclassified to shall be punishable as if it were a felony of the first degree.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense that which is reclassified under this subsection is ranked one level above the ranking under s. 921.0012, ~~or~~ s. 921.0013, s. 921.0022, or s. 921.0023 of the offense committed.

Section 14. Subsection (1) of section 775.087, Florida Statutes, 1996 Supplement, is amended to read:

775.087 Possession or use of weapon; aggravated battery; felony reclassification; minimum sentence.—

(1) Unless otherwise provided by law, whenever a person is charged with a felony, except a felony in which the use of a weapon or firearm is an essential element, and during the commission of such felony the defendant carries, displays, uses, threatens, or attempts to use any weapon or firearm, or during the commission of such felony the defendant commits an aggravated battery, the felony for which the person is charged shall be reclassified as follows:

(a) In the case of a felony of the first degree, to a life felony.

(b) In the case of a felony of the second degree, to a felony of the first degree.

(c) In the case of a felony of the third degree, to a felony of the second degree.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense which is reclassified

under this section is ranked one level above the ranking under s. 921.0022 ~~s. 921.0012~~ or s. 921.0023 ~~s. 921.0013~~ of the felony offense committed.

Section 15. Section 775.0875, Florida Statutes, 1996 Supplement, is amended to read:

775.0875 Unlawful taking, possession, or use of law enforcement officer's firearm; crime reclassification; penalties.—

(1) A person who, without authorization, takes a firearm from a law enforcement officer lawfully engaged in law enforcement duties commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) If a person violates subsection (1) and commits any other crime involving the firearm taken from the law enforcement officer, such crime shall be reclassified as follows:

(a)1. In the case of a felony of the first degree, to a life felony.

2. In the case of a felony of the second degree, to a felony of the first degree.

3. In the case of a felony of the third degree, to a felony of the second degree.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense that is reclassified under this paragraph is ranked one level above the ranking under s. 921.0022 ~~s. 921.0012~~ or s. 921.0023 ~~s. 921.0013~~ of the felony offense committed.

(b) In the case of a misdemeanor, to a felony of the third degree. For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such offense is ranked in level 2 of the offense severity ranking chart.

(3) A person who possesses a firearm that he or she knows was unlawfully taken from a law enforcement officer commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 16. Section 777.03, Florida Statutes, is amended to read:

777.03 Accessory after the fact.—

(1) Any person not standing in the relation of husband or wife, parent or grandparent, child or grandchild, brother or sister, by consanguinity or affinity to the offender, who maintains or assists the principal or accessory before the fact, or gives the offender any other aid, knowing that the offender had committed a felony or been accessory thereto before the fact, with intent that the offender avoids or escapes detection, arrest, trial or punishment, is an accessory after the fact.

(2)(a) If the felony offense committed is a capital felony, the offense of accessory after the fact is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If the felony offense committed is a life felony or a felony of the first degree, the offense of accessory after the fact is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) If the felony offense committed is a felony of the second degree or a felony of the third degree ranked in level 3, 4, 5, 6, 7, 8, 9, or 10 under s. 921.0022 ~~s. 921.0012~~ or s. 921.0023 ~~s. 921.0013~~, the offense of accessory after the fact is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) If the felony offense committed is a felony of the third degree ranked in level 1 or level 2 under s. 921.0022 ~~s. 921.0012~~ or s. 921.0023 ~~s. 921.0013~~, the offense of accessory after the fact is a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Except as otherwise provided in s. 921.0022 ~~s. 921.0012~~, for purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, the offense of accessory after the fact is ranked two levels below the ranking under s. 921.0022 ~~s. 921.0012~~ or s. 921.0023 ~~s. 921.0013~~ of the felony offense committed.

Section 17. Section 777.04, Florida Statutes, is amended to read:

777.04 Attempts, solicitation, and conspiracy.—

(1) A person who attempts to commit an offense prohibited by law and in such attempt does any act toward the commission of such offense, but fails in the perpetration or is intercepted or prevented in the execution thereof, commits the offense of criminal attempt, ranked for purposes of sentencing as provided in subsection (4). Criminal attempt includes the act of an adult who, with intent to commit an offense prohibited by law, allures, seduces, coaxes, or induces a child under the age of 12 to engage in an offense prohibited by law.

(2) A person who solicits another to commit an offense prohibited by law and in the course of such solicitation commands, encourages, hires, or requests another person to engage in specific conduct which would constitute such offense or an attempt to commit such offense commits the offense of criminal solicitation, ranked for purposes of sentencing as provided in subsection (4).

(3) A person who agrees, conspires, combines, or confederates with another person or persons to commit any offense commits the offense of criminal conspiracy, ranked for purposes of sentencing as provided in subsection (4).

(4)(a) Except as otherwise provided in ss. 828.125(2), 849.25(4), 893.135(5), and 921.0022 ~~921.0012~~, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is ranked for purposes of sentencing

under chapter 921 and determining incentive gain-time eligibility under chapter 944 one level below the ranking under s. 921.0022 ~~s. 921.0012~~ or s. 921.0023 ~~s. 921.0013~~ of the offense attempted, solicited, or conspired to. If the criminal attempt, criminal solicitation, or criminal conspiracy is of an offense ranked in level 1 or level 2 under s. 921.0022 ~~s. 921.0012~~ or s. 921.0023 ~~s. 921.0013~~, such offense is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If the offense attempted, solicited, or conspired to is a capital felony, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Except as otherwise provided in s. 893.135(5), if the offense attempted, solicited, or conspired to is a life felony or a felony of the first degree, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Except as otherwise provided in s. 828.125(2) or s. 849.25(4), if the offense attempted, solicited, or conspired to is a:

1. Felony of the second degree;
2. Burglary that is a felony of the third degree; or
3. Felony of the third degree ranked in level 3, 4, 5, 6, 7, 8, 9, or 10 under s. 921.0022 ~~s. 921.0012~~ or s. 921.0023 ~~s. 921.0013~~,

the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) Except as otherwise provided in s. 849.25(4) or paragraph (d), if the offense attempted, solicited, or conspired to is a felony of the third degree, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(f) If the offense attempted, solicited, or conspired to is a misdemeanor of the first or second degree, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(5) It is a defense to a charge of criminal attempt, criminal solicitation, or criminal conspiracy that, under circumstances manifesting a complete and voluntary renunciation of his criminal purpose, the defendant:

(a) Abandoned his attempt to commit the offense or otherwise prevented its commission;

(b) After soliciting another person to commit an offense, persuaded such other person not to do so or otherwise prevented commission of the offense; or

(c) After conspiring with one or more persons to commit an offense, persuaded such persons not to do so or otherwise prevented commission of the offense.

