

# Criminal Punishment Code Task Force

*A report to the Florida Legislature offering recommendations regarding “sentencing for and ranking of noncapital felony offenses under the Criminal Punishment Code” 2019-167, Laws of Florida.*



**Date: June 2020**

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## EXECUTIVE SUMMARY

Chapter 2019-167, Laws of Florida, established the Criminal Punishment Code Task Force (“Task Force”), a fifteen-member task force to review, evaluate, and make recommendations regarding sentencing for and ranking of non-capital felony offenses under the Criminal Punishment Code (“Code”). The Code, enacted in 1998, is codified in Chapter 921, Florida Statutes. The Task Force and its three subcommittees conducted 33 public meetings over an eleven-month period. The Task Force also conducted extensive research on the historical development of Florida’s criminal sentencing system and the sentencing systems used by other states and the federal government.

The Task Force was required to submit this report to the Governor, Chief Justice of the Supreme Court, House Speaker and Senate President by June 30, 2020. The Task Force dissolves upon submission of this report. This report discusses the issues considered by the Task Force and recommendations for legislative changes. The Task Force made the following recommendations:

1. Codify the ruling in *Montgomery v. State*, 897 So.2d 1282 (Fla. 2005), to amend the definition of “conviction” to include a “no contest plea.”
2. Raise the point values for and subsequently remove the Drug Trafficking and Motor Vehicle Theft enhancements from Section IX of the scoresheet.
3. Move the Criminal Gang Offense enhancement from Section IX of the scoresheet and instead create a “checkbox” near the signature line of the court whereby the court can indicate its finding of enhancement pursuant to its judicial discretion.
4. Raise the point values for and subsequently remove the Escape and Failure to Appear enhancements from Section V of the scoresheet.
5. Raise the point values for and subsequently remove the following from Section III, Victim Injury of the scoresheet: Second-Degree Murder, Death, Severe Injury, Sexual Penetration, and Sexual Contact.

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6. Require the use of an electronic, computer-based scoresheet program and practices to ensure consistency in completing scoresheets.
7. Increase the number of Felony Degree levels from 3 to 5, while retaining Capital, Life, and Punishable by Life.
8. Increase number of Offense Severity levels from 10 to 16.
9. Modify the Offense Severity Ranking Chart to reflect the five felony degree levels, sixteen Offense Severity levels, and the ranking and re-ranking of offenses adopted by the Task Force.
10. Amend § 775.082(9)(a)3.a., F.S., to give judges discretion in sentencing certain Prison Releasee Reoffenders in cases where no firearm was discharged and no death or great bodily harm occurred to sentence a defendant to a term of not less than 30 years up to life.
11. Amend 10-20-Life, § 775.087(2)(d), F.S., to give judges discretion to make the firearms sentences consecutive or concurrent.
12. Amend § 893.135(1)(a), F.S., to rectify the duplicative language regarding quantity of cannabis.
13. Establish or expand Pre-Arrest Diversion programs in each judicial circuit.
14. Outline a broad set of guidelines for problem-solving courts.

## **TASK FORCE MEMBERS**

**Honorable Michelle Sisco, Circuit Judge, Thirteenth Judicial Circuit (Chair Designee)**

**Secretary Simone Marstiller, (Department of Juvenile Justice)**

**Professor Michael Morley, FSU College of Law (Governor Appointee)**

**Professor John Stinneford, UF College of Law (Governor Appointee)**

**Honorable Melissa Nelson, State Attorney, Fourth Judicial Circuit (Governor Appointee)**

**Honorable Michael Andrews, Circuit Judge, Sixth Judicial Circuit (Governor Appointee)**

**Sheriff Christopher Nocco, Pasco County (Governor Appointee)**

**Chief Melanie Bevan, City of Bradenton Police Department (Governor Appointee)**

**Senator Jason Pizzo, Thirty-Eighth District (Appointed by the Senate President)**

**Honorable Donna McIntosh, Circuit Judge, Eighteenth Judicial Circuit (Appointed by the Chief Justice)**

**Sheriff William Snyder, Martin County, (Speaker of the House of Representatives Appointee)**

**Honorable Larry Eger, Public Defender, Twelfth Judicial Circuit, (President of the Senate Appointee)**

**Honorable Charles E. Williams, Circuit Judge, Twelfth Judicial Circuit (Chief Justice Appointee)**

**Honorable Bernie McCabe, State Attorney, sixth Judicial Circuit (Speaker of the House of Representatives Appointee)**

**Mr. Kenneth Steely, (Designee for the Secretary of the Department of Corrections)<sup>1</sup>**

**Ms. Kathryn Horst, (Designee for the Secretary of the Department of Corrections)**

## **Subcommittees**

The Task Force formed three subcommittees to take an in-depth look at the following topics: Scoresheets, Enhancements, and Non-Prison Sanctions.

### **Scoresheets Subcommittee**

This subcommittee reviewed scoresheets, the points assessed to offenses, and offense severity rankings to ensure they are consistent with the Code's principles. Subcommittee members were: The Honorable Donna McIntosh (Chair), Professor Michael Morley, Senator Jason Pizzo, The Honorable Larry Eger, Kenneth Steely, and Kathryn Horst.

### **Enhancements Subcommittee**

This subcommittee reviewed enhancements, multipliers and mandatory minimums including "Habitual Felony Offender", "Habitual Violent Felony Offender", and "Prison Releasee Reoffender". Subcommittee members were: The Honorable Michelle Sisco (Chair), The Honorable Bernie McCabe, Professor John Stinneford, and The Honorable Charles E. Williams.

### **Non-Prison Sanctions Subcommittee**

This subcommittee reviewed alternatives to incarceration, particularly in state prisons, along with diversion programs, specialty courts and departures. Subcommittee members were: Secretary Simone Marsteller (Chair), Sheriff William Snyder, The Honorable Michael Andrews, The Honorable Melissa Nelson, and Sheriff Christopher Nocco.<sup>2</sup>

## TASK FORCE MEETINGS

The Task Force conducted eight public meetings. In addition, subcommittees conducted 26 public meetings by teleconference. The notices, agendas, and meeting packets were published on a website established by the Attorney General's Office, and available at [www.myfloridalegal.com](http://www.myfloridalegal.com). At each meeting, time for public comment was made available prior to a vote on any item. The meetings were recorded, published and filmed by The Florida Channel when available. Although in-person Task Force meetings were to be held in March, May, and June, those meetings were converted to teleconferences due to the COVID-19 pandemic. The following full Task Force meetings were held:

- August 14, 2019 in Tallahassee at the Florida Capitol's Cabinet Meeting Room
- October 4, 2019 in Tampa at Stetson University Law Center
- January 17, 2020 in Tampa at Stetson University Law Center
- March 27, 2020 via Teleconference
- May 15, 2020 via Teleconference
- May 21, 2020 via Teleconference
- June 5, 2020 via Teleconference
- June 12, 2020 via Teleconference

# HISTORICAL OVERVIEW OF FLORIDA'S SENTENCING SYSTEM

Task Force staff conducted extensive historical legal research on the evolution of Florida's criminal sentencing system that led to the adoption of the Code in 1998. This research was presented to the Task Force at the January 2020 meeting. Although Florida currently uses more than one framework for sentencing non-capital offenders, prior to enactment of legislatively-imposed sentencing in 1983, Florida did not have a true structured sentencing system.<sup>3</sup> Instead, courts were given broad discretion to punish an offender up to the statutory maximum of each felony.<sup>4</sup> Under that system, courts could sentence an offender to 5 years in prison for a third-degree felony, 15 years in prison for a second-degree felony, 30 years in prison for a first-degree felony, and life in prison for a life felony, all with parole eligibility.<sup>5</sup> Since 1998, there are three distinct versions of the [sentencing] guidelines currently in operation based on when the offender committed the criminal offense. The three versions correspond with the substantial legislative changes to the Florida criminal code made in 1983-1993, 1994-1997 and 1998-present.<sup>6</sup>

## 1972-1982: Prison Overcrowding Prompts Legislative Action

The primary impetus for the initial modern changes in Florida's sentencing system appears to have been prison overcrowding. In 1972, prisoners in Florida sued the Florida Department of Corrections ("FDOC"), in the seminal case, *Costello v. Wainwright*,<sup>7</sup> alleging "a constitutionally inadequate level of medical care caused by severe overcrowding of correctional facilities, resulting in violation of the cruel and unusual punishment, due process and equal protection clauses of the Constitution."<sup>8</sup> The *Costello* litigation placed pressure on FDOC to reduce the prison population in two ways: (1) by adding additional facilities within the state and (2) by limiting the number of prisoners housed in its correctional facilities.<sup>9</sup> The first measure enacted was chapter 78-304, Laws

of Florida 1978, House Bill 811.

Through that legislation, changes were made to the gain time laws that allowed more discretion in releasing inmates.<sup>10</sup> In 1980, also as a result of *Costello*, FDOC “entered into a consent decree that provided for the capping of the prison population within certain limits.”<sup>11</sup> The Costello Settlement Agreement included specific timeframes in which the prison population at each facility had to be reduced to come into compliance with the agreement.<sup>12</sup> Under the agreement, prisons were not allowed to operate above “lawful capacity.” Effective July 1, 1985, the agreement defined “lawful capacity” as 133 percent of total design capacity.<sup>13</sup> As of June 10, 1995, this increased to 150 percent.<sup>14</sup>

## 1983-1998: Sentencing Measures Enacted to Address Overcrowding, Implement Alternative Court Dispositions, and Further Proportional Sentencing

In 1982, in response to the overcrowding crisis, the Legislature met in a special session “to address problems created by the rapid prison population growth.”<sup>15</sup> At that time, an eleven-member Corrections Overcrowding Task Force (“COTF”) was created.<sup>16</sup> Chaired by the Governor and Attorney General, the COTF was “charged with the responsibility of analyzing prison overcrowding and formulating solutions.”<sup>17</sup> The COTF’s recommendations were codified in the Correction Reform Act of 1983.<sup>18</sup>

### **The 1983 Sentencing Guidelines: Florida’s First Guidelines**

In 1983, the Legislature created the Florida Sentencing Guidelines.<sup>19</sup> The guidelines were determinate, meaning that the offender was sentenced to a specific amount of time in prison rather than a range of years. The intent of the 1983 guidelines was twofold: (1) to ensure that the penalty imposed and actual time served were proportionate to the severity of the offender’s primary offense,

and (2) to provide uniformity in sentencing.<sup>20</sup>

Using the 1983 Guidelines system was also complicated. It entailed a complex point system using nine worksheets for different offense categories, including, for example, sexual offenses, robbery, burglary, theft, and offenses involving weapons or drugs (See Appendix A-1). On each worksheet, a point value was allocated for the primary offense, additional pending offenses, prior record offenses, legal status of the offender, and victim injury.<sup>21</sup> The score fell into a cell block for each worksheet that indicated a recommended sentencing range (See Appendix A-2). The court could only depart from the guidelines with written findings.<sup>22</sup>

Even after enactment of 1983 guidelines, prison overcrowding remained a major concern. The prison population continued to grow, partly due to an increase in drug convictions.<sup>23</sup>

In 1989, the Legislature created the Control Release Authority (“Authority”).<sup>24</sup> “Control Release was an administrative function solely used to manage state prison population within a lawful capacity.”<sup>25</sup> To release inmates and thereby prevent overcrowding in compliance with the Costello Settlement Agreement, FDOC worked with the Authority, and relied on many types of gain time. The Authority used “pools” to categorize inmates who were eligible for release.<sup>26</sup> After considering high and low risk inmates,<sup>27</sup> the Authority placed each inmate in an “advanceable” or “non-advanceable” pool. Inmates in the advanceable pool, who were usually non-violent and low risk offenders, were eligible for early release.<sup>28</sup>

The Authority awarded gain time in various ways.<sup>29</sup> Merit-based gain time included, *e.g.*: awarding incentive gain time; reducing the offender’s sentence for good behavior (up to 20 days per month); and awarding meritorious gain time for performing an outstanding deed or service (up to 60 days).<sup>30</sup> Gain time could also be awarded when prison capacity reached a state of emergency; under the Florida Emergency Gain-time Law; awards of gain time were triggered once the prison population exceeded 99 percent of lawful capacity.<sup>31</sup>

The substantial amount of gain time given to prisoners eventually led to uncertainty in Florida’s

criminal justice system. The majority of Florida's prisoners were not serving their full sentences, and some of Florida's prisoners were serving only one third of their original sentences.<sup>32</sup> In 1989, the actual time served by an inmate was only 34 percent of the imposed sentence.<sup>33</sup> The reduction of time served versus the actual sentence imposed further impaired community trust in the prison system, leading to the 1994 legislative restructuring of sentences.

### **The 1994 Sentencing Guidelines: Using Scoresheets to Tailor Sentencing**

In 1991, the Legislature directed the Economic and Demographic Research Division of the Joint Legislative Management Committee (EDR) to prepare alternative proposals for revising the sentencing guidelines and examine the use of the habitual felony offender statute.<sup>34</sup> The Legislature recognized that, at that time, over 40 percent of cases had been sentenced outside the guidelines, mainly due to habitual felony offender sentencing and mandatory minimum sentences.<sup>35</sup> This resulted in a static prison population, releasing and admitting prisoners at a 1:1 ratio.<sup>36</sup> As a result, FDOC indicated that, if the situation at the state prison system remained as it was, by 1996, most inmates would be ineligible for early release, thereby creating overcrowding, requiring the governor to declare a state of emergency and implement the emergency release mechanism pursuant to Florida Statutes.<sup>37</sup> Exacerbating this problem, habitual offenders were both statutorily prohibited from receiving basic gain time and ineligible for parole release.<sup>38</sup>

Further, in *State v. Barnes*, 595 So. 2d 22 (Fla. 1992), the Florida Supreme Court held that, "to qualify as a habitual felony offender, the statutory requirement of two prior felony convictions could arise from a single prior sentencing event," rather than from two separate events.<sup>39</sup> Prior Legislative changes, combined with the effect of the *Barnes* decision, led to a significant increase in habitual offender sentencing. In 1988, there had been approximately 260 inmates serving sentences as habitual offenders. By 1992, the number of habitual offenders rose to 7,338.<sup>40</sup> The changes led to longer prison sentences and contributed to the prison population growth.

In 1993, the Legislature enacted Senate Bill 26B, which amended sections 775.084 and 947.146, Florida Statutes, allowing habitual offenders to be considered for early release.<sup>41</sup> Senate

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Bill 26B altered the effect of *Barnes*, amending section 775.084, Florida Statutes, by providing that, "to be counted as a qualifying prior felony the felony must have resulted in a conviction sentenced separately to the current offense and sentenced separately from any other felony conviction that is to be counted as a prior felony."<sup>42</sup> The bill also required the "Control Release Authority to develop a uniform procedure for awarding control release dates to habitual offenders."<sup>43</sup>

Next, the sentencing guidelines were reformed through the Safe Streets Initiative of 1994.<sup>44</sup> The 1994 guidelines applied to all felony offenses except capital felonies. Instead of using individual worksheets for each offense category, one sentencing worksheet was created for all offenses.<sup>45</sup> Additionally, the revisions placed the offense severity levels and the sentencing scoresheet (with point values) directly into the statutes.<sup>46</sup> This gave the Legislature the ability to designate the severity of offenses and allocate point values consistent with the public interest.<sup>47</sup>

This was accomplished by ranking crimes by severity level. A statutory offense severity ranking chart was created for use in sentencing, with each offense on the scoresheet ranked individually by severity level from 1 to 10 (with level 10 offenses being the most severe).<sup>48</sup> The chart provided rankings for the primary offense, other pending offenses before the court, and prior criminal history. Victim injury and the offender's legal status (*i.e.*, whether or not the offender was under some type of court supervision, such as probation or community control, at the time of the primary offense) were provided in the scoresheet.<sup>49</sup> The severity level of each offense was then assigned a point value based on a sentencing scoresheet.

The scoresheet sentencing formula (proposed by the EDR and Sentencing Commission and adopted by the Legislature) required that the points from all categories, as calculated on the worksheet, be added together, then 28 points subtracted from the total.<sup>50</sup> The resulting score was a recommended prison sentence in months.<sup>51</sup> Courts retained discretion to deviate (upwards or downwards) by 25 percent.<sup>52</sup> Any deviation above 25 percent required a written order with findings of statutory aggravating circumstances.<sup>53</sup>

Under the 1994 guidelines, for a total score of 40 or below, the recommendation was a nonstate prison sentence. For a score greater than 40, but less than or equal to 52, the court had discretion to sentence a defendant to prison or community sanctions. A score greater than 52 required a prison sentence.<sup>54</sup>

The 1994 changes attempted to ensure that offenders would serve 70 percent of their original sentence, and no less than 55 percent of that sentence, for offense levels 1 through 7. For higher offense levels 8, 9, or 10, at least 75 percent, and no less than 60 percent, of the original sentence was intended to be served.<sup>55</sup>

Because multipliers for specific offenses, points assessed for legal status violations, and prior offense scoring were all included on the scoresheet, this made the scoring system uniform for each offender.<sup>56</sup> The 1994 changes also provided specific procedures to be implemented by the Secretary of Corrections, the Parole Board, and the Governor when emergency release measures were required based on overcrowding.<sup>57</sup>

The guidelines were again reformed with the Crime Control Act of 1995,<sup>58</sup> which increased point values for numerous offenses. The most significant change was the requirement that an offender serve 85 percent of the total imposed sentence.<sup>59</sup> The 1995 guidelines reflected an attempt to “toughen” the recommended sentences,<sup>60</sup> thereby strengthening Florida’s criminal justice system through longer sentences for serious and violent offenders.<sup>61</sup>

### **The Criminal Punishment Code of 1998: Implementing Guideline and Non-Guideline Features**

“The 1994 sentencing guidelines structure was heavily criticized for curbing the discretion of the sentencing judge.”<sup>62</sup> By 1997, the statewide average for upward departures of sentences based on the 1994 guidelines comprised approximately 1 percent of cases, while downward departures were occurring at a rate of about 58 percent statewide.<sup>63</sup>

This ultimately led to the 1998 enactment of the Florida Criminal Punishment Code, the

principle sentencing structure currently applied, and the abolishment of the Sentencing Commission.<sup>64</sup> The 1998 legislation “made substantial changes in the application of the sentencing guidelines.” The Code focused on the punishment of offenders (rather than rehabilitation,)<sup>65</sup> with a primary emphasis on repeat and violent offenders. The Code ultimately authorized more judicial discretion to impose upward and downward sentences, while at the same time lowering mandatory prison guidelines.<sup>66</sup>

## **Guideline Features**

The Code applies to all felony offenses except capital felonies. Under the Code, a scoresheet is prepared for every felony offender. (*See* Appendix B). A completed scoresheet provides the offender’s “score” which is then used to determine whether the offender will be required to serve a prison sentence or be eligible for an alternative sanction.

The Code reduced sentencing points for a state prison sanction from 52 to 44 points. An offender whose score is above 44 points must receive a prison sentence, ranging from the lowest permissible sentence up to the statutory maximum.<sup>67</sup> This revised sentencing structure eliminated the 25 percent “upward” departure rule in the 1994 guidelines, eliminating the need to consider the existence of “aggravating circumstances” upon which such upward departure sentences were based. The court can only sentence a downward departure from the lowest permissible sentence, if mitigating circumstances that reasonably justify the departure (as provided for in section 921.0026, Florida Statutes) are articulated in writing.

The Code uses a scoresheet preparation manual, prepared by Florida Department of Corrections and the Office of the State Courts Administrator, containing a blank scoresheet and an offense severity ranking chart for felony offenses.<sup>68</sup> There are 10 offense severity levels, ranked from least severe (level 1) to most severe (level 10).<sup>69</sup> To complete a scoresheet, the following is done:

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- The offender's pending cases are listed in sections 1 and 2 of the scoresheet;
- The offender's prior criminal history is listed in section 4;
- Each felony offense (pending and prior)<sup>70</sup> must be located on the Offense Severity Ranking Chart and the corresponding severity level notated by a point value;
- The severity level of each offense is written next to each offense on the scoresheet;
- The scoresheet provides a point value for each offense and its severity level;
- Once all offenses are given a point value, and the other portions of the scoresheet are filled out, each section of the scoresheet is added to obtain a total point value; and
- Twenty-eight points are subtracted from the total point value and the resulting number is multiplied by .75.<sup>71</sup>

After completing these calculations, the final number on the scoresheet is the lowest permissible sentence in months of imprisonment to which the offender must be sentenced, absent mitigation.

### **Non-Guideline Features**

Several statutes, where applicable, supersede the guideline recommended sentence. These non-guideline sentencing factors include: (1) sentencing enhancements based on the defendant's prior record or use of firearms in committing an offense and (2) mandatory minimum sentences.

Based on research from the early 1990s, the Legislature found, "that a substantial and disproportionate number of serious crimes" committed in Florida were committed by a "relatively small number of repeat and violent felony offenders."<sup>72</sup> Thus, the Legislature determined that priority should be given to the investigation, and prosecution of career and violent criminals, and to incarceration of career and violent criminals in the allocation of available prison space.<sup>73</sup> The Legislature further determined that such extended terms of imprisonment must include substantial mandatory minimum terms to deter offenders and to keep the public safe from violent offenders, in

particular.<sup>74</sup>

Prior to 1999, Florida law did not require courts to impose mandatory prison terms on violent felons who had committed three violent felonies. In the Code, the Legislature sought to enhance citizen protection by imposing mandatory prison terms on three-time violent felony offenders. The Legislature's stated goal was to improve public safety by incapacitating repeat offenders who were most likely to commit the most heinous and violent offenses on citizens within the community, thereby accelerating declines in the violent crime rate.<sup>75</sup>

Statistics released shortly thereafter tended to bear this out. According to the Florida Parole Commission, after the 1999 amendments to section 775.087, Florida Statutes, went into effect, the violent-gun crime rate declined by 26.4 percent in 2000, as compared to 1998.<sup>76</sup> Additionally, as of 1999, the rate of incarceration had declined 7 out of the last 8 preceding years.<sup>77</sup>

### **Mandatory Minimum Sentences, Including 10/20/Life**

Mandatory minimum sentences require the court to sentence an offender to a specified term of years for enumerated offenses set by statute. A scoresheet must be completed for mandatory minimum sentences and the lowest permissible sentence under the Code must be calculated.<sup>78</sup> "If the lowest permissible sentence is less than the mandatory minimum sentence, the mandatory minimum sentence takes precedence."<sup>79</sup> "If the lowest permissible sentence exceeds the mandatory sentence, the requirements of the Criminal Punishment Code and any mandatory minimum penalties will apply."<sup>80</sup> The court has no discretion to waive or reduce a mandatory minimum sentence.

