



CRIMINAL PUNISHMENT CODE TASK FORCE Enhancements Subcommittee

Minutes

October 1, 2019 at Noon

Conference Call

I. Members Present:

The Honorable Michelle Sisco (Chair)

The Honorable Charles E. Williams

Chief Melanie Bevan

Professor John Stinneford

The Honorable Bernie McCabe

II. Enhancements Subcommittee

Professor Stinneford inquired to what extent sentencing enhancements were discussed among the Legislature last year. Concern expressed around the prosecutor's discretion in a case versus judicial discretion; he would like to have these decisions made more publicly in the courtroom as opposed to behind the doors of the prosecutor's office and moving judicial discretion back to the judiciary, but not to the extremes that existed before the implementation of the Criminal Punishment Code.

Mr. McCabe would like the subcommittee to review mandatory minimums (excluding drug charges).

Judge Williams echoed frustration over a lack of judicial discretion and the need to review mandatory minimums.

Judge Sisco would like to explore the discretion to come down from life sentences for some non-violent, non-sexual crimes on the front or back end. Judge Sisco suggests using Graham/Miller tactics but concedes this would be time consuming and expensive.

Judge Williams questioned if the Legislature has considered some way to review sentences for those who have shown rehabilitation.

One way to mitigate the overwhelming amount of work is to limit this initiative to sentences over a specified amount of years, such as 25-life sentences. The Subcommittee discussed that these considerations essentially would make judges individual parole commissions.

There is powerful research showing that once people reach a certain age, they are less likely to offend. Subcommittee discussed potentially reviewing opportunities for this population.

There is a disparity issue if point multipliers are there but ignorable. Subcommittee would like to see a breakdown of their use by jurisdiction.

III. Public Comment

Adam Tebrugge

The Florida Rules of Criminal Procedure limit the court's ability to modify a sentence to sixty days after the case becomes final (Fla. R. Crim. Pro. 3.800(c)). This time frame is inflexible and insufficient to address cases of manifest injustice. For instance, even if the state attorney and the defendant agreed that a particular sentence was excessive or unjust, there is presently no procedural vehicle that allows the parties to come back to court and seek an agreed upon modification of sentence. I would respectfully recommend that the task force discuss this situation and determine language that could be added to rule 3.800 to allow for a stipulated modification upon court approval, at any time.

IV. Adjourn

The meeting was adjourned at approximately 12:48 P.M.