Section 18. Section 782.051, Florida Statutes, 1996 Supplement, is amended to read:

782.051 Felony causing bodily injury.—

(1) Any person who perpetrates or attempts to perpetrate any felony enumerated in s. 782.04(3) and who commits, aids, or abets an act that causes bodily injury to another commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life, or as provided in s. 775.082, s. 775.083, or s. 775.084, which is an offense ranked in level 9 of the Criminal Punishment Code sentencing guidelines. Victim injury points shall be scored under this subsection.

(2) Any person who perpetrates or attempts to perpetrate any felony other than a felony enumerated in s. 782.04(3) and who commits, aids, or abets an act that causes bodily injury to another commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, which is an offense ranked in level 8 of the Criminal Punishment Code sentencing guidelines. Victim injury points shall be scored under this subsection.

(3) When a person is injured during the perpetration of or the attempt to perpetrate any felony enumerated in s. 782.04(3) by a person other than the person engaged in the perpetration of or the attempt to perpetrate such felony, the person perpetrating or attempting to perpetrate such felony commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, which is an offense ranked in level 7 of the Criminal Punishment Code sentencing guidelines. Victim injury points shall be scored under this subsection.

Section 19. Subsection (1) of section 784.08, Florida Statutes, is amended to read:

784.08 Assault or battery on persons 65 years of age or older; reclassification of offenses; minimum sentence.—

(1) A person who is convicted of an aggravated assault or aggravated battery upon a person 65 years of age or older shall be sentenced pursuant to the Criminal Punishment Code sentencing guidelines and fined not more than \$10,000 and shall also be ordered by the sentencing judge to make restitution to the victim of such offense and to perform up to 500 hours of community service work. Restitution and community service work shall be in addition to any fine or sentence which may be imposed and shall not be in lieu thereof.

Section 20. Subsection (2) of section 794.023, Florida Statutes, is amended to read:

794.023 Sexual battery by multiple perpetrators; enhanced penalties.—

(2) The penalty for a violation of s. 794.011 shall be increased as provided in this subsection if it is charged and proven by the prosecution that, during the same criminal transaction or episode, more than one person committed an act of sexual battery on the same victim.

(a) A felony of the second degree shall be punishable as if it were a felony of the first degree.

(b) A felony of the first degree shall be punishable as if it were a life felony.

This subsection does not apply to life felonies or capital felonies. For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense that which is reclassified under this subsection is ranked one level above the ranking under s. 921.0022 ~~s. 921.0012~~ or s. 921.0023 ~~s. 921.0013~~ of the offense committed.

Section 21. Section 874.04, Florida Statutes, 1996 Supplement, is amended to read:

874.04 Criminal street gang activity; enhanced penalties.—Upon a finding by the court at sentencing that the defendant is a member of a criminal street gang, the penalty for any felony or misdemeanor, or any delinquent act or violation of law which would be a felony or misdemeanor if committed by an adult, may be enhanced if the offender was a member of a criminal street gang at the time of the commission of such offense. Each of the findings required as a basis for such sentence shall be found by a preponderance of the evidence. The enhancement will be as follows:

(1)(a) A misdemeanor of the second degree may be punished as if it were a misdemeanor of the first degree.

(b) A misdemeanor of the first degree may be punished as if it were a felony of the third degree. For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such offense is ranked in level 1 of the offense severity ranking chart. The criminal street gang multiplier in s. 921.0024 ~~s. 921.0014~~ does not apply to misdemeanors enhanced under this paragraph.

(2)(a) A felony of the third degree may be punished as if it were a felony of the second degree.

(b) A felony of the second degree may be punished as if it were a felony of the first degree.

(c) A felony of the first degree may be punished as if it were a life felony.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such felony offense is ranked as provided in s. 921.0022 ~~s. 921.0012~~ or s. 921.0023 ~~s. 921.0013~~, and without regard to the penalty enhancement in this subsection. For purposes of this section, penalty enhancement affects the applicable statutory maximum penalty only.

Section 22. Subsections (10) and (11) of section 893.13, Florida Statutes, 1996 Supplement, are amended to read:

893.13 Prohibited acts; penalties.—

(10) Notwithstanding any provision of the sentencing guidelines or the Criminal Punishment Code to the contrary, on or after October 1, 1993, any defendant who:

(a) Violates subparagraph (1)(a)1., subparagraph (1)(c)2., subparagraph (1)(d)2., subparagraph (2)(a)1., or paragraph (5)(a); and

(b) Has not previously been convicted, regardless of whether adjudication was withheld, of any felony, other than a violation of subparagraph (1)(a)1., subparagraph (1)(c)2., subparagraph (1)(d)2., subparagraph (2)(a)1., or paragraph (5)(a),

may be required by the court to successfully complete a term of probation pursuant to the terms and conditions set forth in s. 948.034(1), in lieu of serving a term of imprisonment.

(11) Notwithstanding any provision of the sentencing guidelines or the Criminal Punishment Code to the contrary, on or after January 1, 1994, any defendant who:

(a) Violates subparagraph (1)(a)2., subparagraph (2)(a)2., paragraph (5)(b), or paragraph (6)(a); and

(b) Has not previously been convicted, regardless of whether adjudication was withheld, of any felony, other than a violation of subparagraph (1)(a)2., subparagraph (2)(a)2., paragraph (5)(b), or paragraph (6)(a),

may be required by the court to successfully complete a term of probation pursuant to the terms and conditions set forth in s. 948.034(2), in lieu of serving a term of imprisonment.

Section 23. Subsection (1) of section 893.135, Florida Statutes, 1996 Supplement, is amended to read:

893.135 Trafficking; mandatory sentences; suspension or reduction of sentences; conspiracy to engage in trafficking.—

(1) Except as authorized in this chapter or in chapter 499 and notwithstanding the provisions of s. 893.13:

(a) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, in excess of 50 pounds of cannabis commits a felony of the first degree, which felony shall be known as “trafficking in cannabis.” If the quantity of cannabis involved:

1. Is in excess of 50 pounds, but less than 2,000 pounds, such person shall be sentenced pursuant to the Criminal Punishment Code sentencing guidelines and pay a fine of \$25,000.