Florida's criminal sentencing policy with respect to mandatory minimum sentences has evolved substantially during development and adoption of sentencing guidelines. "Prior to 1983, Florida had mandatory minimum sentences for capital offenses, for use of a firearm during commission of a felony, and for drug trafficking offenses."<sup>81</sup> Between 1988 and 1992, additional offenses were given mandatory minimum sanctions; among these were the sale or delivery of a controlled substance within 1,000 feet of a school, trafficking in certain controlled substances, and

committing violent offenses against law enforcement officers.<sup>82</sup>

An offender serving a mandatory minimum sentence was ineligible for early release until the mandatory minimum portion of the sentence was served.<sup>83</sup> Some offenders serving certain mandatory minimum sentences could not earn gain time during the mandatory minimum portion of their sentence.<sup>84</sup>

The number of mandatory minimum sentences imposed grew so rapidly that there was a rise in long-term inmates and fewer inmates were eligible for early release. This resulted in the need for additional prison beds and rising costs associated with housing inmates.<sup>85</sup>

In 1994, along with adoption of the 1994 guidelines, the Legislature repealed most of Florida's mandatory minimum sentences, instead incorporating the offenses into the revised guidelines at the proper severity level or providing multipliers for certain offenses.<sup>86</sup> For example, mandatory minimum sentences were deleted or revised for assault and battery on a person over 65, unlawful activities using a destructive device, and violent offenses against law enforcement officers. Notably, all drug mandatory minimum sentences were eliminated except for 3-year and 5-year sentences for trafficking in phencyclidine; 15-year sentences for trafficking in cannabis, cocaine, phencyclidine, methaqualone, and amphetamine; and 25-year sentences for trafficking in illegal drugs.<sup>87</sup> The 1994 legislation also allowed control release consideration for certain mandatory minimum offenders.

The 10/20/Life statute went into effect on July 1, 1999, amending section 775.087, Florida Statutes.<sup>88</sup> These revisions to section 775.087 imposed mandatory minimum sentences on criminals who possessed, discharged, or caused great bodily harm or death with a firearm during the commission of an enumerated felony. It was “the intent of the Legislature to establish zero tolerance of criminals who use, threaten to use, or avail themselves of firearms in order to commit crimes and thereby demonstrate their lack of value for human life.”<sup>89</sup> The new mandatory minimum sentences imposed under the statute:

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- 10 years Florida State Prison for possession of a firearm, while committing an enumerated offense;
- 20 years Florida State Prison for the discharge of the firearm, while committing an enumerated offense;
- 25 years to life Florida State Prison if the discharge caused great bodily harm or death, while committing an enumerated offense.

The prosecution has sole discretion to determine whether the 10/20/Life enhancement will be sought in a particular case. Additionally, the prosecution is the only party that can waive the mandatory minimum sanction, once a charge is filed.

### Violent Offender Enhancements

There are four categories of non-guideline sentencing enhancements in section 775.084, Florida Statutes: habitual felony offender (HFO), habitual violent felony offender (HVFO), violent career criminal (VCC), and three-time violent felony offender (3VF). Generally, the sentencing enhancement, if found, requires sentencing in the following ranges, depending on the degree of the felony for which the defendant was convicted:

Felony Degree	HFO	HVFO	VCC	3VF
Life	Life	Life, 15 min.	Life	Life
First Degree	Life	Life, 15 min.	Life	<30
Second Degree	<30	>10 & <30	>30 & <40	<15
Third Degree	<10	>5 & <10	>10 & <15	<5

Habitual Felony Offender: The habitual felony offender statute, section 775.084, Florida Statutes, has existed in Florida for decades, but the statute was rarely used before 1988.<sup>90</sup> At that

time, the Legislature made significant changes to the habitual felony offender statutes, making it easier for courts to sentence a defendant as a habitual offender. First, it amended the habitual felony offender statute to specifically remove habitual felons from the sentencing guidelines.<sup>91</sup> Second, it removed the requirement that the court make a finding that sentencing someone as a habitual offender was necessary for the “protection of the public.”<sup>92</sup>

Under section 775.084(1)(a), Florida Statutes, a defendant may qualify as a habitual felony offender only if the prosecution proves (1) that the defendant has previously been convicted of any combination of two or more felonies and (2) that the felony for which the defendant is to be sentenced was committed:

- while the defendant was serving a prison sentence or other sentence, or court-ordered (or other) supervision lawfully imposed as a result of a prior conviction for a felony or other qualified offense; or
- within 5 years of the date of the conviction of the defendant’s last prior felony or other qualified offense; or
- within 5 years of the defendant’s release from a prison sentence, probation, or community control.<sup>93</sup>

The habitual felony offender statute extends the term of imprisonment and essentially doubles the maximum sentence for any second or third degree felony and up to life for a first degree felony.<sup>94</sup> If a defendant is deemed a habitual felony offender, the court may impose an extended prison sentence, but is not required to do so.

**Habitual Violent Felony Offender:** A defendant may face an enhanced sentence as a habitual violent felony offender, as provided in section 775.084(1)(b), Florida Statutes, only if the prosecution proves (1) that the defendant has previously been convicted of one or more of a list of enumerated violent felonies and (2) that the felony for which the defendant is being sentenced was committed:

- while the defendant was serving a prison sentence or other sentence, or court-ordered (or

other) supervision lawfully imposed a result of a prior conviction for a felony or other qualified offense; or

- within 5 years of the date of the conviction of the last prior enumerated felony; or
- within 5 years of the defendant's release from a prison sentence, probation.<sup>95</sup>

If a defendant is deemed a habitual violent felony offender, the court may impose an extended term of imprisonment,<sup>96</sup> but is not required to do so.

**Violent Career Criminal:** In 1995, the "Officer Evelyn Gort and All Fallen Officers Career Criminal Act" was created. It amended section 775.084 (1)(d), Florida Statutes, by adding mandatory minimum sentences for violent career criminals, creating the violent career criminal enhancement. A defendant shall receive an enhanced sentence as a violent career criminal pursuant to section 775.084 (4)(d), Florida Statutes, if the sentencing court finds: (1) that the defendant has previously been convicted as an adult three or more times for an offense in this state or other qualified offense that is enumerated in that section; (2) that the defendant has been incarcerated in a state prison or a federal prison; (3) that the primary felony offense for which the defendant is to be sentenced is a felony enumerated in subparagraph 1.; and that the primary felony offense was committed on or after October 1, 1995:

- while the defendant was serving a prison sentence or other sentence, or court-ordered supervision imposed as a result of a prior conviction for an enumerated felony; or
- within 5 years of the conviction date of the last prior enumerated felony; or
- within 5 years after the defendant's release from a prison sentence, probation, or community control.<sup>97</sup>

If an offender is deemed a violent career criminal, the court shall impose the enhanced prison sentence.

**Three Time Violent Felony Offender:** A defendant will receive an enhanced sentence as a three-time violent felony offender under sections 775.084(1)(c), (4)(c), Florida Statutes, if the prosecution proves (1) that the defendant has previously been convicted as an adult two or more times of an enumerated felony; (2) that the felony for which the defendant is to be sentenced is one of the felonies enumerated in section 775.084(1)(c)(1), Florida Statutes, and (3) that the felony was committed:

- while the defendant was serving a prison sentence or other sentence imposed as a result of a prior conviction for any enumerated offense, or
- within 5 years after the date of the conviction of the last prior offense, or
- within 5 years after the defendant's release from a prison sentence, probation, community control.<sup>98</sup>

If the defendant is found to be a three-time violent felony offender, the court must impose the enhanced prison sentence.<sup>99</sup>

Throughout the years, the overarching theme of Florida's sentencing legislation has been to develop and implement a suite of measures that would punish violent and repeat offenders and protect the public. The Code reflects the prevailing sentencing policies that are widely applicable today.

## HOW FLORIDA'S SENTENCING SYSTEM COMPARES TO OTHERS

In furtherance of its mandate to review, evaluate, and make recommendations regarding sentencing for and ranking of noncapital felony offenses, the Task Force requested Task Force Staff to research, and present information regarding sentencing guidelines used by the federal government and other states.<sup>100</sup> At the January 2020 Task Force meeting, staff presented sentencing information

on the United States Sentencing Guidelines and the following ten states: Arizona, District of Columbia, Massachusetts, Michigan, Minnesota, New York, North Carolina, Ohio, Oklahoma, and Texas. A description of the United States Sentencing Guidelines, as well as those of illustrative states, is presented in Appendix C. After consideration of the United States Sentencing Guidelines and the sentencing systems used by other states, the Task Force ultimately determined not to recommend adoption of an upper guideline range or the use of one or more sentencing grids.

## ADDITIONAL TASK FORCE CONSIDERATIONS

In addition to the recommendations included in this report, the Task Force also considered and held substantial discussion on other issues, which ultimately did not become formal recommendations (See Appendix D).

Task Force members requested Task Force Staff to conduct legal research, focusing on cases where the Florida Supreme Court or a Florida District Court of Appeal addressed legal issues concerning the interpretation, scope, or constitutionality of chapter 921 provisions. In response, Task Force Staff reviewed over 300 cases reported since 1998. The vast amount of the caselaw focused on downward departures and applying the factors set forth in section 921.0026, Florida Statutes, for departure sentences. The Task Force considered whether to recommend statutory codifications to reflect the holdings of some of these decisions but elected not to do so (See Appendix D).

## RECOMMENDATIONS

Based upon the data considered by the Task Force, including a report on offender data presented by the Florida Department of Corrections, the Code and the current system of sentencing enhancements and downward departure factors, Florida appears to be achieving Legislative policy goals of incarcerating violent offenders and repeat offenders. Unlike prior eras when major sentencing reforms were adopted, Florida is not currently experiencing prison capacity issues. After considering the sentencing systems used by the United States, and several other states, the Task

## CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

Force chose not to recommend that the Legislature adopt a grid-based system or upper guideline range. Instead, the Task Force chose to recommend specific changes be made Florida's current scoresheet-based system. The most significant recommendations, to increase the number of felony degrees and offense severity levels, are intended to allow the Legislature to more specifically tailor punishments for specific crimes and enhanced punishments where aggravating factors are included as an element of the crime.

**Recommendation 1: Codify the ruling in *Montgomery v. State*, 897 So.2d 1282 (Fla. 2005), to amend the definition of "conviction" to include a "no contest plea." (Unanimous)**

The Task Force recommends that the Legislature codify the Florida Supreme Court's interpretation of "conviction," as used in section 921.0021(2), Florida Statutes, to include a "no contest plea." The court's decision appears to have reflected the Legislature's intent.

**Recommendation 2: Raise the point values for and subsequently remove the Drug Trafficking and Motor Vehicle Theft enhancements from Section IX of the scoresheet. (Unanimous)**

The Task Force recommends that the Drug Trafficking and Motor Vehicle Theft multipliers be removed from section IX of the scoresheet to ensure that there is consistency in sentencing. All offenders will receive the same amount of points for the offense when the point values are increased; whereas these multipliers may not be consistently imposed on all offenders by the prosecution or court on a statewide basis.

In order to accommodate the removal of the Drug Trafficking and Motor Vehicle Theft multipliers from the scoresheet, the Task Force increased point values of the restructured offenses. Currently, drug trafficking offenses are ranked levels seven and eight (56 and 74 points, respectively). To account for the removal of the Drug Trafficking 1.5 multiplier, the Task Force recommends drug trafficking offenses be raised to levels thirteen and fifteen (84 and 108 points, respectively, or 1.5 times 56 and 74) to provide a prison sentence that is comparable to a sentence to a sentence within the "Code."

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In order to compensate for the removal of the Motor Vehicle Theft multiplier a new statutory felony offense should be created. The Task Force recommends establishing a new offense of Grand Theft Motor Vehicle, with 3 or more prior Grand Theft Motor Vehicle convictions to appropriately compensate for the removal of the multiplier. To further accommodate the removal of the Motor Vehicle Theft multiplier, the Task Force recommends raising the new primary offense from the current level 4/26 points to a level 8/46 points.

**Recommendation 3: Move the Criminal Gang Offense enhancement from Section IX of the scoresheet and instead create a “checkbox” near the signature line of the court whereby the court can indicate its finding of enhancement pursuant to its judicial discretion. (7 Yay; 6 Nay)**

The Task Force recommends that the Legislature remove the Criminal Gang enhancement from section IX of the scoresheet and that it be placed near the court signature line, with checkboxes marked “court use only.” Since the Criminal Gang enhancement is applied at the court’s discretion, the court would be required to “check off” whether the enhancement was applied to the enumerated criminal gang offense. This would ensure that application of the enhancement lay with the court. Also, if the lowest permissible sentence were reduced and/or if there were an increase to the statutory maximum (which is what would happen if the enhancement were removed from the scoresheet), it would create more disparity in sentencing throughout the state.

**Recommendation 4: Raise the point values for and subsequently remove Escape and Failure to Appear enhancements from Section V of the scoresheet. (Unanimous)**

The Task Force recommends that Escape and Failure to Appear be removed from section V of the scoresheet. These offenses require the prosecution to prove the elements of the Legal Status Violation subsections (Escape and Failure to Appear) when they are charged as the primary offense or an additional offense. The intent is to reduce disparity in sentencing throughout Florida as increasing severity levels of offenses will apply to all offenders through the offense severity ranking chart. The Task Force aims to remove human error or opinion when “scoring” or sentencing an

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offender. Additionally, the Task Force does not believe that offenders charged with the crimes of 1) Escape under section 944.40, Florida Statutes, 2) Escape from a juvenile facility, secure detention or residential commitment facility under section 985.721, Florida Statutes, and 3) Failure to appear while on bail for felony under section 985.721, Florida Statutes, should receive additional points under the legal status section as their legal status violation is already an element of their criminal conduct. Instead, the Task Force recommends that the offense severity rankings for these offenses be increased to offset the removal of the additional legal status points.

**Recommendation 5: Raise the point values for and subsequently remove the following from Section III, Victim Injury of the scoresheet: Second-Degree Murder, Death, Severe Injury, Sexual Penetration, and Sexual Contact. (7 Yay; 6 Nay; 2 Absent)**

The Task Force recommends removal of Second Degree Murder, Death, Severe Injury, Sexual Penetration and Sexual Contact from section III of the scoresheet. These victim injury subcategories are also elements of the primary offense. For example, if an offender is charged with DUI- Serious Bodily Injury, then the prosecution must prove the victim had serious bodily injury to convict the offender of DUI- Serious Bodily Injury. It would be duplicative to add points to the offender's scoresheet for Severe Injury. The Task Force members reported anecdotally that there are inconsistencies across jurisdictions in the application of victim injury points. Increasing the offense level for crimes involving identical elements of an offense to a Victim Injury Point subcategory would lead to unbiased and more consistent outcomes.

**Recommendation 6: Require the use of an electronic, computer-based scoresheet program and practices to ensure consistency in completing scoresheets. (Unanimous)**

The Task Force recommends that the Florida Supreme Court require statewide use of an electronic, computer-based scoresheet program that has been developed by the Department of Corrections, or another materially identical or superior program, that automatically populates points and applies enhancements, multipliers, and other adjustments. It is also the Task Force's

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recommendation that State Attorney Offices throughout Florida shall ensure that scoresheets are completed accurately. It is also recommended that the Attorney General of Florida compile a "best practices" guide to assist State Attorney Offices with implementation of a uniform sentencing system.

### **Recommendation 7: Increase the number of Felony Degree levels from 3 to 5, while retaining Capital, Life, and Punishable by Life. (9 Yay; 6 Nay)**

The Task Force recommends the Legislature increase the number of felony degree levels from 3 to 5 felony levels. This change would allow crimes to be categorized more specifically to better reflect the consequences of criminal offenses; such as victim injury, restitution amounts and the effect on public safety. This change would also allow criminal statutes to be drafted with specific enhancement factors that are more closely correlated to specific punishments. Currently under the CPC prison terms are as follows: a 1st degree felony, by a term not exceeding 30 years; a 2<sup>nd</sup> degree felony, by a term not exceeding 15 years; and a 3<sup>rd</sup> degree felony, by a term not exceeding 5 years. Alternatively, new prison terms proposed by the Task Force are as follows: a 1st degree felony, by a term not exceeding 30 years; a 2nd degree felony, by a term not exceeding 20 years; a 3rd degree felony by a term not exceeding 14 years; a 4th degree felony, by a term not exceeding 6 years; and a 5th degree felony, by a term not exceeding 3 years.

### **Recommendation 8: Increase number of Offense Severity Levels from 10 to 16. (7 Yay; 6 Nay; 2 Absent)**

The Task Force recommends that the Legislature increase the number of offense severity levels used to determine the number of points assigned to each primary<sup>101</sup> "offense" from 10 to 16. The Task Force opined that additional offense levels are necessary to ensure the accurate classification of offenses based on their severity.<sup>102</sup> The proposed offense severity rankings are reflected in the offense severity ranking chart provided in Appendix E. This recommendation can be implemented with 3 or 5 felony degrees.

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**Recommendation 9: Modify the Offense Severity Ranking Table to reflect the five felony degree levels, sixteen Offense Severity Levels, and the ranking and re-ranking of offenses adopted by the Task Force. (9 Yay; 6 Nay)**

The Task Force recommends that the Legislature adopt a new offense severity ranking chart to reflect the sixteen offense severity levels. In addition, one of the primary mandates of the Task Force was to make recommendations as to the ranking of offenses. During its meetings, the Task Force identified a number of offenses currently ranked in a manner inconsistent with the severity of the offense, particularly when considered among offenses in the same level. The proposed offense severity ranking chart reflects the new offense ranking proposed by the Task Force (attached as Appendix E). It is the overarching goal of the Task Force in its offense severity rankings to provide for consistent scoring of similarly situated offenders on a statewide basis, and to attempt to alleviate uneven prosecutorial discretion particularly in the use of multipliers. The increase to sixteen severity levels allowed the Task Force to rescale the rankings. For many offenses, an effort was made to translate the offenses to the new table with similar point values. The most significant changes were made to violent and drug trafficking offenses. Some notable violent offenses with increased point levels include: Manslaughter, Vehicular and Vessel Homicide, Human Trafficking using Coercion; Aggravated Battery (on law enforcement/specified employee, person over 65, using deadly weapon, intent to cause great bodily harm or permanent disfigurement); Carjacking (no weapon); and Lewd and Lascivious Molestation victim 12 to under 16, offender over 18.

**Recommendation 10: Amend § 775.082(9)(a)3.a., F.S., to give judges discretion in sentencing certain Prison Releasee Reoffenders in cases where no firearm was discharged and no death or great bodily harm occurred to sentence a defendant to a term of not less than 30 years up to life. (Unanimous)**

The Task Force recommends that the Legislature amend a portion of the Prison Releasee Reoffender statute, section 775.082(9)(a)3.a., Florida Statutes, to read: "For a felony punishable by life, by a term of imprisonment for life, but where no firearm was discharged and no death or great

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bodily harm occurred, for a term of not less than 30 years and not more than a term of imprisonment for life."<sup>103</sup> This change would allow the court limited discretion to sentence certain Prison Releasee Reoffenders to a more applicable sentence based on the specific facts of a case as well as other mitigating evidence presented at a sentencing hearing. This is similar to the discretion provided to the courts in Florida's 10/20/Life statute, section 775.087, Florida Statutes.<sup>104</sup> The Task Force discussed, but defers to the Legislature, as to whether such a change should be applied retroactively.

**Recommendation 11: Amend § 775.087(2)(d), F.S., to give judges discretion to make the firearms sentences consecutive or concurrent. (14 Yay; 1 Abstain)**

Currently, section 775.087(2)(a), Florida Statutes, the 10/20/Life statute, provides that a person who commits or attempts to commit a listed felony while possessing a firearm or destructive device, shall be given a mandatory minimum prison sentence of 10 years for the firearm possession.<sup>105</sup> section 775.087(2)(d), Florida Statutes, requires that the prison sentence for each count of firearm possession be served consecutively to any other sentence.<sup>106</sup> The Task Force recommends that courts be given discretion in sentencing regarding the stacking of the mandatory sentences for firearm possession. Providing the court with discretion as to the applicability of sentence stacking provisions based on the facts of individual cases, the severity of the offense before the court, and consideration from the victim, allows for objective sentencing of individual offenders.<sup>107</sup> section 775.087(2)(d), Florida Statutes should be amended to read: The court shall impose any term of imprisonment provided for in this subsection concurrently or consecutively to any other term of imprisonment imposed for any other felony offense.

**Recommendation 12: Amend section 893.135(1)(a), F.S., to rectify the duplicative language regarding quantity of cannabis. (Unanimous)**

The Task Force recommends section 893.135(1)(a)1 and section 893.135(1)(a)2, Florida Statutes, be amended to rectify the duplicative language between the two subsections regarding quantity of cannabis. As currently written, both the 3-year and 7-year mandatory minimum terms

## CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

would apply to an individual convicted of trafficking in 2,000 cannabis plants. Also, both the 7-year and 15-year mandatory minimum terms would apply to an individual convicted of trafficking in 10,000 cannabis plants. Since only one mandatory minimum term should apply to each subsection the statute should be amended to reflect one mandatory minimum term in each subsection.

Amend section 893.135(1)(a)1., Florida Statutes, to read: If the quantity of cannabis involved:

1. Is in excess of 25 pounds, but less than 2,000 pounds, or is 300 or more cannabis plants, but ~~not more than~~ less than 2,000 cannabis plants, such person shall be sentenced to a mandatory minimum term if imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$25,000.

Amend section 893.135(1)(a)2., Florida Statutes, to read: If the quantity of cannabis involved:

2. Is 2,000 pounds or more, but less than 10,000 pounds, or is 2,000 or more cannabis plants, but ~~not more than~~ less than 10,000 cannabis plants, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of \$50,000.

**Recommendation 13: Establish or expand Pre-Arrest Diversion programs in each judicial circuit. (Unanimous)**

The Task Force recommends to establish or expand adult pre-arrest diversion programs in each judicial circuit that incorporate evidence-based interventions and treatment services. This recommendation stemmed from a desire to strengthen the state's effort at reducing criminal justice system involvement and incarceration rates through diversion measures.

## **Recommendation 14: Outline a broad set of guidelines for problem-solving courts.**

**(Unanimous)**

The Task Force recommends the Legislature adopt a broad set of guidelines based on recommendations from the Steering Committee on Problem Solving Courts to provide consistency amongst problem solving courts, while also promoting the continued education of State Attorneys and justice stakeholders. Such measures are intended to provide accountability with respect to each circuit's individual and unique needs.

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# APPENDIXES

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# Appendix A: 1985 Sentencing Worksheet

Example of 1985 sentencing worksheet and guideline range for Category 6 offenses: Thefts, Forgery, Fraud. Fla. R. Ct. 3.988(f) 236-237 (West's Desk Copy 1985).

**Rule 3.988**

**RULES OF CRIMINAL PROCEDURE**

(c) Category 3: Robbery

I. Primary offense at conviction

Degree	Number of Counts				Number of Counts Above 4
	1	2	3	4	
Life	102	122	133	148	_____ x 15 = _____
1st punishable by life	82	98	107	119	_____ x 12 = _____
1st	70	84	91	101	_____ x 10 = _____
2nd	50	60	65	75	_____ x 10 = _____
3rd	34	41	44	54	_____ x 10 = _____

II. Additional offenses at conviction

Degree	Number of Counts				Number of Counts Above 4
	1	2	3	4	
Life	20	24	26	28	_____ x 2 = _____
1st pbl	17	20	22	24	_____ x 2 = _____
1st	14	17	18	19	_____ x 1 = _____
2nd	10	12	13	14	_____ x 1 = _____
3rd	7	8	9	10	_____ x 1 = _____
MM	1	2	3	4	_____ x 1 = _____

III. A. Prior record

Degree	Number of Prior Convictions				Number of Priors Above 4
	1	2	3	4	
Life	100	210	330	460	_____ x 130 = _____
1st pbl	80	168	264	368	_____ x 104 = _____
1st	60	126	198	276	_____ x 78 = _____
2nd	30	63	99	138	_____ x 39 = _____
3rd	10	21	33	46	_____ x 13 = _____
MM	2	5	8	12	_____ x 4 = _____

B. Prior convictions for Category 3 offenses

Number prior convictions \_\_\_ x 25 = \_\_\_\_\_

IV. Legal status at time of offense

No restrictions 0  
 Legal constraint 17

V. Victim injury (physical)

None 0  
 Slight 7  
 Moderate 14  
 Death or severe 21

[0226#]

Category 6: Thefts, Forgery, Fraud

Points	Recommended Range
13-36	any nonstate prison sanction
37-56	Community Control or 12-30 mos. incarceration
57-74	3 years incarceration (2 1/2-3 1/2)
75-90	4 years (3 1/2-4 1/2)
91-104	5 (4 1/2-5 1/2)
105-122	6 (5 1/2-7)
123-146	8 (7-9)
147-180	10 (9-12)
181-240	15 (12-17)
241-300	20 (17-22)
301-360	25 (22-27)
361-420	30 (27-40)
421+	Life

(D2275)

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## Appendix B: Scoresheet

### APPENDIX B

### RULE 3.992

### CRIMINAL PUNISHMENT CODE SCORESHEET

#### Rule 3.992(a) Criminal Punishment Code Scoresheet

The Criminal Punishment Code Scoresheet Preparation Manual is available at: [http://www.dc.state.fl.us/pub/sen\\_cpcw/index.html](http://www.dc.state.fl.us/pub/sen_cpcw/index.html)

1. DATE OF SENTENCE	2. PREPARER'S NAME	3. COUNTY	4. SENTENCING JUDGE		
5. NAME (LAST, FIRST, MI1)		6. DOB	8. RACE <input type="checkbox"/> B <input type="checkbox"/> W <input type="checkbox"/> OTHER	10. PRIMARY OFF. DATE	12. PLEA <input type="checkbox"/>
		7. DC #	9. GENDER <input type="checkbox"/> M <input type="checkbox"/> F	11. PRIMARY DOCKET #	TRIAL <input type="checkbox"/>

I. **PRIMARY OFFENSE:** If Qualifier, please check  A  S  C  R (A=Attempt, S=Solicitation, C=Conspiracy, R=Reclassification)

FELONY DEGREE	F.S.#	DESCRIPTION	OFFENSE LEVEL	POINTS
____/____	____/____	____/____	____/____	____/____

(Level - Points: 1=4, 2=10, 3=16, 4=22, 5=28, 6=36, 7=56, 8=74, 9=92, 10=116)

Prior capital felony triples Primary Offense points

**I.** \_\_\_\_\_

II. **ADDITIONAL OFFENSE(S):** Supplemental page attached

DOCKET#	FEL/MM DEGREE	F.S.#	OFFENSE LEVEL	QUALIFY A S C R	COUNTS	POINTS	TOTAL
____/____	____/____	____/____	____/____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____ x _____	_____ = _____	_____
DESCRIPTION	_____						
____/____	____/____	____/____	____/____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____ X _____	_____ = _____	_____
DESCRIPTION	_____						
____/____	____/____	____/____	____/____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____ X _____	_____ = _____	_____
DESCRIPTION	_____						
____/____	____/____	____/____	____/____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____ x _____	_____ = _____	_____
DESCRIPTION	_____						

(Level - Points: M=0.2, 1=0.7, 2=1.2, 3=2.4, 4=3.6, 5=5.4, 6=18, 7=28, 8=37, 9=46, 10=58)

Prior capital felony triples Additional Offense points

Supplemental page points \_\_\_\_\_

**II.** \_\_\_\_\_

III. **VICTIM INJURY:**

	Number	Total		Number	Total
2nd Degree Murder	240 x _____	= _____	Slight	4 x _____	= _____
Death	120 x _____	= _____	Sex Penetration	80 x _____	= _____
Severe	40 x _____	= _____	Sex Contact	40 x _____	= _____
Moderate	18 x _____	= _____			

**III.** \_\_\_\_\_

# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

IV. **PRIOR RECORD:** Supplemental page attached

FEL/MM DEGREE	F.S.#	OFFENSE LEVEL	QUALIFY: A S C R	DESCRIPTION	NUMBER	POINTS	TOTAL
_____	_____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____	X _____ = _____	_____
_____	_____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____	X _____ = _____	_____
_____	_____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____	X _____ = _____	_____
_____	_____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____	X _____ = _____	_____
_____	_____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____	X _____ = _____	_____
_____	_____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____	X _____ = _____	_____
_____	_____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____	X _____ = _____	_____
_____	_____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____	X _____ = _____	_____
_____	_____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____	X _____ = _____	_____

(Level = Points: M=0.2, 1=0.5, 2=0.8, 3=1.6, 4=2.4, 5=3.6, 6=9, 7=14, 8=19, 9=23, 10=29)

Supplemental page points \_\_\_\_\_

IV. \_\_\_\_\_

Page 1 Subtotal: \_\_\_\_\_

Effective Date: For offenses committed under the Criminal Punishment Code effective for offenses committed on or after October 1, 1998 and subsequent revisions.

NAME (LAST, FIRST, MI)	DOCKET #
------------------------	----------

Page 1 Subtotal: \_\_\_\_\_

V. Legal Status violation = 4 Points

- Escape  Fleeing  Failure to appear  Supersedeas bond  Incarceration  Pretrial intervention or diversion program  
 Court imposed or post prison release community supervision resulting in a conviction

V. \_\_\_\_\_

VI. Community Sanction violation before the court for sentencing

- Probation  Community Control  Pretrial Intervention or diversion
- 6 points for any violation other than new felony conviction x \_\_\_\_\_ each successive violation OR  
 New felony conviction = 12 points x \_\_\_\_\_ each successive violation if new offense results in conviction before or at same time as sentence for violation of probation OR  
 12 points x \_\_\_\_\_ each successive violation for a violent felony offender of special concern when the violation is not based solely on failure to pay costs, fines, or restitution OR  
 New felony conviction = 24 points x \_\_\_\_\_ each successive violation for a violent felony offender of special concern if new offense results in a conviction before or at the same time for violation of probation

VI. \_\_\_\_\_

VII. Firearm/Semi-Automatic or Machine Gun = 18 or 25 Points

VII. \_\_\_\_\_

VIII. Prior Serious Felony - 30 Points

VIII. \_\_\_\_\_

Subtotal Sentence Points \_\_\_\_\_

IX. Enhancements (only if the primary offense qualifies for enhancement)

Law Enf. Protect.	Drug Trafficker	Motor Vehicle Theft	Criminal Gang Offense	Domestic Violence in the Presence of Related Child (offenses committed on or after 3/12/07)	Adult-on-Minor Sex Offense (offenses committed on or after 10/1/14)
____ x 1.5 ____ x 2.0 ____ x 2.5	____ x 1.5	____ x 1.5	____ x 1.5	____ x 1.5	____ x 2.0

Enhanced Subtotal Sentence Points IX. \_\_\_\_\_

TOTAL SENTENCE POINTS \_\_\_\_\_



# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

## RULE 3.992(b) Supplemental Criminal Punishment Code Scoresheet

NAME (LAST, FIRST, M.I.)	DOCKET #	DATE OF SENTENCE
--------------------------	----------	------------------

### II. ADDITIONAL OFFENSES(S):

DOCKET#	FEL/MM DEGREE	F.S#	OFFENSE LEVEL	QUALIFY A S C R	COUNTS	POINTS	TOTAL
_____ / _____	_____ / _____	_____ / _____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____ x	_____ = _____	
DESCRIPTION _____							
_____ / _____	_____ / _____	_____ / _____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____ x	_____ = _____	
DESCRIPTION _____							
_____ / _____	_____ / _____	_____ / _____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____ x	_____ = _____	
DESCRIPTION _____							
_____ / _____	_____ / _____	_____ / _____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____ x	_____ = _____	
DESCRIPTION _____							
_____ / _____	_____ / _____	_____ / _____	_____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____ x	_____ = _____	
DESCRIPTION _____							

(Level - Points: M=0.2, 1=0.7, 2=1.2, 3=2.4, 4=3.6, 5=5.4, 6=18, 7=28, 8=37, 9=46, 10=58)

II. \_\_\_\_\_

### IV. PRIOR RECORD

FEL/MM DEGREE	F.S.#	OFFENSE LEVEL	QUALIFY: A S C R	DESCRIPTION	NUMBER	POINTS	TOTAL
_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____ X	_____ = _____	
_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____ X	_____ = _____	
_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____ X	_____ = _____	
_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____ X	_____ = _____	
_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____ X	_____ = _____	
_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____ X	_____ = _____	

(Level = Points: M=0.2, 1=0.5, 2=0.8, 3=1.6, 4=2.4, 5=3.6, 6=9, 7=14, 8=19, 9=23, 10=29)

IV. \_\_\_\_\_

### REASONS FOR DEPARTURE - MITIGATING CIRCUMSTANCES

(reasons may be checked here or written on the scoresheet)

- Legitimate, uncoerced plea bargain.
- The defendant was an accomplice to the offense and was a relatively minor participant in the criminal conduct.
- 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.
- 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.
- The need for payment of restitution to the victim outweighs the need for a prison sentence.
- The victim was an initiator, willing participant, aggressor, or provoker of the incident.
- The defendant acted under extreme duress or under the domination of another person.
- Before the identity of the defendant was determined, the victim was substantially compensated.
- The defendant cooperated with the State to resolve the current offense or any other offense.
- The offense was committed in an unsophisticated manner and was an isolated incident for which the defendant has shown remorse.
- At the time of the offense the defendant was too young to appreciate the consequences of the offense.

# CRIMINAL PUNISHMENT CODE TASK FORCE **REPORT**

- The defendant is to be sentenced as a youthful offender.
- The defendant is amenable to the services of a postjudicatory treatment-based drug court program and is otherwise qualified to participate in the program.
- The defendant was making a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose.

Pursuant to 921.0026(3) the defendant's substance abuse or addiction does not justify a downward departure from the lowest permissible sentence, except for the provisions of s. 921.0026(2)(m).  
Effective Date: For offenses committed under the Criminal Punishment Code effective for offenses committed on or after October 1, 1998 and subsequent revisions.

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## Appendix C: Federal and State Comparisons

### United States Sentencing Guidelines

The United States Sentencing Guidelines (“USSG”) and Federal Sentencing Guidelines Manual has undergone extensive revision over time.<sup>108</sup> The federal guidelines and policy statements are promulgated by the United States Sentencing Commission,<sup>109</sup> and issued pursuant to section 994(a) of title 28, United States Code. As it currently exists, the USSG reflects a guideline system with sentencing ranges. A grid (the “Sentencing Table”) is used to determine the suggested guideline range sentence. There are 43 offense severity levels on the federal grid. The federal guidelines also allow for “adjustments” based on specific offense characteristics, as well as offender characteristics. The use of 43 offense levels allows the federal system to distinctively rank criminal offenses more precisely. With regards to criminal history scoring, both the federal and Florida systems take into consideration prior convictions and legal status<sup>110</sup> of the offender. The federal grid has sentencing ranges that provide for the lowest and highest sentence to be imposed, while Florida’s system only identifies a lowest permissible sentence.<sup>111</sup>

# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

## U.S.S.G. SENTENCING TABLE (in months of imprisonment)

Offense Level	Criminal History Category (Criminal History Points)					
	I (0 or 1)	II (2 or 3)	III (4,5,6)	IV (7,8,9)	V (10,11,12)	VI (13 or more)
1	0-6	0-6	0-6	0-6	0-6	0-6
2	0-6	0-6	0-6	0-6	0-6	1-7
3	0-6	0-6	0-6	0-6	2-8	3-9
4	0-6	0-6	0-6	2-8	4-10	6-12
5	0-6	0-6	1-7	4-10	6-12	9-15
6	0-6	1-7	2-8	6-12	9-15	12-18
7	0-6	2-8	4-10	8-14	12-18	15-21
8	0-6	4-10	6-12	10-16	15-21	18-24
9	4-10	6-12	8-14	12-18	18-24	21-27
10	6-12	8-14	10-16	15-21	21-27	24-30
11	8-14	10-16	12-18	18-24	24-30	27-33
12	10-16	12-18	15-21	21-27	27-33	30-37
13	12-18	15-21	18-24	24-30	30-37	33-41
14	15-21	18-24	21-27	27-33	33-41	37-46
15	18-24	21-27	24-30	30-37	37-46	41-51
16	21-27	24-30	27-33	33-41	41-51	46-57
17	24-30	27-33	30-37	37-46	46-57	51-63
18	27-33	30-37	33-41	41-51	51-63	57-71
19	30-37	33-41	37-46	46-57	57-71	63-78
20	33-41	37-46	41-51	51-63	63-78	70-87
21	37-46	41-51	46-57	57-71	70-87	77-96
22	41-51	46-57	51-63	63-78	77-96	84-105
23	46-57	51-63	57-71	70-87	84-105	92-115
24	51-63	57-71	63-78	77-96	92-115	100-125
25	57-71	63-78	70-87	84-105	100-125	110-137
26	63-78	70-87	78-97	92-115	110-137	120-150
27	70-87	78-97	87-108	100-125	120-150	130-162
28	78-97	87-108	97-121	110-137	130-162	140-175
29	87-108	97-121	108-135	121-151	140-175	151-188
30	97-121	108-135	121-151	135-168	151-188	168-210
31	108-135	121-151	135-168	151-188	168-210	188-235
32	121-151	135-168	151-188	168-210	188-235	210-262
33	135-168	151-188	168-210	188-235	210-262	235-293
34	151-188	168-210	188-235	210-262	235-293	262-327
35	168-210	188-235	210-262	235-293	262-327	292-365
36	188-235	210-262	235-293	262-327	292-365	324-405
37	210-262	235-293	262-327	292-365	324-405	360-life
38	235-293	262-327	292-365	324-405	360-life	360-life
39	262-327	292-365	324-405	360-life	360-life	360-life
40	292-365	324-405	360-life	360-life	360-life	360-life
41	324-405	360-life	360-life	360-life	360-life	360-life
42	360-life	360-life	360-life	360-life	360-life	360-life
43	life	life	life	life	life	life

November 1, 2016

**MASSACHUSETTS**

Like the federal government, Massachusetts uses a single grid to cover all sentencing decisions. Massachusetts' grid system uses sentencing ranges. The grid has nine offense severity levels. Massachusetts is comparable to Florida in that Massachusetts scores or "counts" each individual prior conviction when scoring a criminal history.<sup>112</sup> The defendant's prior convictions are placed into the appropriate categories by using figure two in the Sentencing Guidelines Manual to assign a severity level to each of the prior convictions.<sup>113</sup> Also, in both Florida and Massachusetts, certain wide-ranging offenses (for example, robbery) are "staircased"<sup>114</sup> in terms of their severity level.<sup>115</sup>

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# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

## Massachusetts Sentencing Guidelines Grid

Level	Example	Presumptive Sentence Range					Suggested Maximum Probation Term Range
9	Murder	Life	Life	Life	Life	Life	
8	Manslaughter (Voluntary)	96 - 114 Mos.	108 - 162 Mos.	120 - 180 Mos.	144 - 216 Mos.	204 - 306 Mos.	3 Y e a r s
7	Armed Robbery (Gun)	60 - 90 Mos.	68 - 102 Mos.	84 - 126 Mos.	108 - 162 Mos.	160 - 240 Mos.	
6	Manslaughter (Involuntary)	40 - 60 Mos.	45 - 67 Mos.	50 - 75 Mos.	60 - 90 Mos.	80 - 120 Mos.	
5	Indecent A&B on Child Under 14	12 - 36 Mos.	24 - 36 Mos.	36 - 54 Mos.	48 - 72 Mos.	60 - 90 Mos.	2 Y e a r s
4	Larceny From a Person	0 - 24 Mos.	3 - 30 Mos.	6 - 30 Mos.	20 - 30 Mos.	24 - 36 Mos.	
3	A&B DW (No or minor injury)	0 - 12 Mos.	0 - 15 Mos.	0 - 18 Mos.	0 - 24 Mos.	6 - 24 Mos.	
2	Assault		0 - 6 Mos.	0 - 6 Mos.	0 - 9 Mos.	0 - 12 Mos.	1 Y e a r
1	Operating Aft Suspended Lic				0 - 3 Mos.	0 - 6 Mos.	
0	Lic Law Violation (not MV) Violation Town By-Law	IS-0					
Criminal History Scale		A No/Minor Record	B Moderate Record	C Serious Record	D Violent or Repetitive	E Serious Violent	

### Sentencing Zones

- Incarceration Zone
- Discretionary Zone (incarceration/intermediate sanction)
- Intermediate Sanction Zone
- No supervision, no fines, no fees zone

The numbers in each cell represent the range from which the judge selects the maximum sentence (Not More Than):  
The minimum sentence (Not Less Than) is 2/3rds of the maximum sentence and constitutes the initial parole eligibility date.

## NORTH CAROLINA

In North Carolina, sentences are based on a grid system with upper and lower guideline ranges.<sup>116</sup> There are 10 offense severity levels on the grid.<sup>117</sup> North Carolina's sentencing structure is unique as it provides three sentencing ranges within each cell block on the grid.<sup>118</sup> Each cell block has a presumptive range, aggravation range, and deviation range.<sup>119</sup> Because the grid provides three distinct ranges within each cell block, the court is more confined when making an upward or downward departure.

North Carolina also has a prior record worksheet that must be completed to determine an offender's criminal history, similar to the "prior record" section of the Florida scoresheet.<sup>120</sup> Like Florida, North Carolina scores all prior felony convictions; however, the two states use different methods. While Florida lists each felony conviction by name on the prior record sheet and gives a score to each, North Carolina tallies the offense level of each prior conviction, calculating a cumulative score for the number of prior felony convictions, and so on. Lastly, unlike in Florida (where most offenders serve about 85% of their sentence), North Carolina offenders serve 100% of their sentence.

# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

\*\*\*Effective for Offenses Committed on or after 10/1/13\*\*\*

## FELONY PUNISHMENT CHART PRIOR RECORD LEVEL

	I 0-1 Pt	II 2-5 Pts	III 6-9 Pts	IV 10-13 Pts	V 14-17 Pts	VI 18+ Pts		
OFFENSE CLASS	Death or Life Without Parole						<b>DISPOSITION</b> <i>Aggravated Range</i> <b>PRESUMPTIVE RANGE</b> <i>Mitigated Range</i>	
	Defendant Under 18 at Time of Offense: Life With or Without Parole							
	A	A	A	A	A	A		
	B1	240 - 300	276 - 345	317 - 397	365 - 456	<i>Life Without Parole</i>		<i>Life Without Parole</i>
		192 - 240	221 - 276	254 - 317	292 - 365	336 - 420		386 - 483
		144 - 192	166 - 221	190 - 254	219 - 292	252 - 336		290 - 386
	B2	A	A	A	A	A		A
		157 - 196	180 - 225	207 - 258	238 - 297	273 - 342		314 - 393
		125 - 157	144 - 180	165 - 207	190 - 238	219 - 273		251 - 314
		94 - 125	108 - 144	124 - 165	143 - 190	164 - 219		189 - 251
C	A	A	A	A	A	A		
	73 - 92	83 - 104	96 - 120	110 - 138	127 - 159	146 - 182		
	58 - 73	67 - 83	77 - 96	88 - 110	101 - 127	117 - 146		
	38 - 51	59 - 73	67 - 84	78 - 97	89 - 111	103 - 128		
D	A	A	A	A	A	A		
	64 - 80	73 - 92	84 - 105	97 - 121	111 - 139	128 - 160		
	51 - 64	59 - 73	67 - 84	78 - 97	89 - 111	103 - 128		
	38 - 51	44 - 59	51 - 67	58 - 78	67 - 89	77 - 103		
E	I/A	I/A	A	A	A	A		
	25-31	29 - 36	33 - 41	38 - 48	44 - 55	50 - 63		
	20 - 25	23 - 29	26 - 33	30 - 38	35 - 44	40 - 50		
	15 - 20	17 - 23	20 - 26	23 - 30	26 - 35	30 - 40		
F	I/A	I/A	I/A	A	A	A		
	16 - 20	19 - 23	21 - 27	25 - 31	28 - 36	33 - 41		
	13 - 16	15 - 19	17 - 21	20 - 25	23 - 28	26 - 33		
	10 - 13	11 - 15	13 - 17	15 - 20	17 - 23	20 - 26		
G	I/A	I/A	I/A	I/A	A	A		
	13 - 16	14 - 18	17 - 21	19 - 24	22 - 27	25 - 31		
	10 - 13	12 - 14	13 - 17	15 - 19	17 - 22	20 - 25		
	8 - 10	9 - 12	10 - 13	11 - 15	13 - 17	15 - 20		
H	C/I/A	I/A	I/A	I/A	I/A	A		
	6 - 8	8 - 10	10 - 12	11 - 14	15 - 19	20 - 25		
	5 - 6	6 - 8	8 - 10	9 - 11	12 - 15	16 - 20		
	4 - 5	4 - 6	6 - 8	7 - 9	9 - 12	12 - 16		
I	C	C/I	I	I/A	I/A	I/A		
	6 - 8	6 - 8	6 - 8	8 - 10	9 - 11	10 - 12		
	4 - 6	4 - 6	5 - 6	6 - 8	7 - 9	8 - 10		
	3 - 4	3 - 4	4 - 5	4 - 6	5 - 7	6 - 8		

A - Active Punishment      I - Intermediate Punishment      C - Community Punishment  
Numbers shown are in months and represent the range of minimum sentences

Revised: 09-09-13

## DISTRICT OF COLUMBIA

The District of Columbia utilizes two sentencing grids that provide sentences in ranges, a Master Grid and a Drug Grid.<sup>121</sup> The District of Columbia uses an offense severity ranking chart to determine the severity level of the primary offense.<sup>122</sup> When the severity level is determined, a score is obtained that is used as one of the primary sentencing factors. All the offender's prior convictions are taken into consideration. While Florida scores each felony conviction individually on the scoresheet, the District looks up all prior convictions to determine a criminal history category of each prior. The prior convictions are then tallied within each criminal history category. The categories each have a unique point value that is transferred to the sentencing grid.<sup>123</sup>

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# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

## APPENDIX A – MASTER GRID

July 2019

Sentencing Ranges Listed in Months

		Criminal History Score				
Ranking Group Most Common Offenses		0 to 1/2 A	3/4 to 1 3/4 B	2 to 3 3/4 C	4 to 5 3/4 D	6 + E
3 Points*	<b>Group 1</b> 1st degree murder w/armed 1st degree murder	360 - 720	360 - 720	360 - 720	360 - 720	360 +
	<b>Group 2</b> 2nd degree murder w/armed 2nd degree murder 1st degree sex abuse 1st degree sex abuse w/armed	144 - 288	156 - 300	168 - 312	180 - 324	192 +
	<b>Group 3</b> Voluntary manslaughter w/armed 1st degree child sex abuse Carjacking while armed Assault with intent to kill w/armed Amed burglary I	90 - 180	102 - 192	114 - 204	126 - 216	138 +
	<b>Group 4</b> Aggravated assault w/armed Voluntary manslaughter	48 - 120	60 - 132	72 - 144	84 - 156	96 +
	<b>Group 5</b> PFCOV Amed robbery Burglary I Obstruction of justice Assault with intent to kill	36 - 84	48 - 96	60 - 108	72 - 120	84 +
2 Points*	<b>Group 6</b> ADW Robbery Aggravated assault 2nd degree child sex abuse Assault with intent to rob	18 - 60	24 - 66	30 - 72	36 - 78	42 +
	<b>Group 7</b> Burglary II 3rd degree sex abuse FIP-PCOV Negligent homicide Attempt 2nd degree sex abuse	12 - 36	18 - 42	24 - 48	30 - 54	36 +
1 Point*	<b>Group 8</b> Carrying a pistol (CPWL) UUV Attempt robbery/burglary FIP1 1st degree theft Assault w/significant bodily injury	6 - 24	10 - 28	14 - 32	18 - 36	22 +
	<b>Group 9</b> Escape/prison breach BRA Receiving stolen property Forgery/uttering Fraud	1 - 12	3 - 16	5 - 20	7 - 24	9 +
*Criminal History Points for prior convictions in these groups.						
White/unshaded boxes – prison, compliant longsplit only.						
Green shaded boxes – prison, compliant longsplit, or short split permissible.						
Yellow shaded boxes – prison, compliant longsplit, or short split, or probation permissible.						