2. Is 2,000 pounds or more, but less than 10,000 pounds, such person shall be sentenced pursuant to the Criminal Punishment Code sentencing guidelines and pay a fine of \$50,000.

3. Is 10,000 pounds or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$200,000.

(b)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of cocaine, as described in s. 893.03(2)(a)4., or of any mixture containing cocaine, but less than 150 kilograms of cocaine or any such mixture, commits a felony of the first degree, which felony shall be known as "trafficking in cocaine." If the quantity involved:

a. Is 28 grams or more, but less than 200 grams, such person shall be sentenced pursuant to the Criminal Punishment Code sentencing guidelines and pay a fine of \$50,000.

b. Is 200 grams or more, but less than 400 grams, such person shall be sentenced pursuant to the Criminal Punishment Code sentencing guidelines and pay a fine of \$100,000.

c. Is 400 grams or more, but less than 150 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$250,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 150 kilograms or more, but less than 300 kilograms, of cocaine, as described in s. 893.03(2)(a)4., commits the first degree felony of trafficking in cocaine. A person who has been convicted of the first degree felony of trafficking in cocaine under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

a. The person intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result; or

b. The person's conduct in committing that act led to a natural, though not inevitable, lethal result,

such person commits the capital felony of trafficking in cocaine, punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

3. Any person who knowingly brings into this state 300 kilograms or more of cocaine, as described in s. 893.03(2)(a)4., and who knows that the

probable result of such importation would be the death of any person, commits capital importation of cocaine, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(c)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b) or (2)(a), or 4 grams or more of any mixture containing any such substance, but less than 30 kilograms of such substance or mixture, commits a felony of the first degree, which felony shall be known as “trafficking in illegal drugs.” If the quantity involved:

a. Is 4 grams or more, but less than 14 grams, such person shall be sentenced pursuant to the Criminal Punishment Code sentencing guidelines and pay a fine of \$50,000.

b. Is 14 grams or more, but less than 28 grams, such person shall be sentenced pursuant to the Criminal Punishment Code sentencing guidelines and pay a fine of \$100,000.

c. Is 28 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and pay a fine of \$500,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 30 kilograms or more, but less than 60 kilograms, of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b) or (2)(a), or 30 kilograms or more, but less than 60 kilograms, of any mixture containing any such substance, commits the first degree felony of trafficking in illegal drugs. A person who has been convicted of the first degree felony of trafficking in illegal drugs under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

a. The person intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result; or

b. The person’s conduct in committing that act led to a natural, though not inevitable, lethal result,

such person commits the capital felony of trafficking in illegal drugs, punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

3. Any person who knowingly brings into this state 60 kilograms or more of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b) or (2)(a), or 60 kilograms or more of any mixture containing any such substance, and who knows that the probable result of such importation would be the death of any person, commits capital importation of illegal drugs, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(d)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of phencyclidine or of any mixture containing phencyclidine, as described in s. 893.03(2)(b), commits a felony of the first degree, which felony shall be known as “trafficking in phencyclidine.” If the quantity involved:

a. Is 28 grams or more, but less than 200 grams, such person shall be sentenced pursuant to the Criminal Punishment Code sentencing guidelines and pay a fine of \$50,000.

b. Is 200 grams or more, but less than 400 grams, such person shall be sentenced pursuant to the Criminal Punishment Code sentencing guidelines and pay a fine of \$100,000.

c. Is 400 grams or more, but less than 800 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$250,000.

2. Any person who knowingly brings into this state 800 grams or more of phencyclidine or of any mixture containing phencyclidine, as described in s. 893.03(2)(b), and who knows that the probable result of such importation would be the death of any person commits capital importation of phencyclidine, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(e)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 200 grams or more of methaqualone or of any mixture containing methaqualone, as described in s. 893.03(1)(d), commits a felony of the first degree, which felony shall be known as “trafficking in methaqualone.” If the quantity involved:

a. Is 200 grams or more, but less than 5 kilograms, such person shall be sentenced pursuant to the Criminal Punishment Code sentencing guidelines and pay a fine of \$50,000.

b. Is 5 kilograms or more, but less than 25 kilograms, such person shall be sentenced pursuant to the Criminal Punishment Code sentencing guidelines and pay a fine of \$100,000.

c. Is 25 kilograms or more, but less than 50 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$250,000.

2. Any person who knowingly brings into this state 50 kilograms or more of methaqualone or of any mixture containing methaqualone, as described in s. 893.03(1)(d), and who knows that the probable result of such importation would be the death of any person commits capital importation of methaqualone, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(f)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 14 grams or more of amphetamine, as described in s. 893.03(2)(c)2., or methamphetamine, as described in s. 893.03(2)(c)4., or of any mixture containing amphetamine or methamphetamine, or phenylacetone, phenylacetic acid, or ephedrine in conjunction with other chemicals and equipment utilized in the manufacture of amphetamine or methamphetamine, commits a felony of the first degree, which felony shall be known as "trafficking in amphetamine." If the quantity involved:

a. Is 14 grams or more, but less than 28 grams, such person shall be sentenced pursuant to the Criminal Punishment Code sentencing guidelines and pay a fine of \$50,000.

b. Is 28 grams or more, but less than 200 grams, such person shall be sentenced pursuant to the Criminal Punishment Code sentencing guidelines and pay a fine of \$100,000.

c. Is 200 grams or more, but less than 400 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of \$250,000.

2. Any person who knowingly brings into this state 400 grams or more of amphetamine, as described in s. 893.03(2)(c)2., or methamphetamine, as described in s. 893.03(2)(c)4., or of any mixture containing amphetamine or methamphetamine, or phenylacetone, phenylacetic acid, or ephedrine in conjunction with other chemicals and equipment utilized in the manufacture of amphetamine or methamphetamine, and who knows that the probable result of such importation would be the death of any person commits capital importation of amphetamine, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

Section 24. Subsection (2) of section 893.20, Florida Statutes, is amended to read:

893.20 Continuing criminal enterprise.—

(2) A person who commits the offense of engaging in a continuing criminal enterprise is guilty of a life felony, punishable pursuant to the Criminal Punishment Code sentencing guidelines and by a fine of \$500,000.

Section 25. Paragraph (b) of subsection (1) of section 921.187, Florida Statutes, 1996 Supplement, is amended to read:

921.187 Disposition and sentencing; alternatives; restitution.—

(1) The alternatives provided in this section for the disposition of criminal cases shall be used in a manner that will best serve the needs of society, punish criminal offenders, and provide the opportunity for rehabilitation.

(b)1. Notwithstanding any provision of former s. 921.001 or s. 921.002 to the contrary, on or after October 1, 1993, the court may require any defendant who violates s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a), and meets the criteria described in s. 893.13(10), to successfully complete a term of probation pursuant to the terms and conditions set forth in s. 948.034(1), in lieu of serving a term of imprisonment.

2. Notwithstanding any provision of former s. 921.001 or s. 921.002 to the contrary, on or after October 1, 1993, the court may require any defendant who violates s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a), and meets the criteria described in s. 893.13(11), to successfully complete a term of probation pursuant to the terms and conditions set forth in s. 948.034(2), in lieu of serving a term of imprisonment.

Section 26. Section 921.188, Florida Statutes, is amended to read:

921.188 Placement of certain state inmates in local detention facilities.— Effective June 17, 1993, notwithstanding the provisions of ss. 775.08, former 921.001, 921.002, 921.187, 944.02, and 951.23, or any other law to the contrary, a person whose presumptive sentence is 1 year and 1 day up to 22 months in a state correctional institution may be placed by the court into the custody of a local detention facility as a condition of probation or community control for a felony offense contained in sentencing guidelines categories five through nine contained in Rules 3.701 and 3.988, Florida Rules of Criminal Procedure, or similar levels described in s. 921.0022 s. 921.0012, except for such person whose total sentence points are greater than 52 or less than 40. The court may place such person for the duration of the presumptive sentence. The court may only place a person in a local detention facility pursuant to this section if there is a contractual agreement between the chief correctional officer of that county and the Department of Corrections. The contract may include all operational functions, or only housing wherein the department would provide staffing and medical costs. The agreement must provide for a per diem or partial per diem reimbursement for each person placed under this section, which is payable by the Department of Corrections for the duration of the offender's placement in the facility. The full per diem reimbursement may not exceed the per diem published in the Department of Corrections' most recent annual report for total department facilities. This section does not limit the court's ability to place a person in a local detention facility for less than 1 year.

Section 27. Subsection (1) of section 924.06, Florida Statutes, 1996 Supplement, is amended to read:

924.06 Appeal by defendant.—

(1) A defendant may appeal from:

(a) A final judgment of conviction when probation has not been granted under chapter 948, except as provided in subsection (3);

(b) An order granting probation under chapter 948;

(c) An order revoking probation under chapter 948; or

(d) A sentence, on the ground that it is illegal; ~~or~~

~~(e) A sentence imposed outside the range permitted by the guidelines authorized by chapter 921.~~

Section 28. Paragraph (i) of subsection (1) of section 924.07, Florida Statutes, 1996 Supplement, is amended to read:

924.07 Appeal by state.—

(1) The state may appeal from:

(i) A sentence imposed below outside the range permitted by the Criminal Punishment Code under guidelines authorized by chapter 921.

Section 29. Paragraph (e) of subsection (5) of section 944.17, Florida Statutes, is amended to read:

944.17 Commitments and classification; transfers.—

(5) The department shall also refuse to accept a person into the state correctional system unless the following documents are presented in a completed form by the sheriff or chief correctional officer, or a designated representative, to the officer in charge of the reception process:

(e) A copy of the Criminal Punishment Code sentencing guidelines scoresheet and any attachments thereto prepared pursuant to Rule 3.701, Florida Rules of Criminal Procedure.

Section 30. Subsection (5) of section 947.141, Florida Statutes, is amended to read:

947.141 Violations of conditional release, control release, or conditional medical release.—

(5) Effective for inmates whose offenses were committed on or after July 1, 1995, notwithstanding the provisions of ss. 775.08, former 921.001, 921.002, 921.187, 921.188, 944.02, and 951.23, or any other law to the contrary, by such order as provided in subsection (4), the panel, upon a finding of guilt, may, as a condition of continued supervision, place the releasee in a local detention facility for a period of incarceration not to

exceed 22 months. Prior to the expiration of the term of incarceration, or upon recommendation of the chief correctional officer of that county, the commission shall cause inquiry into the inmate's release plan and custody status in the detention facility and consider whether to restore the inmate to supervision, modify the conditions of supervision, or enter an order of revocation, thereby causing the return of the inmate to prison to serve the sentence imposed. The provisions of this section do not prohibit the panel from entering such other order or conducting any investigation that it deems proper. The commission may only place a person in a local detention facility pursuant to this section if there is a contractual agreement between the chief correctional officer of that county and the Department of Corrections. The agreement must provide for a per diem reimbursement for each person placed under this section, which is payable by the Department of Corrections for the duration of the offender's placement in the facility. This section does not limit the commission's ability to place a person in a local detention facility for less than 1 year.

Section 31. Subsection (3) of section 947.146, Florida Statutes, 1996 Supplement, is amended to read:

947.146 Control Release Authority.—

(3) Within 120 days prior to the date the state correctional system is projected pursuant to s. 216.136 to exceed 99 percent of total capacity, the authority shall determine eligibility for and establish a control release date for an appropriate number of parole ineligible inmates committed to the department and incarcerated within the state who have been determined by the authority to be eligible for discretionary early release pursuant to this section. In establishing control release dates, it is the intent of the Legislature that the authority prioritize consideration of eligible inmates closest to their tentative release date. The authority shall rely upon commitment data on the offender information system maintained by the department to initially identify inmates who are to be reviewed for control release consideration. The authority may use a method of objective risk assessment in determining if an eligible inmate should be released. Such assessment shall be a part of the department's management information system. However, the authority shall have sole responsibility for determining control release eligibility, establishing a control release date, and effectuating the release of a sufficient number of inmates to maintain the inmate population between 99 percent and 100 percent of total capacity. Inmates who are ineligible for control release are inmates who are parole eligible or inmates who:

(a) Are serving a sentence that includes a mandatory minimum provision for a capital offense or drug trafficking offense and have not served the number of days equal to the mandatory minimum term less any jail-time credit awarded by the court;

(b) Are serving the mandatory minimum portion of a sentence enhanced under s. 775.087(2) or (3), or s. 784.07(3);