1 D.C. Code § 22 - 4503 provides that the offense of Unlawful Possession of a Firearm penalizes possession by a convicted felon, as well as possession by a person who has in the last five years been convicted of an intra-family offense, among other offenses.

**Ohio**

Ohio's sentencing system is purely statutory.<sup>124</sup> Offenses are sentenced based on their corresponding statute; each criminal offense has a sentence for a definite term of years.<sup>125</sup> In every case, the court must weigh certain statutory factors regarding seriousness of the primary offense and likelihood of recidivism.<sup>126</sup> Ohio is unique in that it does not use a criminal history scoring system. Instead, Ohio statutes require the court to take criminal history into consideration through enumerated statutory factors when sentencing.<sup>127</sup> These factors merely provide guidance to the court.<sup>128</sup> The statute does not specify how much weight the court should give to each factor. Ohio also has a statute<sup>129</sup> that mandates (similar to a mandatory minimum sentence) or allows (at the court's discretion) an additional or mandatory term of years to be imposed.

**New York**

New York is unique in that it uses both determinate and indeterminate sentencing structures.<sup>130</sup> Thus, the court is required to impose a determinate number of years in prison for some offenses, and is provided an indeterminate sentencing range for other offenses.<sup>131</sup> New York utilizes 5 sentencing tables, and each table has its own set of sentencing ranges. The tables are as follows: 1. Drug Felony; 2. Sex Felony; 3. Violent Felony Offenses; 4. Non-Drug Class A Felony; 5. Non-Drug, Non-Sex, Non-Violent class B to E Felonies.<sup>132</sup> The charts subdivide even further if an offender has no prior felonies or is a second or (habitual) felony offender,<sup>133</sup> and each class and class subdivision has a specified sentencing range or determinate sentence.<sup>134</sup> Thus, New York's sentencing structure has little in common with Florida's sentencing guidelines.

## Appendix D: Additional Considerations

After consideration, the Task Force decided to take no action on the following items:

- The Adult on Minor Sex Offense Multiplier;<sup>135</sup>
- The Law Enforcement Officer Protection Act - Law Enforcement Multiplier;<sup>136</sup>
- The Domestic Violence in the Presence of Child Multiplier;<sup>137</sup>
- Legal Status Violations of Fleeing, Supersedeas Bond, Incarceration, Pretrial intervention or Diversion Program, Court Imposed or Post Prison Release Community Supervision Resulting in a Conviction;
- “Moderate” [Injury] and “Slight” [Injury] in section III of the scoresheet;<sup>138</sup>
- Whether to allow law enforcement to issue notices to appear for more non-violent, non-sexual third-degree felonies;<sup>139</sup>
- Give county jails/jailers statutory authority to release pretrial detainee inmates accused of eligible non-violent/non-sexual crimes on conditional medical release;<sup>140</sup>
- Judicial review of sentences for inmates after a certain period of time in prison;<sup>141</sup>
- Whether section 921.0026, Florida Statutes, should be amended to require a defendant with a mental disorder (unrelated to addiction, substance abuse, or a physical disability) seeking a downward departure to prove that treatment was unavailable within the facilities of the Department of Corrections as held in *State v. Chubbuck*, 141 So. 3d 1163 (Fla. 2014);<sup>142</sup>
- Whether section 921.0026, Florida Statutes, should be amended to address the Florida Supreme Court’s decision in *State v. Rife*, 789 So. 2d 288 (Fla. 2001), which held that a minor victim’s consent to sexual conduct could be considered in imposing a downward departure sentence in a sexual battery conviction even though the minor victim’s consent was not a defense to the crime;<sup>143</sup>

## CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

- Whether section 921.0026, Florida Statutes, should be amended to clarify or codify the developed caselaw on the use of the factor for a downward departure based on the victim's need for restitution;<sup>144</sup>
- Whether section 921.0026, Florida Statutes, should be amended to address the Florida Supreme Court's holding in *Van Bebbler v. State*, 848 So. 2d 1046, 1050-1051 (Fla. 2003), that the unsophisticated manner of the crime could be used as a mitigating factor to impose a downward departure sentence for general intent crimes, including driving under the influence;<sup>145</sup>
- Whether to codify the developed caselaw of non-statutory mitigating circumstances justifying a downward departure based on sentence manipulation;<sup>146</sup>
- Downward departure based on a defendant diminished capacity;<sup>147</sup>
- Whether the Legislature should provide a statutory list of factors, including those recognized by caselaw, that should be excluded from consideration by courts when imposing a downward departure sentence;<sup>148</sup>
- Whether a victim's request for leniency can appropriately be considered in imposing a downward departure sentence;<sup>149</sup> and
- Definitions of "primary offense", "additional offense" and "prior record".<sup>150</sup>

# Appendix E: Proposed Offense Severity Rankings with 16 Levels

**Current System**

Existing Offense Level	Current Points
1	4
2	10
3	16
4	22
5	28
6	36
7	56
8	74
9	92
10	116
<p><i>Levels 1 - 4 (22 or less points): non-prison sanction may be required</i></p> <p><i>Levels 1 - 6 (44 or less points): non-prison sanction possible</i></p> <p><i>Levels 7 - 10 (over 44 points): prison sentence required</i></p>	

**Potential New System**

New Offense Level	Recommended Points
1	4
2	8
3	12
4	16
5	22
6	28
7	36
8	46
9	52
10	60
11	68
12	76
13	84
14	92
15	108
16	122
<p>White background: general offense levels                      Grey background: enhanced offense levels to reflect eliminating large enhancements</p> <p><i>Levels 1 - 5 (22 or less points): non-prison sanction may be required</i></p> <p><i>Levels 1 - 7 (44 or less points): non-prison sanction possible</i></p> <p><i>Levels 8 - 16 (over 44 points): prison sentence required</i></p>	

# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

## Proposed Offense Severity Ranking Chart Level 1 (4 points)

#	FLORIDA STATUTE	NEW FEL-MAX YRS	DESCRIPTION	OLD LEV-OLD DEG
1	24.118(3)(a)	5th-3yrs	Counterfeit or altered state lottery ticket.	Lev 1 - 3rd Deg
2	212.15(2)(b)	5th-3yrs	Failure to remit sales taxes, amount \$1,000 or more but less than \$20,000.	Lev 1 - 3rd Deg
3	319.30(5)	5th-3yrs	Sell, exchange, give away certificate of title or identification number plate.	Lev 1 - 3rd Deg
4	319.35(1)(a)	5th-3yrs	Tamper, adjust, change, etc., an odometer.	Lev 1 - 3rd Deg
5	320.26(1)(a)	5th-3yrs	Counterfeit, manufacture, or sell registration license plates or validation stickers.	Lev 1 - 3rd Deg
6	322.212 (1)(a)-(c)	5th-3yrs	Possession of forged, stolen, counterfeit, or unlawfully issued driver license; possession of simulated ID.	Lev 1 - 3rd Deg
7	322.212(4)	5th-3yrs	Supply or aid in supplying unauthorized driver license or identification card.	Lev 1 - 3rd Deg
8	322.212(5)(a)	5th-3yrs	False application for driver license or identification card.	Lev 1 - 3rd Deg
9	713.69	5th-3yrs	Tenant removes property upon which lien has accrued, value \$1,000 or more.	Lev 1 - 3rd Deg
10	817.52(2)	5th-3yrs	Hiring with intent to defraud, motor vehicle services.	Lev 1 - 3rd Deg
11	826.01	5th-3yrs	Bigamy.	Lev 1 - 3rd Deg
12	831.04(1)	5th-3yrs	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.	Lev 1 - 3rd Deg
13	831.31(1)(a)	5th-3yrs	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.	Lev 1 - 3rd Deg
14	832.05(2)(b) & (4)(c)	5th-3yrs	Knowing, making, issuing worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more	Lev 1 - 3rd Deg
15	849.25(2)	5th-3yrs	Engaging in bookmaking.	Lev 1 - 3rd Deg
16	860.08	5th-3yrs	Interfere with a railroad signal.	Lev 1 - 3rd Deg
17	893.13(2)(a)2.	5th-3yrs	Purchase of cannabis.	Lev 1 - 3rd Deg
18	893.13(6)(a)	5th-3yrs	Possession of cannabis (more than 20 grams).	Lev 1 - 3rd Deg
19	893.147(2)	5th-3yrs	Manufacture or delivery of drug paraphernalia.	Lev 2 - 3rd Deg

# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

## Proposed Offense Severity Ranking Chart Level 2 (8 points)

#	FLORIDA STATUTE	NEW FEL-MAX YRS	DESCRIPTION	OLD LEV-OLD DEG
1	212.054(2)(b)	5th-3yrs	Discretionary sales surtax; limitations, administration, and collection.	Lev 1 - 3rd
2	316.1935(1)	5th-3yrs	Fleeing or attempting to elude law enforcement officer.	Lev 1 - 3rd
3	379.2431(1)(e) 3.	5th-3yrs	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.	Lev 2 - 3rd
4	443.071(1)	5th-3yrs	False statement or representation to obtain or increase reemployment assistance benefits.	Lev 1 - 3rd
5	509.151(1)	5th-3yrs	Defraud an innkeeper, food or lodging value \$1,000 or more.	Lev 1 - 3rd
6	517.07(2)	5th-3yrs	Failure to furnish a prospectus meeting requirements.	Lev 2 - 3rd
7	810.09(2)(e)	5th-3yrs	Trespassing on posted commercial horticulture property.	Lev 2 - 3rd
8	812.014(2)(c)1.	5th-3yrs	Grand theft, 3rd degree; \$750 or more but less than \$5,000.	Lev 2 - 3rd
9	812.014(2)(d)	5th-3yrs	Grand theft, 3rd degree; \$100 or more but less than \$750, taken from unenclosed curtilage of dwelling.	Lev 2 - 3rd
10	812.014(3)(c)	5th-3yrs	Petit theft (3rd conviction); theft of any property not specified in subsection (2).	Lev 1 - 3rd
11	812.015(7)	5th-3yrs	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.	Lev 2 - 3rd
12	812.081(2)	5th-3yrs	Unlawfully makes or causes to be made a reproduction of a trade secret.	Lev 1 - 3rd
13	815.04(5)(a)	5th-3yrs	Offense against intellectual property (i.e., computer programs, data).	Lev 1 - 3rd
14	817.481(3)(a)	5th-3yrs	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.	Lev 2 - 3rd
15	817.52(3)	5th-3yrs	Failure to redeliver hired vehicle.	Lev 2 - 3rd
16	817.60(6)(a)	5th-3yrs	Forgery; purchase goods, services with false card.	Lev 2 - 3rd
17	817.61	5th-3yrs	Fraudulent use of credit cards over \$100 or more within 6 months.	Lev 2 - 3rd
18	832.041(1)	5th-3yrs	Stopping payment with intent to defraud \$150 or more.	Lev 1 - 3rd
19	843.18	5th-3yrs	Fleeing by boat to elude a law enforcement officer.	Lev 1 - 3rd
20	893.13(2)(a)2.	5th-3yrs	Purchase of s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) NOT cannabis.	Lev 1 - 3rd
21	893.13(6)(a)	5th-3yrs	Possession of any controlled substance other than felony possession of cannabis.	Lev 2 - 3rd
22	934.03(1)(a)	5th-3yrs	Intercepts, or procures any other person to intercept, any wire or oral communication.	Lev 1 - 3rd

# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

## Proposed Offense Severity Ranking Chart Level 3 (12 points)

#	FLORIDA STATUTE	NEW FEL-MAX YRS	DESCRIPTION	OLD LEV-OLD DEG
1	316.066 (3)(b)-(d)	5th-3yrs	Unlawfully obtaining or using confidential crash reports.	Lev 3 - 3rd
2	319.30(4)	5th-3yrs	Possession by junkyard of motor vehicle with identification number plate removed.	Lev 3 - 3rd
3	379.2431(1)e(4)	5th-3yrs	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.	Lev 2 - 3rd
4	379.2431 (1)e5.	5th-3yrs	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, eggs, or nests in violation of the MTPA	Lev 3 - 3rd
5	379.2431 (1)e6.	5th-3yrs	Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.	Lev 3 - 3rd
6	379.2431 (1)e7.	5th-3yrs	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.	Lev 3 - 3rd
7	400.9935(4)(e)	5th-3yrs	Filing a false license application or other required information or failing to report information.	Lev 3 - 3rd
8	440.1051(3)	5th-3yrs	False report of workers' compensation fraud or retaliation for making such a report.	Lev 3 - 3rd
9	806.10(1)	5th-3yrs	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.	Lev 3 - 3rd
10	806.13(1)(b)3.	5th-3yrs	Criminal mischief; damage \$1,000 or more to public communication or any other public service.	Lev 2 - 3rd
11	810.06	5th-3yrs	Burglary; possession of tools.	Lev 4 - 3rd
12	810.09(2)(c)	5th-3yrs	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.	Lev 3 - 3rd
13	812.014(2)(c)2.	5th-3yrs	Grand theft; \$5,000 or more but less than \$10,000.	Lev 3 - 3rd
14	812.0145(2)(c)	5th-3yrs	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.	Lev 3 - 3rd
15	812.015(8)(b)	5th-3yrs	Retail theft with intent to sell; conspires with others.	Lev 3 - 3rd
16	817.236	5th-3yrs	Filing a false motor vehicle insurance application.	Lev 3 - 3rd
17	817.2361	5th-3yrs	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.	Lev 3 - 3rd
18	817.413(2)	5th-3yrs	Sale of used goods of \$1,000 or more as new.	Lev 3 - 3rd
19	817.60(5)	5th-3yrs	Dealing in credit cards of another.	Lev 2 - 3rd
20	831.28(2)(a)	5th-3yrs	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud.	Lev 3 - 3rd

## CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

21	838.021(3)(b)	5th-3yrs	Threatens unlawful harm to public servant.	Lev 3 - 3rd
22	849.09(1)(a)-(d)	5th-3yrs	Lottery: setup/promote/assist, conduct/adv drawing for prizes, dispose of prop/money by means of lottery	Lev 1 - 3rd
23	849.23	5th-3yrs	Gambling-related machines; "common offender" as to property rights.	Lev 1 - 3rd
24	860.15(3)	5th-3yrs	Overcharging for repairs and parts.	Lev 3 - 3rd
25	893.13(7)(a)10.	5th-3yrs	Affix false or forged label to package of controlled substance.	Lev 3 - 3rd
26	893.13(7)(a)11.	5th-3yrs	Furnish false or fraudulent material information on any document or record required by chapter 893.	Lev 3 - 3rd
27	893.13(7)(a)8.	5th-3yrs	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.	Lev 3 - 3rd
28	893.13(8)(a)1.	5th-3yrs	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.	Lev 3 - 3rd
29	893.13(8)(a)2.	5th-3yrs	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.	Lev 3 - 3rd
30	985.721	5th-3yrs	Escapes from a juvenile facility (secure detention or residential commitment facility).	Lev 3 - 3rd

# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

## Proposed Offense Severity Ranking Chart Level 4 (16 points)

#	FLORIDA STATUTE	NEW FEL-MAX YRS	DESCRIPTION	OLD LEV-OLD DEG
1	316.1935(2)	4th-6yrs	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.	Lev 3 - 3rd
2	319.33(1)(a)	4th-6yrs	Alter or forge any certificate of title to a motor vehicle or mobile home.	Lev 3 - 3rd
3	319.33(1)(c)	4th-6yrs	Procure or pass title on stolen vehicle.	Lev 3 - 3rd
4	319.33(4)	4th-6yrs	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.	Lev 3 - 3rd
5	327.35(2)(b)	4th-6yrs	Felony BUI.	Lev 3 - 3rd
6	328.05(2)	4th-6yrs	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.	Lev 3 - 3rd
7	328.07(4)	4th-6yrs	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.	Lev 3 - 3rd
8	499.0051(1)	4th-6yrs	Failure to maintain or deliver transaction history, transaction information, or transaction statements.	Lev 4 - 3rd
9	517.07(1)	4th-6yrs	Failure to register securities.	Lev 4 - 3rd
10	517.12(1)	4th-6yrs	Failure of dealer, associated person, or issuer of securities to register.	Lev 4 - 3rd
11	784.085	4th-6yrs	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.	Lev 4 - 3rd
12	787.03(1)	4th-6yrs	Interference with custody; wrongly takes minor from appointed guardian.	Lev 4 - 3rd
13	790.115(1)	4th-6yrs	Exhibiting firearm or weapon within 1,000 feet of a school.	Lev 4 - 3rd
14	790.115(2)(b)	4th-6yrs	Possessing electric weapon or device, destructive device, or other weapon on school property.	Lev 4 - 3rd
15	800.04(7)(c)	4th-6yrs	Lewd or lascivious exhibition; offender less than 18 years.	Lev 4 - 3rd
16	806.10(2)	4th-6yrs	Interferes with or assaults firefighter in performance of duty.	Lev 3 - 3rd
17	810.02(4)(a)	4th-6yrs	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.	Lev 4 - 3rd
18	810.02(4)(b)	4th-6yrs	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.	Lev 4 - 3rd
19	810.061(2)	4th-6yrs	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.	Lev 2 - 3rd
20	812.014 (2)(c)4-10.	4th-6yrs	Grand theft, 3rd degree; specified items.	Lev 4 - 3rd
21	812.014(2)(c)3	4th-6yrs	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.	Lev 4 - 3rd

## CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

22	812.0195(2)	4th-6yrs	Dealing in stolen property by use of the Internet; property stolen \$300 or more.	Lev 4 - 3rd
23	817.234 (8)(b) & (c)	4th-6yrs	Unlawful solicitation of persons involved in motor vehicle accidents.	Lev 3 - 3rd
24	817.234(1)(a)2.	4th-6yrs	False statement in support of insurance claim.	Lev 2 - 3rd
25	817.563(1)	4th-6yrs	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.	Lev 4 - 3rd
26	817.568(2)(a)	4th-6yrs	Fraudulent use of personal identification information.	Lev 4 - 3rd
27	817.625(2)(a)	4th-6yrs	Fraudulent use of scanning device, skimming device, or reencoder.	Lev 4 - 3rd
28	817.625(2)(c)	4th-6yrs	Possess, sell, or deliver skimming device.	Lev 4 - 3rd
29	831.01	4th-6yrs	Forgery.	Lev 2 - 3rd
30	831.02	4th-6yrs	Uttering forged instrument; utters or publishes alteration with intent to defraud.	Lev 2 - 3rd
31	831.07	4th-6yrs	Forging bank bills, checks, drafts, or promissory notes.	Lev 2 - 3rd
32	831.08	4th-6yrs	Possessing 10 or more forged notes, bills, checks, or drafts.	Lev 2 - 3rd
33	831.09	4th-6yrs	Uttering forged notes, bills, checks, drafts, or promissory notes.	Lev 2 - 3rd
34	831.11	4th-6yrs	Bringing into the state forged bank bills, checks, drafts, or notes.	Lev 2 - 3rd
35	832.05(3)(a)	4th-6yrs	Cashing or depositing item with intent to defraud.	Lev 2 - 3rd
36	837.02(1)	4th-6yrs	Perjury in official proceedings.	Lev 4 - 3rd
37	837.021(1)	4th-6yrs	Make contradictory statements in official proceedings.	Lev 4 - 3rd
38	843.021	4th-6yrs	Possession of a concealed handcuff key by a person in custody.	Lev 4 - 3rd
39	843.08	4th-6yrs	False personation.	Lev 2 - 3rd
40	843.15(1)(a)	4th-6yrs	Failure to appear while on bail for felony (bond estreature or bond jumping).	Lev 4 - 3rd
41	893.13(1)(a)2.	4th-6yrs	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs).	Lev 3 - 3rd
42	893.13(7)(a)9.	4th-6yrs	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.	Lev 3 - 3rd

## CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

43	918.13(1)(a)	4th-6yrs	Alter, destroy, or conceal investigation evidence.	Lev 3 - 3rd
44	934.215	4th-6yrs	Use of two-way communications device to facilitate commission of a crime.	Lev 4 - 3rd
45	944.47 (1)(a)1. & 2.	4th-6yrs	Introduce contraband to correctional facility.	Lev 3 - 3rd

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# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

## Proposed Offense Severity Ranking Chart Level 5 (22 points)

#	FLORIDA STATUTE	NEW FEL-MAX YRS	DESCRIPTION	OLD LEV-OLD DEG
1	119.10(2)(b)	4th-6yrs	Unlawful use of confidential information from police reports.	Lev 3 - 3rd
2	316.027(2)(a)	4th-6yrs	Accidents involving personal injuries other than SBI, failure to stop; leaving scene.	Lev 5 - 3rd
3	379.365(2)(c)1	4th-6yrs	Stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring, etc.	Lev 5 - 3rd
4	379.367(4)	4th-6yrs	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.	Lev 5 - 3rd
5	379.407(5)(b)3	4th-6yrs	Possession of 100 or more undersized spiny lobsters.	Lev 5 - 3rd
6	381.0041(11)(b)	4th-6yrs	Donate blood, plasma, or organs knowing HIV positive.	Lev 5 - 3rd
7	403.413(6)(c)	4th-6yrs	Dumps waste litter exceeding 500 lbs. in weight or 100 cu ft. in volume or any quantity for comm. purposes, or haz waste.	Lev 2 - 3rd
8	501.001(2)(b)	4th-6yrs	Tampers with a consumer product or the container using materially false/misleading information.	Lev 3 - 2nd
9	590.28(1)	4th-6yrs	Intentional burning of lands.	Lev 2 - 3rd
10	624.401(4)(a)	4th-6yrs	Transacting insurance without a certificate of authority.	Lev 3 - 3rd
11	624.401(4)(b)1.	4th-6yrs	Transacting insurance without a certificate of authority; premium collected less than \$20,000.	Lev 3 - 3rd
12	626.902(1)(a) & (b)	4th-6yrs	Representing an unauthorized insurer.	Lev 3 - 3rd
13	784.05(3)	4th-6yrs	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.	Lev 2 - 3rd
14	784.082(3)	4th-6yrs	Battery by detained person on visitor or other detainee.	Lev 4 - 3rd
15	790.01(2)	4th-6yrs	Carrying a concealed firearm	Lev 5 - 3rd
16	800.04(6)(c)	4th-6yrs	Lewd or lascivious conduct; offender less than 18 years of age.	Lev 5 - 3rd
17	806.111(1)	4th-6yrs	Possess, manufacture/dispense fire bomb w/ intent to damage any structure/property	Lev 5 - 3rd
18	810.08(2)(c)	4th-6yrs	Trespass on property, armed with firearm or dangerous weapon.	Lev 4 - 3rd
19	812.131(2)(b)	4th-6yrs	Robbery by sudden snatching	Lev 5 - 3rd
20	812.16(2)	4th-6yrs	Owning, operating, or conducting a chop shop	Lev 5 - 3rd
21	815.04(5)(b)	4th-6yrs	Computer offense devised to defraud or obtain property.	Lev 3 - 2nd
22	817.034(4)(a)3.	4th-6yrs	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.	Lev 5 - 3rd
23	817.234(11)(a)	4th-6yrs	Insurance fraud; property value less than \$20,000.	Lev 3 - 3rd

## CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

24	817.2341(1), (2)(a) & (3)(a)	4th-6yrs	Filing false financial statements/false relating to the solvency of an insuring entity	Lev 5 - 3rd
25	817.505(4)(a)	4th-6yrs	Patient brokering.	Lev 4 - 3rd
26	817.54	4th-6yrs	With intent to defraud, obtain mortgage note, etc., by false representation.	Lev 2 - 3rd
27	817.569(2)	4th-6yrs	Use of public record or public records information or providing false info to facilitate commission of a felony.	Lev 1 - 3rd
28	825.1025(4)	4th-6yrs	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.	Lev 5 - 3rd
29	826.04	4th-6yrs	Knowingly marries or has sexual intercourse with person to whom related.	Lev 2 - 3rd
30	827.071(5)	4th-6yrs	Possess/control/intentionally view photo material, mot pic, includes sex conduct by child.	Lev 5 - 3rd
31	839.13(2)(a)	4th-6yrs	Falsifying records of an individual in the care and custody of a state agency.	Lev 4 - 3rd
32	839.13(2)(c)	4th-6yrs	Falsifying records of the Department of Children and Families.	Lev 4 - 3rd
33	843.01	4th-6yrs	Resist officer with violence to person; resist arrest with violence.	Lev 5 - 3rd
34	843.0855(4)	4th-6yrs	Intimidation of a public officer or employee.	Lev 7 - 3rd
35	847.0135(5)(c)	4th-6yrs	Lewd or lascivious exhibition using computer; offender less than 18 years.	Lev 4 - 3rd
36	860.13(1)(a)	4th-6yrs	Operate aircraft while under the influence.	Lev 1 - 3rd
37	870.01(2)	4th-6yrs	Riot; inciting or encouraging.	Lev 3 - 3rd
38	893.13(4)(c)	4th-6yrs	Use or hire of minor; deliver to minor other controlled substances.	Lev 3 - 3rd
39	893.13(8)(a)3.	4th-6yrs	Knowingly write a prescription for a controlled substance for a fictitious person.	Lev 3 - 3rd
40	893.13(8)(a)4.	4th-6yrs	Write a script for a cont. substance for a patient/person/animal if the sole purpose of writing the script is a monetary benefit for the practitioner.	Lev 3 - 3rd
41	893.1351(1)	4th-6yrs	Ownership, lease, or rental for trafficking in or manufacturing of controlled substance	Lev 5 - 3rd
42	944.47(1)c	4th-6yrs	Possess contraband while upon the grounds of a correctional institution.	Lev 3 - 2nd

# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

## Proposed Offense Severity Ranking Chart Level 6 (28 points)

#	FLORIDA STATUTE	NEW FEL-MAX YRS	DESCRIPTION	OLD LEV-OLD DEG
1	316.193(2)(b)	3rd-14yrs	Felony DUI, 3rd conviction.	Lev 3 - 3rd
2	316.1935(3)(a)	3rd-14yrs	Driving at high speed/ w/ wanton disregard for safety while fleeing/attempting to elude LEO who is in a patrol vehicle with siren and lights activated.	Lev 4 - 2nd
3	316.1935(4)(a)	3rd-14yrs	Aggravated fleeing or eluding	Lev 5 - 2nd
4	316.80(2)	3rd-14yrs	Unlawful conveyance of fuel; obtaining fraudulently	Lev 5 - 2nd
5	322.34(6)	3rd-14yrs	Careless operation of motor vehicle with suspended license, resulting in death/SBI	Lev 5 - 3rd
6	327.30(5)	3rd-14yrs	Vessel accidents involving personal injury; leaving scene.	Lev 5 - 3rd
7	376.302(5)	3rd-14yrs	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.	Lev 3 - 3rd
8	400.9935(4)(a) or (b)	3rd-14yrs	Operating a clinic, or offering services requiring licensure, without a license.	Lev 3 - 3rd
9	414.39(3)(a)	3rd-14yrs	Fraudulent misappropriation of public assistance funds by employee/ official, value more than \$200.	Lev 1 - 3rd
10	499.0051(5)	3rd-14yrs	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.	Lev 4 - 2nd
11	517.302(1)	3rd-14yrs	Violation of the Florida Securities and Investor Protection Act.	Lev 1 - 3rd
12	697.08	3rd-14yrs	Equity skimming.	Lev 3 - 3rd
13	784.021(1)(a)	3rd-14yrs	Aggravated assault; deadly weapon without intent to kill.	Lev 6 - 3rd
14	784.021(1)(b)	3rd-14yrs	Aggravated assault; intent to commit felony.	Lev 6 - 3rd
15	784.048(3)	3rd-14yrs	Aggravated stalking; credible threat.	Lev 6 - 3rd
16	784.075	3rd-14yrs	Battery on detention or commitment facility staff.	Lev 4 - 3rd
17	784.07(2)(b)	3rd-14yrs	Battery of law enforcement officer, firefighter, etc.	Lev 4 - 3rd
18	784.074(1)(c)	3rd-14yrs	Battery of sexually violent predators facility staff.	Lev 4 - 3rd
19	784.078	3rd-14yrs	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.	Lev 4 - 3rd
20	784.08(2)(c)	3rd-14yrs	Battery on a person 65 years of age or older.	Lev 4 - 3rd
21	784.081(3)	3rd-14yrs	Battery on specified official or employee.	Lev 4 - 3rd
22	784.083(3)	3rd-14yrs	Battery on code inspector.	Lev 4 - 3rd
23	787.02(2)	3rd-14yrs	False imprisonment; restraining with purpose other than those in s. 787.01.	Lev 6 - 3rd
24	787.04(1)	3rd-14yrs	In violation of court order, take, entice, etc., minor beyond state limits.	Lev 2 - 3rd
25	790.15(3)	3rd-14yrs	Person directs another to discharge firearm from a vehicle.	Lev 3 - 3rd
26	812.015(8)(a) & (c)-(e)	3rd-14yrs	Retail theft; property stolen is valued at \$750 or more and	Lev 5 - 3rd

# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

			one or more specified acts.	
27	817.233	3rd-14yrs	Burning to defraud insurer.	Lev 6 - 3rd
28	825.102(1)	3rd-14yrs	Abuse of an elderly person or disabled adult.	Lev 6 - 3rd
29	825.102(3)(c)	3rd-14yrs	Neglect of an elderly person or disabled adult.	Lev 6 - 3rd
30	825.103(3)(c)	3rd-14yrs	Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.	Lev 6 - 3rd
31	827.03(2)(c)	3rd-14yrs	Abuse of a child.	Lev 6 - 3rd
32	827.03(2)(d)	3rd-14yrs	Neglect of a child.	Lev 1 - 3rd
33	828.122(3)	3rd-14yrs	Fighting or baiting animals.	Lev 1 - 3rd
34	828.125(1)	3rd-14yrs	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.	Lev 4 - 2nd
35	838.022	3rd-14yrs	Official misconduct	Lev 4 - 3rd
36	838.15(2)	3rd-14yrs	Commercial bribe receiving.	Lev 1 - 3rd
37	838.16	3rd-14yrs	Commercial bribery.	Lev 6 - 3rd
38	843.025	3rd-14yrs	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.	Lev 4 - 3rd
39	843.12	3rd-14yrs	Aids or assists person to escape.	Lev 3 - 3rd
40	843.19	3rd-14yrs	Injure, disable, or kill police, fire, or SAR canine or police horse.	Lev 1 - 3rd
41	847.011(1)(a)	3rd-14yrs	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).	Lev 4 - 3rd
42	874.05(1)(a)	3rd-14yrs	Encouraging or recruiting another to join a criminal gang.	Lev 4 - 3rd
43	893.13(1)(d)2	3rd-14yrs	Sell/manufacture/deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs w/n 1,000 ft of university.	Lev 3 - 2nd
44	893.13(1)(f)2	3rd-14yrs	Sell/manufacture/deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs w/n 1,000 ft of pub housing facility.	Lev 3 - 2nd

## CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

45	914.14(2)	3rd-14yrs	Witnesses accepting bribes.	Lev 4 - 3rd
46	914.22(1)	3rd-14yrs	Force, threaten, etc., witness, victim, or informant.	Lev 4 - 3rd
47	914.23(2)	3rd-14yrs	Retaliation against a witness, victim, or informant, no bodily injury.	Lev 4 - 3rd
48	918.12	3rd-14yrs	Tampering with jurors.	Lev 6 - 3rd
49	944.35(3)(a)2.	3rd-14yrs	Committing malicious battery upon/inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm	Lev 6 - 3rd
50	944.46	3rd-14yrs	Harboring, concealing, aiding escaped prisoners.	Lev 6 - 3rd
51	944.47(1)(a)6	3rd-14yrs	Introduction of contraband (cellular telephone or other portable communication device) into correctional institution.	Lev 4 - 3rd
52	951.22(1)(h), (j) & (k)	3rd-14yrs	Intoxicating drug, instrumentality/other device to aid escape, or cell telephone/other portable comm device introduced into county detention facility.	Lev 4 - 3rd

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# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

## Proposed Offense Severity Ranking Chart Level 7 (36 points)

#	FLORIDA STATUTE	NEW FEL-MAX YRS	DESCRIPTION	OLD LEV-OLD DEG
1	440.10(1)(g)	3rd-14yrs	Failure to obtain workers' compensation coverage	Lev 5 - 2nd
2	440.105(5)	3rd-14yrs	Unlawful solicitation for the purpose of making workers' compensation claims	Lev 5 - 2nd
3	440.381(2)	3rd-14yrs	False, misleading, or incomp info w/ purpose of avoiding/reducing wkr comp premiums.	Lev 5 - 3rd
4	456.065(2)	3rd-14yrs	Practicing a health care profession without a license.	Lev 7 - 3rd
5	458.327(1)	3rd-14yrs	Practicing medicine without a license.	Lev 7 - 3rd
6	459.013(1)	3rd-14yrs	Practicing osteopathic medicine without a license.	Lev 7 - 3rd
7	460.411(1)	3rd-14yrs	Practicing chiropractic medicine without a license.	Lev 7 - 3rd
8	461.012(1)	3rd-14yrs	Practicing podiatric medicine without a license.	Lev 7 - 3rd
9	462.17	3rd-14yrs	Practicing naturopathy without a license.	Lev 7 - 3rd
10	463.015(1)	3rd-14yrs	Practicing optometry without a license.	Lev 7 - 3rd
11	464.016(1)	3rd-14yrs	Practicing nursing without a license.	Lev 7 - 3rd
12	465.015(2)	3rd-14yrs	Practicing pharmacy without a license.	Lev 7 - 3rd
13	466.026(1)	3rd-14yrs	Practicing dentistry or dental hygiene without a license.	Lev 7 - 3rd
14	467.201	3rd-14yrs	Practicing midwifery without a license.	Lev 7 - 3rd
15	468.366	3rd-14yrs	Delivering respiratory care services without a license.	Lev 7 - 3rd
16	483.828(1)	3rd-14yrs	Practicing as clinical laboratory personnel without a license.	Lev 7 - 3rd
17	483.901(7)	3rd-14yrs	Practicing medical physics without a license.	Lev 7 - 3rd
18	484.013(1)(c)	3rd-14yrs	Preparing or dispensing optical devices without a prescription.	Lev 7 - 3rd
19	484.053	3rd-14yrs	Dispensing hearing aids without a license.	Lev 7 - 3rd
20	499.0051(2)	2nd-20yrs	Knowing forgery of transaction history, transaction information, or transaction statement.	Lev 6 - 2nd
21	499.0051(3)	2nd-20yrs	Knowing purchase or receipt of prescription drug from unauthorized person.	Lev 6 - 2nd
22	499.0051(4)	2nd-20yrs	Knowing sale or transfer of prescription drug to unauthorized person.	Lev 6 - 2nd
23	560.123(8)(b)1.	3rd-14yrs	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.	Lev 7 - 3rd
24	560.125(5)(a)	3rd-14yrs	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.	Lev 7 - 3rd
25	624.401(4)(b)2.	3rd-14yrs	Transacting ins. w/out certificate/authority; premium collected \$20,000+ <\$100,000.	Lev 5 - 2nd
26	626.902(1)(c)	3rd-14yrs	Representing an unauthorized insurer; repeat offender.	Lev 5 - 2nd
27	655.50(10)(b)1.	3rd-14yrs	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.	Lev 7 - 3rd

## CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

28	784.041	3rd-14yrs	Felony battery; domestic battery by strangulation.	Lev 6 - 3rd
29	784.074(1)(b)	3rd-14yrs	Aggravated assault on sexually violent predators facility staff.	Lev 6 - 2nd
30	784.08(2)(b)	3rd-14yrs	Aggravated assault on a person 65 years of age or older.	Lev 6 - 2nd
31	784.081(2)	3rd-14yrs	Aggravated assault on specified official or employee.	Lev 6 - 2nd
32	784.082(2)	3rd-14yrs	Aggravated assault by detained person on visitor or other detainee.	Lev 6 - 2nd
33	784.083(2)	3rd-14yrs	Aggravated assault on code inspector.	Lev 6 - 2nd
34	787.04(2)	3rd-14yrs	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.	Lev 4 - 3rd
35	787.04(3)	3rd-14yrs	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.	Lev 4 - 3rd
36	787.07	3rd-14yrs	Human smuggling	Lev 4 - 3rd
37	790.164(1)	3rd-14yrs	False report concerning bomb/explosive/weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner.	Lev 6 - 2nd
38	800.04(7)(b)	3rd-14yrs	Lewd or lascivious exhibition; offender 18 yrs +	Lev 5 - 2nd
39	810.02(3)(b)	3rd-14yrs	Burglary of unoccupied dwelling; unarmed; no assault or battery.	Lev 7 - 2nd
40	812.0145(2)(b)	3rd-14yrs	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.	Lev 5 - 2nd
41	812.019(1)	3rd-14yrs	Stolen property; dealing in or trafficking in.	Lev 5 - 2nd
42	817.4821(5)	3rd-14yrs	Possess cloning paraphernalia with intent to create cloned cellular telephones.	Lev 6 - 2nd
43	817.535(2)(a)	3rd-14yrs	Filing false lien or other unauthorized document	Lev 7 - 3rd
44	831.29	3rd-14yrs	Possession of instruments for counterfeiting driver licenses or identification cards.	Lev 3 - 2nd
45	837.05(2)	3rd-14yrs	Giving false information about alleged capital felony to a law enforcement officer.	Lev 7 - 3rd
46	843.0855(3)	3rd-14yrs	Unlawful simulation of legal process.	Lev 7 - 3rd
47	847.011	3rd-14yrs	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.	Lev 6 - 3rd
48	893.13(2)(a)1.	3rd-14yrs	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)5. drugs).	Lev 4 - 2nd
49	944.4	3rd-14yrs	Escapes	Lev 6 - 2nd

# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

## Proposed Offense Severity Ranking Chart Level 8 (46 points)

#	FLORIDA STATUTE	NEW FEL-MAX YRS	DESCRIPTION	OLD LEV-OLD DEG
1	560.123(8)(b)2.	3rd-14yrs	Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.	Lev 8 - 2nd
2	560.125(5)(b)	3rd-14yrs	Money transmitter biz by unauthorized person, currency/payment instruments totaling or exceeding \$20,000, but less than \$100,000.	Lev 8 - 2nd
3	655.50(10)(b)2.	3rd-14yrs	Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.	Lev 8 - 2nd
4	775.0875(1)	3rd-14yrs	Taking firearm from law enforcement officer.	Lev 6 - 3rd
5	784.048(4)	3rd-14yrs	Aggravated stalking; violation of injunction or court order	Lev 7 - 3rd
6	784.048(7)	3rd-14yrs	Aggravated stalking; violation of court order	Lev 7 - 3rd
7	790.115(2)(c)	3rd-14yrs	Possessing firearm on school property.	Lev 4 - 3rd
8	800.04(5)(d)	3rd-14yrs	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.	Lev 6 - 3rd
9	812.014 (2)(c)6****Mx1.5	3rd-14yrs	NEW CHARGE TO BE ADDED *****Grand theft, 3rd degree; GTA with 3 or more prior convictions for GTA (TO REMOVE MULTIPLIER)	N/A
10	812.13(2)(c)	3rd-14yrs	Robbery, no firearm or other weapon (strong-arm robbery).	Lev 6 - 2nd
11	817.034(4)(a)2.	3rd-14yrs	Communications fraud, value \$20,000 to \$50,000.	Lev 5 - 2nd
12	817.234(11)(b)	3rd-14yrs	Insurance fraud; property value \$20,000 or more but less than \$100,000.	Lev 5 - 2nd
13	817.505(4)(b)	3rd-14yrs	Patient brokering; 10 or more patients.	Lev 6 - 2nd
14	817.535(2)(b)	3rd-14yrs	Filing false lien or other unauthorized document; second or subsequent offense.	Lev 8 - 2nd
15	817.535(3)(a)	3rd-14yrs	Filing false lien or other unauthorized document; property owner is a public officer or employee.	Lev 8 - 2nd
16	817.535(4)(a)1.	3rd-14yrs	Filing false lien or other unauthorized document; defendant is incarcerated or under supervision.	Lev 8 - 2nd
17	817.535(5)(a)	3rd-14yrs	Filing false lien or other unauthorized document; owner of the property incurs financial loss as a result of the false instrument.	Lev 8 - 2nd
18	817.568(2)(b)	3rd-14yrs	Fraudulent use of personal ID; value of \$5,000+ 10+ persons	Lev 5 - 2nd
19	817.568(6)	3rd-14yrs	Fraudulent use of personal identification information of an individual under the age of 18.	Lev 8 - 2nd
20	817.611(2)(a)	3rd-14yrs	Traffic in or possess 5 to 14 counterfeit credit cards or related documents.	Lev 5 - 2nd

## CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

21	817.611(2)(c)	3rd-14yrs	Traffic in or possess 50 or more counterfeit credit cards or related documents.	Lev 8 - 1st
22	817.625(2)(b)	3rd-14yrs	Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.	Lev 5 - 2nd
23	828.12(2)	3rd-14yrs	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.	Lev 5 - 3rd
24	837.02(2)	3rd-14yrs	Perjury in official proceedings relating to prosecution of a capital felony.	Lev 8 - 2nd
25	837.021(2)	3rd-14yrs	Making contradictory statements in official proceedings relating to prosecution of a capital felony.	Lev 8 - 2nd
26	839.13(2)(b)	3rd-14yrs	False records of individual in care/custody of a state agency w/ great bodily harm or death.	Lev 5 - 2nd
27	843.0855(2)	4th-6yrs	Impersonation of a public officer or employee.	Lev 7 - 3rd
28	847.0135(5)(b)	3rd-14yrs	Lewd or lascivious exhibition using computer; offender 18 years or older.	Lev 5 - 2nd
29	847.0137 (2) & (3)	3rd-14yrs	Transmission of pornography by electronic device or equipment.	Lev 5 - 3rd
30	847.0138 (2) & (3)	3rd-14yrs	Transmission of material harmful to minors to a minor by electronic device or equipment.	Lev 5 - 3rd
31	896.101(5)(a)	3rd-14yrs	Money laundering, financial transactions exceeding \$300 but less than \$20,000.	Lev 7 - 3rd

# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

## Proposed Offense Severity Ranking Chart Level 9 (52 points)

#	FLORIDA STATUTE	NEW FEL-MAX YRS	DESCRIPTION	OLD LEV-OLD DEG
1	316.027(2)(b)	3rd-14yrs	Leaving the scene of a crash involving serious bodily injury.	Lev 6 - 2nd
2	316.193(3)(c)2.	3rd-14yrs	DUI resulting in serious bodily injury.	Lev 7 - 3rd
3	316.193(2)(b)	3rd-14yrs	Felony DUI, 4th or subsequent conviction.	Lev 3 - 3rd
4	327.35(3)(c)2.	3rd-14yrs	Vessel BUI resulting in serious bodily injury.	Lev 7 - 3rd
5	400.9935(4)(c)	3rd-14yrs	Operating a clinic, or offering services requiring licensure, without a license.	Lev 6 - 2nd
6	409.920 (2)(b)1.a.	3rd-14yrs	Medicaid provider fraud; \$10,000 or less.	Lev 7 - 3rd
7	782.04(4)	3rd-14yrs	Killing of human w/out design when engaged in act/attempt of fel not arson/sex batt/robbery/burglary/kidnapping/agg. f/e with SBI/death, aircraft piracy/discharging bomb.	Lev 8 - 2nd
8	784.048(5)	3rd-14yrs	Aggravated stalking of person under 16.	Lev 6 - 3rd
9	784.041	3rd-14yrs	Felony battery; domestic battery by strangulation	Lev 6 - 3rd
10	784.07(2)(c)	2nd-20yrs	Aggravated assault on law enforcement officer.	Lev 6 - 2nd
11	790.115(2)(d)	2nd-20yrs	Discharging firearm or weapon on school property.	Lev 6 - 2nd
12	790.162	3rd-14yrs	Threat to throw or discharge destructive device	Lev 5 - 2nd
13	790.163(1)	3rd-14yrs	False report of bomb, explosive, weapon of mass destr., or use of f/a in violent manner.	Lev 5 - 2nd
14	790.221(1)	3rd-14yrs	Possession of short-barreled shotgun or machine gun	Lev 5 - 2nd
15	790.23	3rd-14yrs	Felons in possession of firearms, ammunition, or electronic weapons or devices.	Lev 5 - 2nd
16	796.05(1)	3rd-14yrs	Live on earnings of a prostitute; 1st offense.	Lev 5 - 2nd
17	800.04(6)(b)	3rd-14yrs	Lewd or lascivious conduct; offender 18 years of age or older.	Lev 6 - 2nd
18	806.031(2)	3rd-14yrs	Arson resulting in great bodily harm to firefighter or any other person.	Lev 6 - 2nd
19	810.02(3)(c)	3rd-14yrs	Burglary of occupied structure; unarmed; no assault or battery.	Lev 6 - 2nd
20	810.145(8)(b)	3rd-14yrs	Video voyeurism; certain minor victims; 2nd or subsequent offense.	Lev 6 - 2nd
21	812.014(2)(b)1.	3rd-14yrs	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.	Lev 6 - 2nd
22	812.014(6)	3rd-14yrs	Theft; property stolen \$3,000 or more; coordination of others.	Lev 6 - 2nd
23	812.015(9)(a)	3rd-14yrs	Retail theft; property stolen \$750 or more; second or subsequent conviction.	Lev 6 - 2nd
24	812.015(9)(b)	3rd-14yrs	Retail theft; aggregated property stolen within 30 days is \$3,000 or more; coordination of others.	Lev 6 - 2nd

# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

25	825.1025(3)	3rd-14yrs	Lewd or lascivious molestation of an elderly person or disabled adult.	Lev 6 - 3rd
26	827.071(2) & (3)	3rd-14yrs	Use or induce a child in a sexual performance, or promote or direct such performance.	Lev 6 - 2nd
27	827.071(4)	3rd-14yrs	Possess w/ intent to promote photo material, motion pic includes sex conduct by a child.	Lev 5 - 2nd
28	836.05	3rd-14yrs	Threats; extortion.	Lev 6 - 2nd
29	836.10	3rd-14yrs	Written threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.	Lev 6 - 2nd
30	874.05(1)(b)	3rd-14yrs	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.	Lev 5 - 2nd
31	874.05(2)(a)	3rd-14yrs	Encouraging or recruiting person under 13 years of age to join a criminal gang.	Lev 5 - 2nd
32	893.13(1)(a)1.	3rd-14yrs	Sell/manufacture/deliver cocaine w/ in 1,000 feet of child care/school/public spaces	Lev 5 - 2nd
33	893.13(1)(c)2.	3rd-14yrs	Sell/manufacture/deliver cannabis within 1,000 feet of a child care/school/public spaces	Lev 5 - 2nd
34	893.13(1)(d)1.	3rd-14yrs	Sell/manufacture/deliver cocaine within 1,000 feet of university.	Lev 5 - 1st
35	893.13(1)(e)2.	3rd-14yrs	Sell/manufacture/deliver cannabis within 1,000 feet of property used for religious services	Lev 5 - 2nd
36	893.13(1)(f)1.	3rd-14yrs	Sell, manufacture, or deliver cocaine within 1,000 feet of public housing facility.	Lev 5 - 1st
37	893.13(4)(b)	3rd-14yrs	Use or hire of minor; deliver to minor other controlled substance.	Lev 5 - 2nd
38	896.104(4)(a)1.	3rd-14yrs	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.	Lev 7 - 3rd
39	943.0435(4)(c)	3rd-14yrs	Sexual offender vacating permanent residence; failure to comply with reporting requirements.	Lev 7 - 2nd
40	943.0435(8)	3rd-14yrs	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.	Lev 7 - 2nd
41	943.0435(9)(a)	3rd-14yrs	Sexual offender; failure to comply with reporting requirements.	Lev 7 - 2nd
42	943.0435(13)	3rd-14yrs	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.	Lev 7 - 3rd

## CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

43	943.0435(14)	3rd-14yrs	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.	Lev 7 - 3rd
44	944.47(1)(a)5	3rd-14yrs	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.	Lev 6 - 2nd
45	944.607(9)	3rd-14yrs	Sexual offender; failure to comply with reporting requirements.	Lev 7 - 3rd
46	944.607(10)(a)	3rd-14yrs	Sexual offender; failure to submit to the taking of a digitized photograph.	Lev 7 - 3rd
47	944.607(12)	3rd-14yrs	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.	Lev 7 - 3rd
48	944.607(13)	3rd-14yrs	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.	Lev 7 - 3rd
49	951.22(1)(i)	3rd-14yrs	Firearm or weapon introduced into county detention facility.	Lev 6 - 3rd
50	985.4815(10)	3rd-14yrs	Sexual offender; failure to submit to the taking of a digitized photograph.	Lev 7 - 3rd
51	985.4815(12)	3rd-14yrs	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.	Lev 7 - 3rd
52	985.4815(13)	3rd-14yrs	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.	Lev 7 - 3rd

# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

## Proposed Offense Severity Ranking Chart Level 10 (60 points)

#	FLORIDA STATUTE	NEW FEL-MAX YRS	DESCRIPTION	OLD LEV-OLD DEG
1	775.21(10)(a)	2nd-20yrs	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.	Lev 7 - 3rd
2	775.21(10)(b)	2nd-20yrs	Sexual predator working where children regularly congregate.	Lev 7 - 3rd
3	775.21(10)(g)	2nd-20yrs	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.	Lev 7 - 3rd
4	790.165(2)	2nd-20yrs	Manufacture, sell, possess, or deliver hoax bomb.	Lev 7 - 2nd
5	790.165(3)	2nd-20yrs	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.	Lev 7 - 2nd
6	790.166(3)	2nd-20yrs	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.	Lev 7 - 2nd
7	790.166(4)	2nd-20yrs	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.	Lev 7 - 2nd
8	794.011(8)(a)	2nd-20yrs	Solicitation of minor to participate in sexual activity by custodial adult.	Lev 6 - 3rd
9	794.05(1)	2nd-20yrs	Unlawful sexual activity with specified minor.	Lev 6 - 2nd
10	794.08(4)	2nd-20yrs	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.	Lev 7 - 3rd
11	810.02(3)(e)	2nd-20yrs	Burglary of authorized emergency vehicle.	Lev 7 - 2nd
12	812.014(2)(b)2.	2nd-20yrs	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.	Lev 7 - 2nd
13	812.014(2)(b)3.	2nd-20yrs	Property stolen, emergency medical equipment; 2nd degree grand theft.	Lev 7 - 2nd
14	812.014(2)(b)4.	2nd-20yrs	Property stolen, law enforcement equipment from authorized emergency vehicle.	Lev 7 - 2nd
15	812.019(2)	2nd-20yrs	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.	Lev 7 - 1st
16	812.131(2)(a)	3rd-14yrs	Robbery by sudden snatching	Lev 7 - 2nd
17	817.234(8)(a)	3rd-14yrs	Solicitation of motor vehicle accident victims with intent to defraud.	Lev 7 - 2nd
18	817.234(9)	3rd-14yrs	Organizing, planning, or participating in an intentional motor vehicle collision.	Lev 7 - 2nd
19	817.611(2)(b)	3rd-14yrs	Traffic in or possess 15 to 49 counterfeit credit cards or related documents.	Lev 7 - 2nd
20	827.04(3)	3rd-14yrs	Impregnation of a child under 16 years of age by person 21 years of age or older.	Lev 7 - 3rd

## CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

21	838.015	2nd-20yrs	Bribery.	Lev 7 - 2nd
22	838.016	2nd-20yrs	Unlawful compensation or reward for official behavior.	Lev 7 - 2nd
23	838.021(3)(a)	3rd-14yrs	Unlawful harm to a public servant.	Lev 7 - 2nd
24	838.22	2nd-20yrs	Bid tampering.	Lev 7 - 2nd
25	847.012	2nd-20yrs	Knowingly using a minor in the production of materials harmful to minors.	Lev 6 - 3rd
26	847.0135(2)	2nd-20yrs	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.	Lev 6 - 3rd
27	847.0135(3)	2nd-20yrs	Solicitation of a child, via a computer service, to commit an unlawful sex act.	Lev 7 - 3rd
28	896.101(5)(b)	2nd-20yrs	Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.	Lev 8 - 2nd
29	896.104(4)(a)2	2nd-20yrs	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000.	Lev 8 - 2nd
30	914.23	2nd-20yrs	Retaliation against a witness, victim, or informant, with bodily injury.	Lev 6 - 2nd

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# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

## Proposed Offense Severity Ranking Chart Level 72 (68 points)

#	FLORIDA STATUTE	NEW FEL-MAX YRS	DESCRIPTION	OLD LEV-OLD DEG
1	409.920 (2)(b)1.b.	2nd-20yrs	Medicaid provider fraud; more than \$10,000, but less than \$50,000	Lev 7 - 2nd
2	790.19	2nd-20yrs	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.	Lev 6 - 2nd
3	790.161(2)	2nd-20yrs	Make, possess, or throw destructive device with intent to do bodily harm or damage property.	Lev 6 - 2nd
4	800.04(4)(b)	2nd-20yrs	Lewd or lascivious battery.	Lev 8 - 2nd
5	800.04(5)(c)1.	2nd-20yrs	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.	Lev 7 - 2nd
6	800.04(5)(c)2.	2nd-20yrs	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.	Lev 7 - 2nd
7	806.01(2)	2nd-20yrs	Maliciously damage structure by fire or explosive.	Lev 7 - 2nd
8	810.02(3)(a)	2nd-20yrs	Burglary of occupied dwelling; unarmed; no assault or battery	Lev 7 - 2nd
9	810.02(3)(d)	2nd-20yrs	Burglary of occupied conveyance; unarmed; no assault or battery.	Lev 7 - 2nd
10	825.102(3)(b)	2nd-20yrs	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.	Lev 7 - 2nd
11	825.103(3)(b)	2nd-20yrs	Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less than \$50,000.	Lev 7 - 2nd
12	827.03(2)(b)	2nd-20yrs	Neglect of a child causing great bodily harm, disability, or disfigurement.	Lev 7 - 2nd
13	847.0135(4)	2nd-20yrs	Traveling to meet a minor to commit an unlawful sex act.	Lev 7 - 2nd
14	872.06	2nd-20yrs	Abuse of a dead human body.	Lev 7 - 2nd
15	893.1351(2)	2nd-20yrs	Possession of place for trafficking in or manufacturing of controlled substance.	Lev 7 - 2nd

# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

## Proposed Offense Severity Ranking Chart Level 12 (76 points)

#	FLORIDA STATUTE	NEW FEL-MAX YRS	DESCRIPTION	OLD LEV-OLD DEG
1	402.319(2)	2nd-20yrs	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfigurement, permanent disability, or death.	Lev 7 - 2nd
2	456.065(2)(d)	2nd-20yrs	Practicing a health care profession without a license which results in serious bodily injury.	Lev 7 - 3rd
3	494.0018(2)	1st-30yrs	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.	Lev 7 - 1st
4	782.051(3)	2nd-20yrs	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.	Lev 7 - 2nd
5	784.045(1)(a)1.	2nd-20yrs	Aggravated battery; intentionally causing great bodily harm or disfigurement.	Lev 7 - 2nd
6	784.045(1)(a)2.	2nd-20yrs	Aggravated battery; using deadly weapon.	Lev 7 - 2nd
7	784.045(1)(b)	2nd-20yrs	Aggravated battery; perpetrator aware victim pregnant	Lev 7 - 2nd
8	794.011(5)(b)	2nd-20yrs	Sexual battery; victim and offender 18 years of age or older; offender does not use physical force likely to cause serious injury.	Lev 8 - 2nd
9	794.011(5)(c)	2nd-20yrs	Sexual battery; victim 12 years of age or older; offender younger than 18 years; offender does not use physical force likely to cause injury.	Lev 8 - 2nd
10	794.08(3)	2nd-20yrs	Female genital mutilation, removal of a victim younger than 18 years of age from this state.	Lev 8 - 2nd
11	796.05(1)	1st-30yrs	Live on earnings of a prostitute; 2nd offense.	Lev 7 - 1st
12	810.02(2)(c)	2nd-20yrs	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.	Lev 8 - 2nd
13	812.014(2)(a)2.	2nd-20yrs	Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.	Lev 8 - 2nd
14	812.0145(2)(a)	2nd-20yrs	Theft from person 65 years of age or older; \$50,000 or more.	Lev 7 - 1st
15	812.13(2)(b)	1st-30yrs	Robbery with a weapon.	Lev 8 - 1st
16	812.133(2)(b)	2nd-20yrs	Carjacking; no firearm, deadly weapon, or other weapon.	Lev 7 - 1st
17	817.234(11)(c)	2nd-20yrs	Insurance fraud; property value \$100,000 or more.	Lev 7 - 1st
18	817.2341(2)(b) & 3(b)	2nd-20yrs	Making false entries of mat fact/false statements regarding prop values relating to the solvency of insurer which are a significant cause of insolvency of	Lev 7 - 1st
19	817.505(4)(c)	2nd-20yrs	Patient brokering; 20 or more patients.	Lev 8 - 1st

# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

20	817.568(7)	2nd-20yrs	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial auth.	Lev 9 - 2nd
21	874.05(2)(b)	1st-30yrs	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.	Lev 7 - 1st
22	893.13(1)(c)1.	1st-30yrs	Sell, manufacture, or deliver cocaine within 1,000 ft of a child care facility, school, or state, county, or muni park/publicly owned recreational facility or community ctr.	Lev 7 - 1st
23	893.13(1)(e)1.	1st-30yrs	Sell, manufacture, or deliver cocaine or other drug prohibited within 1,000 feet of property used for religious services or a specified business site.	Lev 7 - 1st
24	893.13(4)(a)	1st-30yrs	Use or hire of minor; deliver to minor other controlled substance.	Lev 7 - 1st
25	893.135 (1)(b)1.a.	1st-30yrs	Trafficking in cocaine, more than 28 grams, less than 200 grams.	Lev 7 - 1st
26	893.135 (1)(c)1.a.	1st-30yrs	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.	Lev 7 - 1st
27	893.135 (1)(c)2.a.	1st-30yrs	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.	Lev 7 - 1st
28	893.135 (1)(c)2.b.	1st-30yrs	Trafficking in hydrocodone, 50 grams or more, less than 100 grams.	Lev 7 - 1st
29	893.135 (1)(c)3.a.	1st-30yrs	Trafficking in oxycodone, 7 grams or more, less than 14 grams.	Lev 7 - 1st
30	893.135 (1)(c)3.b.	1st-30yrs	Trafficking in oxycodone, 14 grams or more, less than 25 grams.	Lev 7 - 1st
31	893.135 (1)(c)4.b.(l)	1st-30yrs	Trafficking in fentanyl, 4 grams or more, less than 14 grams.	Lev 7 - 1st
32	893.135 (1)(d)1.a.	1st-30yrs	Trafficking in phencyclidine, 28 grams or more, less than 200 grams.	Lev 7 - 1st
33	893.135 (1)(g)1.a.	1st-30yrs	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.	Lev 7 - 1st

## CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

34	893.135 (1)(h)1.a.	1st-30yrs	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.	Lev 7 - 1st
35	893.135 (1)(j)1.a.	1st-30yrs	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.	Lev 7 - 1st
36	893.135 (1)(k)2.a.	1st-30yrs	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.	Lev 7 - 1st
37	893.135 (1)(m)2.a.	1st-30yrs	Trafficking in synthetic cannabinoids, 280 grams or more, less than 500 grams.	Lev 7 - 1st
38	893.135 (1)(m)2.b.	1st-30yrs	Trafficking in synthetic cannabinoids, 500 grams or more, less than 1,000 grams.	Lev 7 - 1st
39	893.135 (1)(n)2.a.	1st-30yrs	Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100 grams.	Lev 7 - 1st
40	893.135(1)(a)1.	1st-30yrs	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.	Lev 7 - 1st
41	893.135(1)(e)1.	1st-30yrs	Trafficking in methaqualone, 200 grams or more, less than 5 kilograms.	Lev 7 - 1st
42	893.135(1)(f)1.	1st-30yrs	Trafficking in amphetamine, 14 grams or more, less than 28 grams.	Lev 7 - 1st

# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

## Proposed Offense Severity Ranking Chart Level 13 (84 points)

#	FLORIDA STATUTE	NEW FEL-MAX YRS	DESCRIPTION	OLD LEV-OLD DEG
1	316.1935(4)(b)	1st-30yrs	Aggravated fleeing or attempted eluding with serious bodily injury or death.	Lev 8 - 1st
2	409.920 (2)(b)1.c	1st-30yrs	Medicaid provider fraud; \$50,000 or more	Lev 9 - 1st
3	499.0051(6)	1st-30yrs	Knowing trafficking in contraband prescription drugs.	Lev 8 - 1st
4	499.0051(7)	1st-30yrs	Knowing forgery of prescription labels or prescription drug labels.	Lev 8 - 1st
5	560.123(8)(b)3.	1st-30yrs	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter	Lev 9 - 1st
6	560.125(5)(c)	1st-30yrs	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000	Lev 9 - 1st
7	655.50(10)(b)3	1st-30yrs	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution	Lev 9 - 1st
8	775.0844	1st-30yrs	Aggravated white collar crime	Lev 9 - 1st
9	777.03(2)(a)	1st-30yrs	Accessory after the fact, capital felony.	Lev 8 - 1st
10	782.051(2)	1st-30yrs	Att. fel murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).	Lev 8 - 1st
11	782.07(1)	2nd-20yrs	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).	Lev 7 - 2nd
12	782.071	2nd-20yrs	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).	Lev 7 - 2nd
13	782.072	2nd-20yrs	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).	Lev 7 - 2nd
14	784.07(2)(d)	1st-30yrs	Aggravated battery on law enforcement officer	Lev 7 - 1st
15	784.074(1)(a)	1st-30yrs	Aggravated battery on sexually violent predators facility staff	Lev 7 - 1st
16	784.08(2)(a)	1st-30yrs	Aggravated battery on a person 65 years of age or older	Lev 7 - 1st
17	784.081(1)	1st-30yrs	Aggravated battery on specified official or employee	Lev 7 - 1st
18	784.082(1)	1st-30yrs	Aggravated battery by detained person on visitor or other detainee	Lev 7 - 1st
19	784.083(1)	1st-30yrs	Aggravated battery on code inspector	Lev 7 - 1st
20	787.06(3)(a)2.	1st-30yrs	Human trafficking using coercion for labor and services of an adult.	Lev 7 - 1st
21	787.06(3)(e)2.	1st-30yrs	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.	Lev 7 - 1st

# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

22	790.07(4)	1st-30yrs	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).	Lev 7 - 1st
23	790.16(1)	1st-30yrs	Discharge of a machine gun under specified circumstances.	Lev 7 - 1st
24	790.161(3)	1st-30yrs	Discharging a destructive device which results in bodily harm or property damage.	Lev 8 - 1st
25	790.23	1st-30yrs/Life	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.	Lev 7 - 1st,PBL
26	794.011(5)(a)	1st-30yrs	Sexual battery; victim 12 years of age or older but younger than 18 years; offender 18 years or older; offender does not use physical force likely to cause serious injury.	Lev 8 - 1st
27	796.05(1)(c)	1st-30yrs	Live on earnings of a prostitute; 3rd and subsequent offense.	Lev 7 - 1st
28	800.04(5)(e)	1st-30yrs	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.	Lev 7 - 1st
29	812.014(2)(a)1.	1st-30yrs	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a LEO; property stolen while causing other property damage; 1st degree grand theft.	Lev 7 - 1st
30	812.135(2)(c)	1st-30yrs	Home-invasion robbery, no firearm, deadly weapon, or other weapon.	Lev 8 - 1st
31	817.034(4)(a)1.	1st-30yrs	Communications fraud, value greater than \$50,000.	Lev 7 - 1st
32	817.535(3)(b)	1st-30yrs	Filing false lien or other unauthorized document; second or subsequent offense; property owner is a public officer or employee.	Lev 9 - 1st
33	817.535(4)(a)2.	1st-30yrs	Filing false claim or other unauthorized document; defendant is incarcerated or under supervision.	Lev 9 - 1st
34	817.535(5)(b)	1st-30yrs	Filing false lien or other unauthorized document; second or subsequent offense; owner of the property incurs financial loss as a result of the false instrument.	Lev 9 - 1st
35	825.103(3)(a)	1st-30yrs	Exploiting an elderly person or disabled adult and property is valued at \$50,000 or more.	Lev 8 - 1st
36	860.121(2)(c)	1st-30yrs	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.	Lev 8 - 1st
37	860.16	1st-30yrs	Aircraft piracy.	Lev 8 - 1st
38	893.135 (1)(b)1.a.	1st-30yrs	Trafficking in cocaine, more than 28 grams, less than 200 grams.	Lev 7 - 1st
39	893.135 (1)(c)1.a.	1st-30yrs	Trafficking in illegal drugs, more than 4 grams, less than	Lev 7 - 1st

# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

			14 grams.	
40	893.135 (1)(c)2.a.	1st-30yrs	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.	Lev 7 - 1st
41	893.135 (1)(c)2.b.	1st-30yrs	Trafficking in hydrocodone, 50 grams or more, less than 100 grams.	Lev 7 - 1st
42	893.135 (1)(c)3.a.	1st-30yrs	Trafficking in oxycodone, 7 grams or more, less than 14 grams.	Lev 7 - 1st
43	893.135 (1)(c)3.b.	1st-30yrs	Trafficking in oxycodone, 14 grams or more, less than 25 grams.	Lev 7 - 1st
44	893.135 (1)(c)4.b.(l)	1st-30yrs	Trafficking in fentanyl, 4 grams or more, less than 14 grams.	Lev 7 - 1st
45	893.135 (1)(d)1.a.	1st-30yrs	Trafficking in phencyclidine, 28 grams or more, less than 200 grams.	Lev 7 - 1st
46	893.135 (1)(g)1.a.	1st-30yrs	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.	Lev 7 - 1st
47	893.135 (1)(h)1.a.	1st-30yrs	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.	Lev 7 - 1st
48	893.135 (1)(j)1.a.	1st-30yrs	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.	Lev 7 - 1st
49	893.135 (1)(k)2.a.	1st-30yrs	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.	Lev 7 - 1st
50	893.135 (1)(m)2.a.	1st-30yrs	Trafficking in synthetic cannabinoids, 280 grams or more, less than 500 grams.	Lev 7 - 1st
51	893.135 (1)(m)2.b.	1st-30yrs	Trafficking in synthetic cannabinoids, 500 grams or more, less than 1,000 grams.	Lev 7 - 1st
52	893.135 (1)(n)2.a.	1st-30yrs	Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100 grams.	Lev 7 - 1st
53	893.135(1)(a)1.	1st-30yrs	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.	Lev 7 - 1st
54	893.135(1)(e)1.	1st-30yrs	Trafficking in methaqualone, 200 grams or more, less than 5 kilograms.	Lev 7 - 1st
55	893.135(1)(f)1.	1st-30yrs	Trafficking in amphetamine, 14 grams or more, less than 28 grams.	Lev 7 - 1st
56	874.10	1st-30yrs/Life	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.	Lev 7 - 1st,PBL
57	893.13(1)(b)	1st-30yrs	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).	Lev 8 - 1st
58	893.13(2)(b)	1st-30yrs	Purchase in excess of 10 grams of any substance	Lev 8 - 1st

# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

			specified in s. 893.03(1)(a) or (b).	
59	893.13(6)(c)	1st-30yrs	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).	Lev 8 - 1st
60	893.135 (1)(b)1.b.	1st-30yrs	Trafficking in cocaine, more than 200 grams, less than 400 grams.	Lev 8 - 1st
61	893.135 (1)(c)1.b.	1st-30yrs	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.	Lev 8 - 1st
62	893.135 (1)(c)2.c.	1st-30yrs	Trafficking in hydrocodone, 100 grams or more, less than 300 grams.	Lev 8 - 1st
63	893.135 (1)(c)3.c.	1st-30yrs	Trafficking in oxycodone, 25 grams or more, less than 100 grams.	Lev 8 - 1st
64	893.135 (1)(c)4.b.(II)	1st-30yrs	Trafficking in fentanyl, 14 grams or more, less than 28 grams.	Lev 8 - 1st
65	893.135 (1)(d)1.b.	1st-30yrs	Trafficking in phencyclidine, 200 grams or more, less than 400 grams.	Lev 8 - 1st
66	893.135 (1)(e)1.b.	1st-30yrs	Trafficking in methaqualone, 5 kilograms or more, less than 25 kilograms.	Lev 8 - 1st
67	893.135 (1)(f)1.b.	1st-30yrs	Trafficking in amphetamine, 28 grams or more, less than 200 grams.	Lev 8 - 1st
68	893.135 (1)(g)1.b.	1st-30yrs	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.	Lev 8 - 1st
69	893.135 (1)(h)1.b.	1st-30yrs	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms	Lev 8 - 1st
70	893.135 (1)(j)1.b.	1st-30yrs	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.	Lev 8 - 1st
71	893.135 (1)(k)2.b.	1st-30yrs	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.	Lev 8 - 1st
72	893.135 (1)(m)2.c.	1st-30yrs	Trafficking in synthetic cannabinoids, 1,000 grams or more, less than 30 kilograms.	Lev 8 - 1st
73	893.135 (1)(n)2.b.	1st-30yrs	Trafficking in n-benzyl phenethylamines, 100 grams or more, less than 200 grams.	Lev 8 - 1st
74	893.135(1)(a)2.	1st-30yrs	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.	Lev 8 - 1st
75	893.135(3)	1st-30yrs	Possession of a place used to manufacture controlled substance when minor is present or resides there.	Lev 8 - 1st
76	895.03(1)	1st-30yrs	Use or invest proceeds derived from pattern of racketeering activity.	Lev 8 - 1st
77	895.03(2)	1st-30yrs	Acquire or maintain through racketeering activity any interest in or control of any	Lev 8 - 1st

# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

			enterprise or real property.	
78	895.03(3)	1st-30yrs	Conduct or participate in any enterprise through pattern of racketeering activity.	Lev 8 - 1st
79	896.101(5)(c)	1st-30yrs	Money laundering, financial instruments totaling or exceeding \$100,000.	Lev 9 - 1st
80	896.104(4)(a)3.	1st-30yrs	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$100,000.	Lev 9 - 1st

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# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

## Proposed Offense Severity Ranking Chart Level 14 (92 points)

#	FLORIDA STATUTE	NEW FEL-MAX YRS	DESCRIPTION	OLD LEV-OLD DEG
1	316.027(2)(c)	1st-30yrs	Accident involving death, failure to stop; leaving scene.	Lev 7 - 1st
2	316.193 (3)(c)3.a.	2nd-20yrs	DUI Manslaughter	Lev 8 - 2nd
3	316.193 (3)(c)3.b.	1st-30yrs	DUI manslaughter; failing to render aid or give information	Lev 9 - 1st
4	316.1935(3)(b)	1st-30yrs	Causing SBI/death to another; drive high speed w/ wanton disregard for safety while fleeing/attempting to elude LEO in patrol vehicle w/ siren& lights activated.	Lev 7 - 1st
5	327.35 (3)(c)3.b.	1st-30yrs	BUI manslaughter; failing to render aid or give information	Lev 9 - 1st
6	327.35(3)(c)3.	2nd-20yrs	Vessel BUI manslaughter.	Lev 8 - 2nd
7	499.0051(8)	1st-30yrs	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm	Lev 9 - 1st
8	782.04(1)	1st-30yrs	Attempt, conspire, or solicit to commit premeditated murder	Lev 9 - 1st
9	782.051(1)	1st-30yrs	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3)	Lev 9 - 1st
10	782.07(2)	1st-30yrs	Aggravated manslaughter of an elderly person or disabled adult	Lev 9 - 1st
11	782.071(1)(b)	1st-30yrs	Committing vehicular homicide and failing to render aid or give information.	Lev 8 - 1st
12	782.072(2)	1st-30yrs	Committing vessel homicide and failing to render aid or give information.	Lev 8 - 1st
13	787.06(3)(a)1.	1st-30yrs	Human trafficking for labor and services of a child.	Lev 8 - 1st
14	787.06(3)(b)	1st-30yrs	Human trafficking using coercion for commercial sexual activity of an adult.	Lev 8 - 1st
15	787.06(3)(c)1.	1st-30yrs	Human trafficking for labor and services of an unauthorized alien child	Lev 9 - 1st
16	787.06(3)(c)2.	1st-30yrs	Human trafficking using coercion for labor and services of an unauthorized alien adult.	Lev 8 - 1st
17	787.06(3)(d)	1st-30yrs	Human trafficking using coercion for commercial sexual activity of an unauthorized adult alien.	Lev 9 - 1st
18	787.06(3)(e)1.	1st-30yrs	Human trafficking for labor and services by the transfer or transport of a child from outside Florida to within the state.	Lev 8 - 1st
19	787.06(3)(f)2.	1st-30yrs	Human trafficking using coercion for commercial sexual activity by the transfer or transport of any adult from outside Florida to within the	Lev 8 - 1st

# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

			state.	
20	790.161	1st-30yrs	Attempted capital destructive device offense	Lev 9 - 1st
21	794.011(2)	1st-30yrs	Attempted sexual battery; victim less than 12 years of age.	Lev 9 - 1st
22	794.011(4)(b)	1st-30yrs	Sexual battery, certain circumstances; victim and offender 18 years of age or older	Lev 9 - 1st
23	794.011(4)(c)	1st-30yrs	Sexual battery, certain circumstances; victim 12 years of age or older; offender younger than 18 years	Lev 9 - 1st
24	794.011(5)(d)	1st-30yrs	Sexual battery; victim 12 years of age or older; offender does not use physical force likely to cause serious injury; prior conviction for specified sex offense.	Lev 8 - 1st
25	794.08(2)	1st-30yrs	Female genital mutilation; victim younger than 18 years of age.	Lev 9 - 1st
26	800.04(4)(c)	1st-30yrs	Lewd or lascivious battery; offender 18 years of age or older; prior conviction for specified sex offense.	Lev 8 - 1st
27	806.01(1)	1st-30yrs	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.	Lev 8 - 1st
28	812.135(2)(b)	1st-30yrs	Home-invasion robbery with weapon.	Lev 9 - 1st
29	825.102(2)	1st-30yrs	Aggravated abuse of an elderly person or disabled adult.	Lev 8 - 1st
30	825.1025(2)	2nd-20yrs	Lewd or lascivious battery upon an elderly person or disabled adult.	Lev 8 - 2nd
31	827.03(2)(a)	1st-30yrs	Aggravated child abuse.	Lev 9 - 1st
32	847.0145(1)	1st-30yrs	Selling, or otherwise transferring custody or control, of a minor.	Lev 9 - 1st
33	847.0145(2)	1st-30yrs	Purchasing, or otherwise obtaining custody or control, of a minor.	Lev 9 - 1st
34	859.01	1st-30yrs	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure.	Lev 9 - 1st
35	893.135	1st-30yrs	Attempted capital trafficking offense.	Lev 9 - 1st
36	893.135(1)(a)3.	1st-30yrs	Trafficking in cannabis, more than 10,000 lbs.	Lev 9 - 1st
37	893.135 (1)(b)1.c.	1st-30yrs	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.	Lev 9 - 1st
38	893.135 (1)(c)1.c.	1st-30yrs	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.	Lev 9 - 1st

## CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

39	893.135 (1)(c)2.d.	1st-30yrs	Trafficking in hydrocodone, 300 grams or more, less than 30 kilograms.	Lev 9 - 1st
40	893.135 (1)(c)4.b.(III)	1st-30yrs	Trafficking in oxycodone, 100 grams or more, less than 30 kilograms.	Lev 9 - 1st
41	893.135 (1)(c)4.b.(III)	1st-30yrs	Trafficking in fentanyl, 28 grams or more.	Lev 9 - 1st
42	893.135 (1)(d)1.c.	1st-30yrs	Trafficking in phencyclidine, 400 grams or more.	Lev 9 - 1st
43	893.135 (1)(e)1.c.	1st-30yrs	Trafficking in methaqualone, 25 kilograms or more.	Lev 9 - 1st
44	893.135 (1)(f)1.c.	1st-30yrs	Trafficking in amphetamine, 200 grams or more.	Lev 9 - 1st
45	893.135 (1)(h)1.c.	1st-30yrs	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.	Lev 9 - 1st
46	893.135 (1)(j)1.c.	1st-30yrs	Trafficking in 1,4-Butanediol, 10 kilograms or more.	Lev 9 - 1st
47	893.135 (1)(k)2.c.	1st-30yrs	Trafficking in Phenethylamines, 400 grams or more.	Lev 9 - 1st
48	893.135 (1)(m)2.d.	1st-30yrs	Trafficking in synthetic cannabinoids, 30 kilograms or more.	Lev 9 - 1st
49	893.135 (1)(n)2.c.	1st-30yrs	Trafficking in n-benzyl phenethylamines, 200 grams or more.	Lev 9 - 1st

# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

## Proposed Offense Severity Ranking Chart Level 15 (108 points)

#	FLORIDA STATUTE	NEW FEL-MAX YRS	DESCRIPTION	OLD LEV/OLD DEG
1	499.0051(9)	1st-30yrs	Knowing sale or purchase of contraband prescription drugs resulting in death.	Lev 10 - 1st
2	782.04(3)	1st/PBL-30/Life	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, aggravated fleeing or eluding with sbi or death, and other specified felonies	Lev 9 - 1st, PBL
3	787.01(1)(a)1.	1st/PBL-30/Life	Kidnapping; hold for ransom or reward or as a shield or hostage	Lev 9 - 1st, PBL
4	787.01(1)(a)2.	1st/PBL-30/Life	Kidnapping with intent to commit or facilitate commission of any felony	Lev 9 - 1st, PBL
5	787.01(1)(a)4.	1st/PBL-30/Life	Kidnapping with intent to interfere with performance of any governmental or political function.	Lev 9 - 1st, PBL
6	787.06(3)(f)1.	1st/PBL-30/Life	Human trafficking for commercial sexual activity by the transfer or transport of any child from outside Florida to within the state.	Lev 9 - 1st, PBL
7	790.166(2)	1st/PBL-30/Life	Possessing, selling, using, or attempting to use a weapon of mass destruction	Lev 9 - 1st, PBL
8	794.011(2)	Life-Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years	Lev 9 - Life
9	794.011(4)(a)	1st/PBL-30/Life	Sexual battery, certain circumstances; victim 12 years of age or older but younger than 18 years; offender 18 years or older	Lev 9 - 1st, PBL
10	812.13(2)(a)	1st/PBL-30/Life	Robbery with firearm or other deadly weapon.	Lev 9 - 1st, PBL
11	812.133(2)(a)	1st/PBL-30/Life	Carjacking; firearm or other deadly weapon	Lev 9 - 1st, PBL
12	812.135(2)(a)	1st/PBL-30/Life	Home-invasion robbery with firearm or other deadly weapon.	Lev 10 - 1st,PBL
13	810.02(2)(a)	1st/PBL-30/Life	Burglary with assault or battery.	Lev 8 - 1st, PBL
14	810.02(2)(b)	1st/PBL-30/Life	Burglary; armed with explosives or dangerous weapon.	Lev 8 - 1st, PBL
15	893.135 (1)(b)1.b.	1st-30yrs	Trafficking in cocaine, more than 200 grams, less than 400 grams.	Lev 8 - 1st
16	893.135 (1)(c)1.b.	1st-30yrs	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.	Lev 8 - 1st
17	893.135 (1)(c)2.c.	1st-30yrs	Trafficking in hydrocodone, 100 grams or more, less than 300 grams.	Lev 8 - 1st
18	893.135 (1)(c)3.c.	1st-30yrs	Trafficking in oxycodone, 25 grams or more, less than 100 grams.	Lev 8 - 1st
19	893.135 (1)(c)4.b.(II)	1st-30yrs	Trafficking in fentanyl, 14 grams or more, less than 28 grams.	Lev 8 - 1st

## CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

20	893.135 (1)(d)1.b.	1st-30yrs	Trafficking in phencyclidine, 200 grams or more, less than 400 grams.	Lev 8 - 1st
21	893.135 (1)(e)1.b.	1st-30yrs	Trafficking in methaqualone, 5 kilograms or more, less than 25 kilograms.	Lev 8 - 1st
22	893.135 (1)(f)1.b.	1st-30yrs	Trafficking in amphetamine, 28 grams or more, less than 200 grams.	Lev 8 - 1st
23	893.135 (1)(g)1.b.	1st-30yrs	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.	Lev 8 - 1st
25	893.135 (1)(h)1.b.	1st-30yrs	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms	Lev 8 - 1st
26	893.135 (1)(j)1.b.	1st-30yrs	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.	Lev 8 - 1st
27	893.135 (1)(k)2.b.	1st-30yrs	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.	Lev 8 - 1st
28	893.135 (1)(m)2.c.	1st-30yrs	Trafficking in synthetic cannabinoids, 1,000 grams or more, less than 30 kilograms.	Lev 8 - 1st
29	893.135 (1)(n)2.b.	1st-30yrs	Trafficking in n-benzyl phenethylamines, 100 grams or more, less than 200 grams.	Lev 8 - 1st
30	893.135(1)(a)2.	1st-30yrs	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.	Lev 8 - 1st

# CRIMINAL PUNISHMENT CODE TASK FORCE REPORT

## Proposed Offense Severity Ranking Chart Level 16 (122 points)

#	FLORIDA STATUTE	NEW FEL/MAX YRS	DESCRIPTION	OLD LEV/OLD DEG
1	782.04(2)	1st/PBL-30/Life	Unlawful killing of human; act is homicide, unpremeditated.	Lev 10 - 1st, PBL
2	782.07(3)	1st-30yrs	Aggravated manslaughter of a child.	Lev - 1st
3	787.01(1)(a)3.	1st/PBL-30yrs	Kidnapping; inflict bodily harm upon or terrorize victim.	Lev 10 - 1st, PBL
4	787.01(3)(a)	Life	Kidnapping; child under age 13, perpetrator also commits aggravated child abuse, sex battery, or lewd or lascivious battery, molestation, conduct, or exhibition.	Lev 10 - Life
5	787.02(3)(a)	1st/PBL-30/Life	False imprisonment; child under age 13; perpetrator also commits agg child abuse, sex battery, or lewd or lascivious battery, molestation, conduct, or exhibition	Lev 9 - 1st, PBL
6	787.06(3)(g)	Life-Life	Human trafficking for commercial sexual activity of a child under the age of 18 or mentally defective or incapacitated person.	Lev 10 - Life
7	787.06(4)(a)	Life-Life	Selling or buying of minors into human trafficking.	Lev 10 - Life
8	794.011(3)	Life-Life	Sexual battery; victim 12 years or older, offender uses or threatens to use deadly weapon or physical force to cause serious injury.	Lev 10 - Life
9	794.011(4)(d)	1st/PBL-30/Life	Sexual battery, certain circumstances; victim 12 years of age or older; prior conviction for specified sex offenses.	Lev 9 - 1st, PBL
10	794.011(8)(b)	1st/PBL-30/Life	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.	Lev 9 - 1st, PBL
11	800.04(5)(b)	Life-Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older	Lev 9 - Life
12	876.32	1st-30yrs	Treason against the state.	Lev 10 - 1st

# ENDNOTES

<sup>1</sup> Mr. Kenneth Steely served as the Department of Corrections Designee from August 2019 through April 2020 and was replaced by Ms. Kathryn Horst who served April 2020- July 1, 2020.

<sup>2</sup> Sheriff Christopher Nocco stepped down as Chair of the Non-Prison Sanctions subcommittee in March 2020 and was succeeded by Secretary Simone Marsteller, who served March 2020-July 1, 2020.

<sup>3</sup> Florida Department of Corrections (“FDOC”), Florida’s Criminal Punishment Code: A Comparative Assessment<sup>5</sup>(2019) (“*Florida’s Criminal Punishment Code*”) (available at <http://www.dc.state.fl.us/pub/scoresheet/Criminal%20Punishment%20Code%202019.pdf>).

<sup>4</sup> *Id.*; see also *Brown v. State*, 152 Fla. 853, 858-59 (1943) (“[T]he legislature has by statute fixed the maximum punishment which may be imposed for violation of the provisions of the statutes, and, therefore, it is within the province of the trial court to fix by sentence the punishment within the limits prescribed by statute. If in any particular case the sentence and punishment imposed thereunder appears to be excessive, that is a matter which should be presented to the State Board of Pardons for the exercise of its power of commutation and is not a matter for review and remedy by the appellate court.”), *superseded by statute on other grounds*, § 562.451, Fla. Stat.

<sup>5</sup> FDOC, *Florida’s Criminal Punishment Code*, *supra* note 3, at 5.

<sup>6</sup> *Id.* 5-8.

<sup>7</sup> *Costello v. Wainwright*, 397 F. Supp. 20, 38 (M.D. Fla. 1975), *aff’d*, 525 F. 2d 1239 (5th Cir. 1976), *vacated in part on reh’g*, 539 F. 2d 547 (5th Cir. 1976), *rev’d*, 430 U.S. 325 (1977), and *opinion reinstated*, 553 F. 2d 506 (5th Cir. 1977).

<sup>8</sup> *Id.* at 38.

<sup>9</sup> *Id.* at 34.

<sup>10</sup> Griset, Pamala, *Determinate Sentencing and Administrative Discretion Over Time Served in Prison: A Case Study of Florida* (“*Administrative Discretion*”), 42 *Crime & Delinquency* 132 (1996).

<sup>11</sup> *Gomez v Singletary*, 733 So. 2d 499, 500 (Fla. 1998).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at 507.

<sup>14</sup> *Id.*

<sup>15</sup> Mark Dykstra, *Apart from the Crowd: Florida’s New Prison Release System*, 14 Fla. St. U. L. Rev 779 (2017) (“*Apart from the Crowd*”) (citing Corrections Overcrowding Task Force, Final Report & Recommendations 4 (1983)).

<sup>16</sup> *Id.* at 796.

<sup>17</sup> *Id.* at 795.

<sup>18</sup> Fla. HB 1012 (1983), ch. 83-131, Laws of Fla.

<sup>19</sup> FDOC, *Florida’s Criminal Punishment Code*, *supra* note 3, at 6.

<sup>20</sup> *Id.* at 5.

<sup>21</sup> *Id.*; See also Fla.R.Crim.P 3.988(a)-(j)(19) (applicable to offenses committed prior to October 1, 1988).

<sup>22</sup> FDOC, *Florida’s Criminal Punishment Code*, *supra* note 3, at 6.

<sup>23</sup> *Id.*; See also, Schoenfield, Heather, Mass Incarceration and the paradox of prison conditions Litigation, 44 Law & Society Review, 731, 747 (2010) (“Mass Incarceration”) (citing Corrections Overcrowding Task Force 1983: iii 31).

<sup>24</sup> Fla. H.R. Comm. on Crim. Justice, SB 26B 2nd Eng. (1996), ch. 93-406, Laws of Fla., Final Bill Analysis and Economic Impact Statement 10-11,18-19 (June 18, 1993).

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> See generally Fla. Admin. Code Ann. R. 23-22.006-.014.

<sup>28</sup> *Id.*

<sup>29</sup> See generally § 944.275, Fla. Stat. (“Gain-time”).

<sup>30</sup> *Id.*; see also *Diehl v. Moore*, 767 So. 2d 615, 616 (Fla. 1st DCA 2000).

<sup>31</sup> *Id.*; see also Griset, *Administrative Discretion*, *supra* note 10, at 132.

<sup>32</sup> Griset, Pamala, *Early-Release Policies In Florida and New York: Comparing Determinate and Indeterminate Sentencing Systems (“Early Release Policies”)*, 2 Criminal Justice Policy Review 161-62, 166 (1995).