(c) Are convicted, or have been previously convicted, of committing or attempting to commit sexual battery, incest, or any of the following lewd or

indecent assaults or acts: masturbating in public; exposing the sexual organs in a perverted manner; or nonconsensual handling or fondling of the sexual organs of another person;

(d) Are convicted, or have been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, or aggravated battery, and a sex act was attempted or completed during commission of such offense;

(e) Are convicted, or have been previously convicted, of committing or attempting to commit kidnapping, burglary, or murder, and the offense was committed with the intent to commit sexual battery or a sex act was attempted or completed during commission of the offense;

(f) Are convicted, or have been previously convicted, of committing or attempting to commit false imprisonment upon a child under the age of 13 and, in the course of committing the offense, the inmate committed aggravated child abuse, sexual battery against the child, or a lewd, lascivious, or indecent assault or act upon or in the presence of the child;

(g) Are sentenced, have previously been sentenced, or have been sentenced at any time under s. 775.084, or have been sentenced at any time in another jurisdiction as a habitual offender;

(h) Are convicted, or have been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, aggravated battery, kidnapping, manslaughter, or murder against an officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against a state attorney or assistant state attorney; or against a justice or judge of a court described in Art. V of the State Constitution; or against an officer, judge, or state attorney employed in a comparable position by any other jurisdiction; or

(i) Are convicted, or have been previously convicted, of committing or attempting to commit murder in the first, second, or third degree under s. 782.04(1), (2), (3), or (4), or have ever been convicted of any degree of murder or attempted murder in another jurisdiction;

(j) Are convicted, or have been previously convicted, of DUI manslaughter under s. 316.193(3)(c)3., and are sentenced, or have been sentenced at any time, as a habitual offender for such offense, or have been sentenced at any time in another jurisdiction as a habitual offender for such offense;

(k)1. Are serving a sentence for an offense committed on or after January 1, 1994, for a violation of the Law Enforcement Protection Act under s. 775.0823(2), (3), (4), or (5), and the subtotal of the offender's sentence points is multiplied pursuant to former s. 921.0014 or s. 921.0024;

2. Are serving a sentence for an offense committed on or after October 1, 1995, for a violation of the Law Enforcement Protection Act under s. 775.0823(2), (3), (4), (5), (6), (7), or (8), and the subtotal of the offender's sentence points is multiplied pursuant to former s. 921.0014 or s. 921.0024;

(l) Are serving a sentence for an offense committed on or after January 1, 1994, for possession of a firearm, semiautomatic firearm, or machine gun

in which additional points are added to the subtotal of the offender's sentence points pursuant to former s. 921.0014 or s. 921.0024; or

(m) Are convicted, or have been previously convicted, of committing or attempting to commit manslaughter, kidnapping, robbery, carjacking, home-invasion robbery, or a burglary under s. 810.02(2).

In making control release eligibility determinations under this subsection, the authority may rely on any document leading to or generated during the course of the criminal proceedings, including, but not limited to, any presentence or postsentence investigation or any information contained in arrest reports relating to circumstances of the offense.

Section 32. Subsection (1) of section 947.168, Florida Statutes, is amended to read:

947.168 Consideration for persons serving parole-eligible and parole-ineligible sentences.—

(1) A person serving a parole-eligible sentence who subsequently receives a parole-ineligible sentence pursuant to ~~s. 921.001(10)~~ shall be considered for parole on the parole-eligible sentence.

Section 33. Section 948.015, Florida Statutes, is amended to read:

948.015 Presentence investigation reports.—The circuit court, when the defendant in a criminal case has been found guilty or has entered a plea of nolo contendere or guilty and has a recommended sentence under the Criminal Punishment Code sentencing guidelines of any nonstate prison sanction, may refer the case to the department for investigation or recommendation. Upon such referral, the department shall make the following report in writing at a time specified by the court prior to sentencing. The full report shall include:

(1) A complete description of the situation surrounding the criminal activity with which the offender has been charged, including a synopsis of the trial transcript, if one has been made; nature of the plea agreement, including the number of counts waived, the pleas agreed upon, the sentence agreed upon, and any additional terms of agreement; and, at the offender's discretion, his version and explanation of the criminal activity.

(2) The offender's sentencing status, including whether the offender is a first offender, a habitual or violent offender, a youthful offender, or is currently on probation.

(3) The offender's prior record of arrests and convictions.

(4) The offender's educational background.

(5) The offender's employment background, including any military record, his present employment status, and his occupational capabilities.

(6) The offender's financial status, including total monthly income and estimated total debts.

(7) The social history of the offender, including his family relationships, marital status, interests, and activities.

(8) The residence history of the offender.

(9) The offender's medical history and, as appropriate, a psychological or psychiatric evaluation.

(10) Information about the environments to which the offender might return or to which he could be sent should a sentence of nonincarceration or community supervision be imposed by the court, and consideration of the offender's plan concerning employment supervision and treatment.

(11) Information about any resources available to assist the offender, such as:

(a) Treatment centers.

(b) Residential facilities.

(c) Vocational training programs.

(d) Special education programs.

(e) Services that may preclude or supplement commitment to the department.

(12) The views of the person preparing the report as to the offender's motivations and ambitions and an assessment of the offender's explanations for his criminal activity.

(13) An explanation of the offender's criminal record, if any, including his version and explanation of any previous offenses.

(14) A statement regarding the extent of any victim's loss or injury.

(15) A recommendation as to disposition by the court. The department shall make a written determination as to the reasons for its recommendation, and shall include an evaluation of the following factors:

(a) The appropriateness or inappropriateness of community facilities, programs, or services for treatment or supervision for the offender.

(b) The ability or inability of the department to provide an adequate level of supervision for the offender in the community and a statement of what constitutes an adequate level of supervision.

(c) The existence of other treatment modalities which the offender could use but which do not exist at present in the community.

Section 34. Subsections (1) and (2) of section 948.034, Florida Statutes, are amended to read:

948.034 Terms and conditions of probation; community residential drug punishment centers.—

(1) On or after October 1, 1993, any person who violates s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a) may, in the discretion of the trial court, be required to successfully complete a term of probation in lieu of serving a term of imprisonment as required or authorized by s. 775.084, former ~~or~~ s. 921.001, or s. 921.002, as follows:

(a) If the person has not previously been convicted of violating s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a), adjudication may be withheld and the offender may be placed on probation for not less than 18 months, as a condition of which the court shall require the offender to reside at a community residential drug punishment center for 90 days. The offender must comply with all rules and regulations of the center and must pay a fee for the costs of room and board and residential supervision. Placement of an offender into a community residential drug punishment center is subject to budgetary considerations and availability of bed space. If the court requires the offender to reside at a community residential drug punishment center, the court shall also require the offender to comply with one or more of the other following terms and conditions:

1. Pay a fine of not less than \$500 nor more than \$10,000 pursuant to s. 775.083(1)(c).

2. Enter, regularly attend, and successfully complete a substance abuse education program of at least 40 hours or a prescribed substance abuse treatment program provided by a treatment resource licensed pursuant to chapter 396 or chapter 397 or by a hospital licensed pursuant to chapter 395, as specified by the court. In addition, the court may refer the offender to a licensed agency for substance abuse evaluation and, if appropriate, substance abuse treatment subject to the ability of the offender to pay for such evaluation and treatment. If such referral is made, the offender must comply and must pay for the reasonable cost of the evaluation and treatment.

3. Perform at least 100 hours of public service.

4. Submit to routine and random drug testing which may be conducted during the probationary period, with the reasonable costs thereof borne by the offender.

5. Participate, at his own expense, in an appropriate self-help group, such as Narcotics Anonymous, Alcoholics Anonymous, or Cocaine Anonymous, if available.

(b) If the person has been previously convicted of one felony violation of s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a), adjudication may not be withheld and the offender may be placed on probation for not less than 24 months, as a condition of which the court shall require the offender to reside at a community residential drug punishment center for 180 days. The offender must comply with all rules and regulations of the center and must pay a fee for the costs of room and board and residential supervision. Placement of an offender into a community residential drug punishment center is subject to budgetary considerations and availability of bed space. If the court requires the offender to reside at a community residential drug pun-

ishment center, the court shall also require the offender to comply with one or more of the other following terms and conditions:

1. Pay a fine of not less than \$1,000 nor more than \$10,000 pursuant to s. 775.083(1)(c).

2. Enter, regularly attend, and successfully complete a substance abuse education program of at least 40 hours or a prescribed substance abuse treatment program provided by a treatment resource licensed pursuant to chapter 396 or chapter 397 or by a hospital licensed pursuant to chapter 395, as specified by the court. In addition, the court may refer the offender to a licensed agency for substance abuse evaluation and, if appropriate, substance abuse treatment subject to the ability of the offender to pay for such evaluation and treatment. If such referral is made, the offender must comply and must pay for the reasonable cost of the evaluation and treatment.

3. Perform at least 200 hours of public service.

4. Submit to routine and random drug testing which may be conducted during the probationary period, with the reasonable costs thereof borne by the offender.

5. Participate, at his own expense, in an appropriate self-help group, such as Narcotics Anonymous, Alcoholics Anonymous, or Cocaine Anonymous, if available.

(c) If the person has been previously convicted of two felony violations of s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a), adjudication may not be withheld and the offender may be placed on probation for not less than 36 months, as a condition of which the court shall require the offender to reside at a community residential drug punishment center for 360 days. The offender must comply with all rules and regulations of the center and must pay a fee for the costs of room and board and residential supervision. Placement of an offender into a community residential drug punishment center is subject to budgetary considerations and availability of bed space. If the court requires the offender to reside at a community residential drug punishment center, the court shall also require the offender to comply with one or more of the other following terms and conditions:

1. Pay a fine of not less than \$1,500 nor more than \$10,000 pursuant to s. 775.083(1)(c).

2. Enter, regularly attend, and successfully complete a substance abuse education program of at least 40 hours or a prescribed substance abuse treatment program provided by a treatment resource licensed pursuant to chapter 396 or chapter 397 or by a hospital licensed pursuant to chapter 395, as specified by the court. In addition, the court may refer the offender to a licensed agency for substance abuse evaluation and, if appropriate, substance abuse treatment subject to the ability of the offender to pay for such evaluation and treatment. If such referral is made, the offender must comply and must pay for the reasonable cost of the evaluation and treatment.

3. Perform at least 300 hours of public service.

4. Submit to routine and random drug testing which may be conducted during the probationary period, with the reasonable costs thereof borne by the offender.

5. Participate, at his own expense, in an appropriate self-help group, such as Narcotics Anonymous, Alcoholics Anonymous, or Cocaine Anonymous, if available.

(d) An offender who violates probation imposed pursuant to this section shall be sentenced in accordance with s. 921.002 ~~s. 921.001~~.

(2) On or after October 1, 1993, any person who violates s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a) may, in the discretion of the trial court, be required to successfully complete a term of probation in lieu of serving a term of imprisonment as required or authorized by s. 775.084, former ~~or~~ s. 921.001, or s. 921.002, as follows:

(a) If the person has not previously been convicted of violating s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a), adjudication may be withheld and the offender shall be placed on probation for not less than 12 months, as a condition of which the court may require the offender to comply with one or more of the following terms and conditions:

1. Pay a fine of not less than \$250 nor more than \$5,000 pursuant to s. 775.083(1)(c).

2. Enter, regularly attend, and successfully complete a substance abuse education program of at least 40 hours or a prescribed substance abuse treatment program provided by a treatment resource licensed pursuant to chapter 396 or chapter 397 or by a hospital licensed pursuant to chapter 395, as specified by the court. In addition, the court may refer the offender to a licensed agency for substance abuse evaluation and, if appropriate, substance abuse treatment subject to the ability of the offender to pay for such evaluation and treatment. If such referral is made, the offender must comply and must pay for the reasonable cost of the evaluation and treatment.

3. Perform at least 50 hours of public service.

4. Submit to routine and random drug testing which may be conducted during the probationary period, with the reasonable costs thereof borne by the offender.

5. Participate, at his own expense, in an appropriate self-help group, such as Narcotics Anonymous, Alcoholics Anonymous, or Cocaine Anonymous, if available.