<sup>33</sup> FDOC, *Florida’s Criminal Punishment Code*, *supra* note 3, at 6.

<sup>34</sup> Fla. SB 26-B, 2nd Eng. (1993), ch. 93-406, Laws of Fla., Final Bill Analysis and Economic Impact Statement 7,11 (June 18, 1993).

<sup>35</sup> *Id.* at 5.

<sup>36</sup> *Id.* at 11.

<sup>37</sup> Fla. SB 26-B, 2nd Eng. (1993), ch. 93-406, Laws of Fla., Senate Staff Analysis and Economic Impact Statement 1-2 (May 25,1993).

<sup>38</sup> Fla. SB 26-B, 2nd Eng. (1993), ch. 93-406, Laws of Fla., Final Bill Analysis and Economic Impact Statement 6 (June 18,1993).

<sup>39</sup> Thus, the prior convictions did not have to occur on *different* dates of offense. *Id.*

<sup>40</sup> Fla. S. Comm. on Crim. Justice, Fla. SB 26-B, 2nd Eng. (1993), ch. 93-406, Laws of Fla., Final Bill Analysis and Economic Impact Statement 8 (June 18, 1993).

<sup>41</sup> Fla. S. Comm. on Crim. Justice, Fla. SB 26-B, 2nd Eng. (1993), ch. 93-406, Laws of Fla., Final Bill Analysis and Economic Impact Statement 3 (May 25, 1993).

<sup>42</sup> Fla. S. Comm. on Crim. Justice, Fla. SB 26-B, 2nd Eng. (1993), ch. 93-406, Laws of Fla., Final Bill Analysis and Economic Impact Statement 25 (June 18, 1993).

<sup>43</sup> *Id.* at 19.

<sup>44</sup> FDOC, *Florida’s Criminal Punishment Code*, *supra* note 3, at 7.

<sup>45</sup> *Id.*

<sup>46</sup> Fla. S. Comm. on Crim. Justice, Fla. SB 26-B, 2nd Eng. (1993), ch. 93-406, Laws of Fla., Final Bill Analysis and Economic Impact Statement 13 (June 18, 1993).

<sup>47</sup> *Id.*

<sup>48</sup> Florida Department of Corrections (“FDOC”), *Florida Criminal Punishment Code - Scoresheet Preparation Manual 29-54 (2015)*.

[sentencing.umn.edu/sites/sentencing.umn.edu/files/florida\\_criminal\\_punishment\\_code\\_scoresheet\\_preparation\\_manual\\_2015.pdf](http://sentencing.umn.edu/sites/sentencing.umn.edu/files/florida_criminal_punishment_code_scoresheet_preparation_manual_2015.pdf).

<sup>49</sup> (“FDOC”), Florida Criminal Punishment Code - Scoresheet Preparation Manual 24-26 (2015); see also FDOC, *Florida’s Criminal Punishment Code*, *supra* note 3, at 7.

<sup>50</sup> Fla. S. Comm. on Crim. Justice, Fla. SB 26-B, 2nd Eng. (1993), ch. 93-406, Laws of Fla., Final Bill Analysis and Economic Impact Statement 15 (June 18, 1993); See also; FDOC, *Florida’s Criminal Punishment Code*, *supra* note 3, at 7-8.

<sup>51</sup> Fla. S. Comm. on Crim. Justice, Fla. SB 26-B, 2nd Eng. (1993), ch. 93-406, Laws of Fla., Final Bill Analysis and Economic Impact Statement 15 (June 18, 1993).

<sup>52</sup> *Id.* at 16.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.* at 15.

<sup>55</sup> *Id.* at 17.

<sup>56</sup> *Id.* at 13-15.

<sup>57</sup> *Id.* at 18-25.

<sup>58</sup> FDOC, *Florida’s Criminal Punishment Code*, *supra* note 3, at 8.

<sup>59</sup> Fla. CS/SB 716 (1997), ch. 97-194, Laws of Fla., Fla. Senate Staff Analysis and Economic Impact Statement 3 (April 3, 1997).

<sup>60</sup> *Id.*

<sup>61</sup> For example, there was a consensus that property crimes were not treated seriously enough. *Id.* Point values were increased in certain areas (including burglary) to guarantee mandatory prison terms. Thus, e.g., a level 7 offense score was increased from 42 to 56 points, ensuring an automatic prison term for the offender. *Id.*

<sup>62</sup> Fla. CS/SB 1522 (1998), ch. 98-204, Laws of Fla., Fla. Senate Staff Analysis and Economic Impact Statement 1 (April 2, 1998).

<sup>63</sup> Fla. SB 716 (1997), Fla. Senate Staff Analysis and Economic Impact Statement 4 (March 25, 1997).

<sup>64</sup> FDOC, *Florida’s Criminal Punishment Code*, *supra* note 3, at 8.

<sup>65</sup> § 921.002, Fla. Stat. (2019) (“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.”).

<sup>66</sup> FDOC, *Florida’s Criminal Punishment Code*, *supra* note 3, at 8-9.

<sup>67</sup> § 921.0024(2), Fla. Stat. (2019). The statutory maximums were: for a third degree felony, up to 5 years; for a second degree felony, up to 15 years; for a first degree felony, up to 30 years (or life); and for a life felony: up to life.

<sup>68</sup> Florida Department of Corrections (“FDOC”), Florida Criminal Punishment Code - Scoresheet Preparation Manual 29-61 (2019).

<sup>69</sup> *Id.*

<sup>70</sup> “Prior convictions more than 10 years before the primary offense should not be included in the offender’s prior record calculations if the offender was not convicted of any other crime for a period of 10 consecutive years from the most recent date of release from confinement, supervision, or sanction to the date of the primary offense.” Fla. SB 716 (1997), Fla. Senate Staff Analysis and Economic Impact Statement 5 (April 1, 1997).

<sup>71</sup> Fla. R. Crim. P. 3.992 (“Criminal Punishment Code Scoresheets”) (referencing The Criminal Punishment Code Scoresheet Preparation Manual, available at: [http://www.dc.state.fl.us/pub/sen\\_cpcm/index.html](http://www.dc.state.fl.us/pub/sen_cpcm/index.html)).

<sup>72</sup> Fla. H.R. Comm. on Appropriations, CS/CS/HB 461 & 1885, 1st Eng. (1995), ch. 95-182, Laws of Fla., Bill Analysis and Economic Impact Statement 4 (April 17, 1995).

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> Florida Parole Commission, “Three Strikes...And You’re Out” (available at <https://web.archive.org/web/20101219192829/https://fpc.state.fl.us/10-20-life.htm#>).

<sup>77</sup> 72 CS/HB 121, ch. 99-188, Laws of Fla., Preamble (May 21, 1999).

<sup>78</sup> FDOC, Florida’s Criminal Punishment Code, *supra* note 3, at 12.

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> Griset, *Administrative Discretion*, *supra* note 10, at 135.

<sup>82</sup> Fla. S. Comm. on Crim. Justice, Fla. SB 26B 2nd Eng. (1993), ch. 93-406, Laws of Fla., Final Bill Analysis and Economic Impact Statement 9 (June 18, 1993).

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> Fla. SB 26B 2nd Eng. (1993), ch. 93-406, Laws of Fla., Fla. Senate Staff Analysis and Economic Impact Statement, SB 26B 1 (May 25, 1993).

<sup>86</sup> Fla. S. Comm. on Crim. Justice, Fla. SB 26B 2nd Eng. (1993), ch. 93-406, Laws of Fla., Final Bill Analysis and Economic Impact Statement 16-17 (June 18, 1993).

<sup>87</sup> *Id.* at 31.

<sup>88</sup> CS/CS/HB 113 (1999), ch. 99-12, Laws of Fla., Legislative Intent and Policy Review (March 31,1999).

<sup>89</sup> CS/CS/HB 113 (1999), ch. 99-12, Laws of Fla., Preamble (March 31,1999).

<sup>90</sup> Griset, *Early Release Policies*, *supra* note 32, at 164.

<sup>91</sup> Fla. S. Comm. on Crim. Justice, Fla. SB 26B 2nd Eng. (1993), Final Bill Analysis and Economic Impact Statement 5 (June 18, 1993).

<sup>92</sup> *Id.*

<sup>93</sup> § 775.084(1)(a) 1-5, Fla. Stat. (2019).

<sup>94</sup> § 775.084(4)(a) 1-3, Fla. Stat. (2019).

<sup>95</sup> § 775.084(1)(b) 1-4, Fla. Stat. (2019).

<sup>96</sup> § 775.084(4)(b), 1-3, Fla. Stat. (2019).

<sup>97</sup> § 775.084(1)(d) 1-5, Fla. Stat. (2019).

<sup>98</sup> § 775.084(1)(c) 1-4, Fla. Stat. (2019).

<sup>99</sup> 775.084 (4)(c) 1-2, Fla. Stat. (2019).

<sup>100</sup> U.S. Sentencing Comm’n, Guidelines Manual (Nov. 2018) (available at <https://www.ussc.gov/sites/default/files/pdf/guidelines-manual/2018>).

<sup>101</sup> If the Legislature adopts the proposed 1-16 offense severity ranking chart, then sections II. Additional Offense(s) and section IV. Prior Record offense(s) on the scoresheet should also be reranked to correlate with the proposed primary offense rankings.

<sup>102</sup> The Task Force raised severity levels to 16. A spreadsheet was prepared by the scoresheet subcommittee with criminal offenses placed in their new proposed offense level. However, the subcommittee also made recommendations on some offenses to change the actual language of the offense. Judge Sisco objected to changing the statutory language of individual offenses, because it was outside the purview of the Task Force. The Task Force voted to pass 16 severity levels and the reranked offenses. However, the Task Force did not pass the statutory language changes to individual offenses. Accordingly, these were removed from the spreadsheet.

<sup>103</sup> Currently, under section 775.082(9)(a)3.a., Florida Statutes, if the prosecution determines that a defendant is a prison releasee reoffender, the prosecution may seek an enhanced sentence. If a defendant is deemed a prison releasee reoffender by the court, then the defendant is not eligible for sentencing under the sentencing guidelines and must be sentenced to the enumerated prison sentences.

<sup>104</sup> The Task Force modeled their recommendation after Florida's 10/20/Life Statute that states that the court has discretion to sentence an individual who has committed a felony and during the commission of that felony discharged a firearm, destructive device, semiautomatic firearm and its high-capacity detachable magazine, or a machine gun to a mandatory minimum of 25 years' prison to life. See § 775.087(2)(a)3., Fla. Stat. (2019); § 775.087(3)(a)3., Fla. Stat. (2019).

<sup>105</sup> For example, arson and drug trafficking.

<sup>106</sup> An analogous federal statute, 18 U.S.C. § 924(c)(1) (A), provides: "Except to the extent that a greater minimum sentence is otherwise provided by this subsection or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries a firearm, or who, in furtherance of any such crime, possesses a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime— (i) be sentenced to a term of imprisonment of not less than 5 years; (ii) if the firearm is brandished, be sentenced to a term of imprisonment of not less than 7 years; and (iii) if the firearm is discharged, be sentenced to a term of imprisonment of not less than 10 years."

<sup>107</sup> The 10/20/Life statute covers mere possession of a firearm when an offender commits an offense that is an enumerated felony. It is not required that the firearm be brandished or discharged, or even that the firearm be used in furtherance of the felony. It is enough that the defendant possesses the firearm during the commission of the felony. On certain cases it will be appropriate for the court to impose consecutive sentences for a person convicted of multiple counts of section 775.087(2), Florida Statutes. . For example, it may be appropriate to add three consecutive 10-year sentences to the prison term of a person who commits three sexual assaults and who uses a firearm to subdue his victim in each case. As worded, the statute covers a broad range of additional conduct for which stacking creates significantly disproportionate sentences.

<sup>108</sup> As the federal guidelines became more complex, this "sent the Federal Guidelines Manual from just over 300 pages in 1987 to nearly 1500 pages of advice, tables, appendices and data by 2015." Major M. Blake Williams, *The Command Accuses and the Court Decides: Self-Executing Judgments and the Convening Authority's Role in Judicial Sentencing*, 225 Mil. L. Rev. 755, 790 (2017) (footnotes omitted).

<sup>109</sup> The Commission is an independent agency in the judicial branch composed of seven voting and two non-voting, ex officio members. "Its principal purpose is to establish sentencing policies and practices for the federal criminal justice system that will assure the ends of justice by promulgating detailed guidelines prescribing the appropriate sentences for offenders convicted of federal crimes." U.S. Sentencing Commission, *Federal Sentencing Guidelines Manual*, Ch. 1, Pt. A, Subpt. 1 (2018).

<sup>110</sup> Fla.R.Crim.P. 3.701(d)(6)('Legal status at time of offense is defined as follows: Offenders on parole, probation, or community control; offenders in custody serving a sentence; escapees; fugitives who have fled to avoid prosecution or

who have failed to appear for a criminal judicial proceeding or who have violated conditions of a supersedeas bond; and offenders in pretrial intervention or diversion programs. Legal status points are to be assessed where these forms of legal constraint existed at the time of the commission of offenses scored as primary or additional offenses at conviction. Legal status points are to be assessed only once whether there are one or more offenses at conviction.”)

<sup>111</sup> This is often referred to in Florida case law as a “bottom-of-the-guidelines” sentence.

<sup>112</sup> In both Massachusetts and Florida, *all* the prior offenses are taken into consideration when scoring an offender.

<sup>113</sup> *Id.*

<sup>114</sup> This means that there are multiple sentencing severity levels for a large crime category (e.g., robbery) based on the specific facts of each case.

<sup>115</sup> Mass. Gen. Laws ch. 211E, § 3(a)(2) (2019).

<sup>116</sup> N.C. Gen. Stat. § 15A-1340.17 (c) (2019).

<sup>117</sup> N.C. Gen. Stat. § 15A-1340.14 (2019).

<sup>118</sup> *Id.* The court can sentence in the aggravation or mitigation range as long as reasons for the deviation are stated on the record. N.C. Gen. Stat. § 15A-1340.16 (c) (2019).

<sup>119</sup> *Id.*

<sup>120</sup> *Id.*

<sup>121</sup> D.C. Sentencing Comm’n – Voluntary Sentencing Guidelines Manual, (“DCVSG”), Ch. 1 (Overview), §1.2 (2019); see also DCVSG Appendix Grids A and B (2019) (included here as Appendix D).

<sup>122</sup> DCVSG Appendix C alphabetically lists criminal offenses ranking levels and DCVSG Appendix D is an offense ranking chart. DCVSG App. See DCVSG, Ch. 2 (2019).

<sup>123</sup> DCVSG, Ch. 2 (2019).

<sup>124</sup> OHIO Rev. Code § 2929.14 (2019).

<sup>125</sup> E.g., a level one offense has a definite prison term of 3, 4, 5, 6, 7, 8, 9, 10, or 11 years. *Id.*

<sup>126</sup> OHIO Rev. Code § 2929.12 (B)–(E) (2019); *but* see OHIO Rev. Code § 2929.12(A) (authorizing judicial discretion in sentencing a felony offender unless precluded “by section 2929.13 or 2929.14 of the Revised Code”).

<sup>127</sup> OHIO Rev. Code § 2929.12 (D) (2019).

<sup>128</sup> *Id.* The statute provides an extensive list of sentencing factors. These include, e.g., the victim’s mental or physical injury or economic harm; the offender’s occupation (especially when it is an elected position or a position of trust); the offender’s relationship with the victim; whether the offense was committed as part of an organized activity; and whether the offense was based on race.

<sup>129</sup> OHIO Rev. Code § 2929.14 (B)–(K) (2019).

<sup>130</sup> McKinney’s Sentence Charts, Charts II, III, IV, V & VI (2019).

<sup>131</sup> Violent and drug offenses are primarily given determinate sentences. *Id.*

<sup>132</sup> McKinney’s Sentence Charts, Charts II, III, IV, V & VI (2019). Homicides, Drug Offenses, and Sex Offenses each have a designated chart. *Id.* at Charts I, II, and III.

<sup>133</sup> Chart IV sub-categorizes prior offenses further by designating the defendant a Second Violent Felony Offender or Persistent Violent Felony Offender. McKinney’s Sentence Charts, Chart IV (2019).

<sup>134</sup> McKinney’s Consolidated Laws of New York Annotated § 70.00 (West 2019).

<sup>135</sup> The Task Force was concerned that removing the multiplier and increasing the point levels of each enumerated offense would still not account for additional points, prior record points, sexual contact and sexual penetration points. Thus, these offenses would be scored lower than they are currently scored.

<sup>136</sup> The same reasoning was used as above.

<sup>137</sup> The Task Force was concerned that all offenses relating to Domestic Violence in the Presence of a Child could not be foreseen; therefore, the Task Force could not make a recommendation as to new severity levels for unknown offenses. Accordingly, the multiplier must remain on the scoresheet.

<sup>138</sup> Slight and Moderate injury points are not independent elements of any criminal offense. If a criminal offense requires the prosecution to prove “injury,” the offense does not distinguish between Slight or Moderate.

<sup>139</sup> A consensus was not reached regarding which felonies would be eligible for a Notice to Appear. Further, defining eligible third-degree felony offenses that would qualify for a law enforcement a Notice to Appear was a large task that does not technically fall within the Criminal Punishment Code, and therefore outside the purview of this Task Force.

<sup>140</sup> Concerns were expressed that placing the decision to release an inmate based on medical release with the jail rather than the courts would undermine the criminal justice system by not allowing the courts, State of Florida and victims to participate in early release of an offender.

<sup>141</sup> After thorough discussion, the subcommittee noted that this recommendation would require vast amounts of judicial and fiscal resources. The subcommittee encourages the Legislature to pursue future legislation that would address this issue and supply the necessary resources.

<sup>142</sup> In *State v. Chubbuck*, 141 So. 3d 1163 (Fla. 2014), the Florida Supreme Court held subsection 921.0026(2)(d), Florida Statutes, does not require the defendant to prove that the required specialized treatment is unavailable in the Department of Corrections. In so doing, the *Chubbuck* Court additionally observed that, whereas the Legislature had included “specialized treatment otherwise not available” language in a different statute (section 958.11(3)(c), Florida Statutes), it had not done so in section 921.0026. Nonetheless, the Court also observed that “[e]vidence which demonstrates that the DOC can so provide [specialized treatment] is one factor for the trial court’s consideration in deciding whether to give a downward departure sentence.”

<sup>143</sup> The Task force reviewed the decision in *State v. Rife*, 789 So. 2d 288 (Fla. 2001). The Task Force was concerned that a minor victim could be coerced by a family member or close friend to testify that they willingly participated in the criminal act.

<sup>144</sup> The Task Force concluded this factor should continue to be reviewed on case by case basis, considering the offender’s need for imprisonment, the victim’s need for compensation and the safety of the public. See, e.g., *Banks v. State*, 732 So. 2d 1065 (Fla. 1999); *Demoss v. State*, 843 So. 2d 309 (Fla. 1<sup>st</sup> DCA 2003).

<sup>145</sup> The Florida Supreme Court, while fully recognizing “the State’s strong public policy against DUI,” found that the issue of whether the mitigator was available to support a downward departure from a DUI conviction was “resolved by the clear and unambiguous statutory language of section 921.0026.” *Van Bebber*, 848 So. 2d at 1051.

<sup>146</sup> Under applicable caselaw, “sentence manipulation” may provide a basis for a downward departure sentence when “the government manipulates its conduct and/or investigation in order to increase a defendant’s potential sentence.” *State v. Washington*, 277 So. 3d 1142, 1144-45 (Fla. 5th DCA 2019) (holding that, where there was no evidence that law enforcement intended to manipulate Washington’s potential sentence, “the mere presence of continued transactions cannot serve as competent, substantial evidence to support a finding of sentence manipulation”); cf. *State v. Steadman*, 827 So. 2d 1022, 1025 (Fla. 3d DCA 2002) (holding that, “although a defendant does not have a right to be arrested in order to be prevented from committing further crimes, a trial court has discretion to impose a downward departure sentence, when law enforcement allows a defendant to continue criminal activities for no reason other than to enhance his or her sentence.”).

<sup>147</sup> The Task force reviewed *Chestnut v State*, 538 So. 2d 820, 825 (Fla.1989), and *State v. Williams*, 870 So. 2d 938 (Fla. 5<sup>th</sup> DCA 2004). The Task Force agreed that mental deficiencies could be addressed at a sentencing hearing.

<sup>148</sup> See, e.g., *State v. Harvey*, 909 So. 2d 989 (Fla. 5<sup>th</sup> DCA 2005) (defendant's substance abuse or addiction); *State v. Chapman*, 805 So. 2d 906 (Fla. 2d DCA 2001) (defendant's intoxication at the time of the offense); *State v. Owen*, 848 So. 2d 1199 (Fla. 1<sup>st</sup> DCA 2003) (defendant seemed amenable to drug rehabilitation); *State v. Rogers*, 250 So. 3d 821 (Fla. 5<sup>th</sup> DCA 2018) (the sentencing court saw no redeeming value in sending the defendant to prison); *State v. Subio*, 925 So. 2d 1052 (Fla. 5<sup>th</sup> DCA 2006) (sentencing court's conclusion, without additional findings or evidence, that lowest permissible sentence was "not appropriate in this particular situation"); *State v. Leverett*, 44 So. 3d 634 (Fla. 5<sup>th</sup> DCA 2010) (a departure sentence imposed for co-defendant); *State v. Robinson*, 149 So. 3d 1199 (Fla. 1<sup>st</sup> DCA 2017) (defendant's lack of criminal activity since his arrest and trial court's observation that disposition of criminal cases is handled differently in one county than in other areas of the state); *State v. Bowman*, 123 So. 3d 107 (Fla. 1<sup>st</sup> DCA 2013) (lowest permissible sentence was "a bit harsh"); *State v. Isom*, 36 So. 3d 936 (Fla. 2d DCA 2010) (age of prior convictions already considered under the Code); *State v. Stephenson*, 973 So. 2d 1259 (Fla. 5<sup>th</sup> DCA 2008) (defendant's familial obligations and had "kept his nose clean" during short period after prior release from prison).

<sup>149</sup> The Task Force was concerned that the premise for which the leniency was requested could lead to a disproportionate sentencing.

<sup>150</sup> In *Norvil v. State*, 191 So. 3d 406, 409- 410 (Fla. 2016), the Florida Supreme Court adopted "the following bright line rule for sentencing purposes: a trial court may not consider a subsequent arrest without conviction during sentencing for the primary offense." In so doing, it observed that "chapter 921 is unambiguous and specifically states that prior arrests and convictions, not subsequent arrests and their related charges, are appropriate sentencing considerations." see also § 921.0021(4), Fla. Stat. (2019) ("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"); § 921.0021(5), Fla. Stat. (2019), ("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.").