(b) If the person has been previously convicted of one felony violation of s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a), adjudication may not be withheld and the offender may be placed on probation for not less than 18 months, as a condition of which the court shall require the offender to reside at a community residential drug punishment center for 90 days. The offender must comply with all rules and regulations of the center and must pay a fee for the costs of room and board and residential supervision. Placement of an

offender into a community residential drug punishment center is subject to budgetary considerations and availability of bed space. If the court requires the offender to reside at a community residential drug punishment center, the court shall also require the offender to comply with one or more of the other following terms and conditions:

1. Pay a fine of not less than \$500 nor more than \$5,000 pursuant to s. 775.083(1)(c).

2. Enter, regularly attend, and successfully complete a substance abuse intervention program of a least 80 hours provided by a treatment resource licensed pursuant to chapter 396 or chapter 397 or by a hospital licensed pursuant to chapter 395, as specified by the court. In addition, the court may refer the offender to a licensed agency for substance abuse evaluation and, if appropriate, substance abuse treatment subject to the ability of the offender to pay for such evaluation and treatment. If such referral is made, the offender must comply and must pay for the reasonable cost of the evaluation and treatment.

3. Perform at least 100 hours of public service.

4. Submit to routine and random drug testing which may be conducted during the probationary period, with the reasonable costs thereof borne by the offender.

5. Participate, at his own expense, in an appropriate self-help group, such as Narcotics Anonymous, Alcoholics Anonymous, or Cocaine Anonymous, if available.

(c) If the person has been previously convicted of two felony violations of s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a), adjudication may not be withheld and the offender may be placed on probation for not less than 24 months, as a condition of which the court shall require the offender to reside at a community residential drug punishment center for 120 days. The offender must comply with all rules and regulations of the center and must pay a fee for the costs of room and board and residential supervision. Placement of an offender into a community residential drug punishment center is subject to budgetary considerations and availability of bed space. If the court requires the offender to reside at a community residential drug punishment center, the court shall also require the offender to comply with one or more of the other following terms and conditions:

1. Pay a fine of not less than \$1,000 nor more than \$5,000 pursuant to s. 775.083(1)(c).

2. Enter, regularly attend, and successfully complete a prescribed substance abuse treatment program provided by a treatment resource licensed pursuant to chapter 396 or chapter 397 or by a hospital licensed pursuant to chapter 395, as specified by the court. In addition, the court may refer the offender to a licensed agency for substance abuse evaluation and, if appropriate, substance abuse treatment subject to the ability of the offender to pay for such evaluation and treatment. If such referral is made, the offender

must comply and must pay for the reasonable cost of the evaluation and treatment.

3. Perform at least 150 hours of public service.

4. Submit to routine and random drug testing which may be conducted during the probationary period, with the reasonable costs thereof borne by the offender.

5. Participate, at his own expense, in an appropriate self-help group, such as Narcotics Anonymous, Alcoholics Anonymous, or Cocaine Anonymous, if available.

(d) If the person has been previously convicted of three felony violations of s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a), adjudication may not be withheld and the offender may be placed on probation for not less than 30 months, as a condition of which the court shall require the offender to reside at a community residential drug punishment center for 200 days. The offender must comply with all rules and regulations of the center and must pay a fee for the costs of room and board and residential supervision. Placement of an offender into a community residential drug punishment center is subject to budgetary considerations and availability of bed space. If the court requires the offender to reside at a community residential drug punishment center, the court shall also require the offender to comply with one or more of the other following terms and conditions:

1. Pay a fine of not less than \$1,500 nor more than \$5,000 pursuant to s. 775.083(1)(c).

2. Enter, regularly attend, and successfully complete a prescribed substance abuse treatment program provided by a treatment resource licensed pursuant to chapter 396 or chapter 397 or by a hospital licensed pursuant to chapter 395, as specified by the court. In addition, the court may refer the offender to a licensed agency for substance abuse evaluation and, if appropriate, substance abuse treatment subject to the ability of the offender to pay for such evaluation and treatment. If such referral is made, the offender must comply and must pay for the reasonable cost of the evaluation and treatment.

3. Perform at least 200 hours of public service.

4. Submit to routine and random drug testing which may be conducted during the probationary period, with the reasonable costs thereof borne by the offender.

5. Participate, at his own expense, in an appropriate self-help group, such as Narcotics Anonymous, Alcoholics Anonymous, or Cocaine Anonymous, if available.

(e) If the person has been previously convicted of four felony violations of s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a), adjudication may not be withheld and the offender may be placed on probation for not less than 36 months, as a condition of which the court shall require the offender to reside at a

community residential drug punishment center for 360 days. The offender must comply with all rules and regulations of the center and must pay a fee for the costs of room and board and residential supervision. Placement of an offender into a community residential drug punishment center is subject to budgetary considerations and availability of bed space. If the court requires the offender to reside at a community residential drug punishment center, the court shall also require the offender to comply with one or more of the other following terms and conditions:

1. Pay a fine of not less than \$2,000 nor more than \$5,000 pursuant to s. 775.083(1)(c).

2. Enter, regularly attend, and successfully complete a prescribed substance abuse treatment program provided by a treatment resource licensed pursuant to chapter 396 or chapter 397 or by a hospital licensed pursuant to chapter 395, as specified by the court. In addition, the court may refer the offender to a licensed agency for substance abuse evaluation and, if appropriate, substance abuse treatment subject to the ability of the offender to pay for such evaluation and treatment. If such referral is made, the offender must comply and must pay for the reasonable cost of the evaluation and treatment.

3. Perform at least 250 hours of public service.

4. Submit to routine and random drug testing which may be conducted during the probationary period, with the reasonable costs thereof borne by the offender.

5. Participate, at his own expense, in an appropriate self-help group, such as Narcotics Anonymous, Alcoholics Anonymous, or Cocaine Anonymous, if available.

(f) An offender who violates probation imposed pursuant to this section shall be sentenced in accordance with s. 921.002 ~~s. 921.001~~.

Section 35. Paragraph (c) of subsection (2) of section 948.51, Florida Statutes, is amended to read:

948.51 Community corrections assistance to counties or county consortiums.—

(2) ELIGIBILITY OF COUNTIES AND COUNTY CONSORTIUMS.—A county, or a consortium of two or more counties, may contract with the Department of Corrections for community corrections funds as provided in this section. In order to enter into a community corrections partnership contract, a county or county consortium must have a public safety coordinating council established under s. 951.26 and must designate a county officer or agency to be responsible for administering community corrections funds received from the state. The public safety coordinating council shall prepare, develop, and implement a comprehensive public safety plan for the county, or the geographic area represented by the county consortium, and shall submit an annual report to the Department of Corrections concerning the status of the program. In preparing the comprehensive public safety plan,

the public safety coordinating council shall cooperate with the district juvenile justice board and the county juvenile justice council, established under s. 39.025, in order to include programs and services for juveniles in the plan. To be eligible for community corrections funds under the contract, the initial public safety plan must be approved by the governing board of the county, or the governing board of each county within the consortium, and the Secretary of Corrections based on the requirements of this section. If one or more other counties develop a unified public safety plan, the public safety coordinating council shall submit a single application to the department for funding. Continued contract funding shall be pursuant to subsection (6). The plan for a county or county consortium must cover at least a 5-year period and must include:

(c) Specific goals and objectives for reducing the projected percentage of commitments to the state prison system of persons with sentencing scores of 40 to 52 points, inclusive, pursuant to the Criminal Punishment Code sentencing guidelines.

Section 36. Subsection (3) of section 958.04, Florida Statutes, 1996 Supplement, is amended to read:

958.04 Judicial disposition of youthful offenders.—

(3) The provisions of this section shall not be used to impose a greater sentence than the maximum recommended range as established by the Criminal Punishment Code statewide sentencing guidelines pursuant to chapter 921 unless reasons are explained in writing by the trial court judge which reasonably justify departure. A sentence imposed outside of the code is such guidelines shall be subject to appeal pursuant to ~~s. 924.06~~ or s. 924.07.

Section 37. Effective October 1, 1997, subsection (3) of section 921.0014, Florida Statutes, as amended by section 22 of chapter 96-388, Laws of Florida, is amended to read:

921.0014 Sentencing guidelines; worksheet computations; scoresheets.—

(3) A single guidelines scoresheet shall be prepared for each defendant, except that if the defendant is before the court for sentencing for more than one felony and the felonies were committed under more than one version or revision of the guidelines, separate scoresheets must be prepared pursuant to s. 921.001(4)(b). The scoresheet or scoresheets must cover all the defendant's offenses pending before the court for sentencing. Either the office of the state attorney or the Department of Corrections, or both where appropriate, shall prepare the scoresheet or scoresheets, which must be presented to ~~the state attorney and~~ the defense counsel for review for accuracy in all cases unless the judge directs otherwise. The defendant's scoresheet or scoresheets must be approved and signed by the sentencing judge.

Section 38. Subsection (1) of section 397.705, Florida Statutes, is amended to read:

397.705 Referral of substance abuse impaired offenders to service providers.—

(1) **AUTHORITY TO REFER.**—If any offender, including but not limited to any minor, is charged with or convicted of a crime, the court or criminal justice authority with jurisdiction over that offender may require the offender to receive services from a service provider licensed under this chapter. If referred by the court, the referral ~~shall~~ may be ~~instead of or~~ in addition to final adjudication, imposition of penalty or sentence, or other action. The court may consult with or seek the assistance of a service provider concerning such a referral. Assignment to a service provider is contingent upon availability of space, budgetary considerations, and manageability of the offender.

Section 39. Section 893.15, Florida Statutes, is amended to read:

893.15 **Rehabilitation.**—Any person who violates s. 893.13(6)(a) or (b) relating to possession may, in the discretion of the trial judge, be required to participate in a substance abuse services program approved or regulated by the Department of Health and Rehabilitative Services pursuant to the provisions of chapter 397, provided the director of such program approves the placement of the defendant in such program. Such required participation ~~shall~~ may be imposed in addition to, ~~or in lieu of,~~ any penalty or probation otherwise prescribed by law. However, the total time of such penalty, probation, and program participation shall not exceed the maximum length of sentence possible for the offense.

Section 40. Subsection (5) of section 921.001, Florida Statutes, is amended to read:

921.001 **Sentencing Commission and sentencing guidelines generally.**—

(5) Sentences imposed by trial court judges under the 1994 revised sentencing guidelines on or after January 1, 1994, must be within the 1994 guidelines unless there is a departure sentence with written findings. However, a person sentenced for a felony committed on or after July 1, 1997, who has at least one prior felony conviction and whose recommended sentence is any nonstate prison sanction may be sentenced to community control or a term of incarceration not to exceed 22 months. A person sentenced for a felony committed on or after July 1, 1997, who has at least one prior felony conviction and whose minimum recommended sentence is less than 22 months in state prison may be sentenced to a term of incarceration not to exceed 22 months. As used in this subsection, the term "conviction" means a determination of guilt which is the result of a plea or a trial, regardless of whether adjudication is withheld. Such sentence is not subject to appeal. If a recommended sentence under the guidelines exceeds the maximum sentence otherwise authorized by s. 775.082, the sentence under the guidelines must be imposed, absent a departure. If a departure sentence, with written findings, is imposed, such sentence must be within any relevant maximum sentence limitations provided in s. 775.082. The failure of a trial court to impose a sentence within the sentencing guidelines is subject to appellate review pursuant to chapter 924, except as otherwise provided in

this subsection. However, the extent of a departure from a guidelines sentence is not subject to appellate review.

Section 41. Paragraph (d) of subsection (4) of section 921.0016, Florida Statutes, 1996 Supplement, is amended, and subsection (5) is added to that section, to read:

921.0016 Recommended sentences; departure sentences; aggravating and mitigating circumstances.—

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

(d) ~~The defendant requires specialized treatment for a addiction, mental disorder that is unrelated to substance abuse or addiction, or for a physical disability, and the defendant is amenable to treatment.~~

(5) A defendant's substance abuse or addiction, including intoxication at the time of the offense, is not a mitigating factor under subsection (4) and does not, under any circumstances, justify a downward departure from the sentence recommended under the sentencing guidelines.

Section 42. The Florida Criminal Punishment Code applies to all felonies, except capital felonies, committed on or after October 1, 1998. Any revision to the Criminal Punishment Code applies to sentencing for all felonies, except capital felonies, committed on or after the effective date of the revision. Felonies, except capital felonies, with continuing dates of enterprise shall be sentenced under the Criminal Punishment Code in effect on the beginning date of the criminal activity.

Section 43. The Division of Statutory Revision of the Joint Legislative Management Committee shall leave the repealed statutory provisions referenced herein in the Florida Statutes for 10 years from October 1, 1998.

Section 44. Unless otherwise expressly provided in this act, sections 1 through 12, sections 14 through 36, and sections 42 and 43 shall take effect October 1, 1998; this section and section 13 shall take effect upon becoming a law; and the remaining sections of this act shall take effect July 1, 1997.

Became a law without the Governor's approval May 30, 1997.

Filed in Office Secretary of State May 29, 1997.