

SB 1224 – Sentencing (Identical HB 797)

This bill amends s. 893.135, F.S., allowing the following departure for offenders convicted of trafficking in a mixture that is a prescription drug (including heroin): “the prosecuting attorney, defendant, or counsel representing the defendant may move the sentencing court to depart from the mandatory minimum term of imprisonment applicable to that violation.” The bill also lists multiple criteria that prevent offenders who used or threatened to use violence, were armed with a weapon, or had been previously convicted of a felony listed for habitual violent felony offenders, from receiving a departure from the mandatory minimum term. Furthermore, the court may consider any other facts about the offender that it believes to be relevant in determining whether or not to depart from the mandatory minimum sentence.

Per DOC, in FY 14-15, there were 623 offenders admitted to prison who violated s. 893.135(1)(c), F.S. Among the high volume admissions (613) for “trafficking in illegal drugs” (morphine, opium, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin), it appears that courts already depart from the mandatory minimum sentence. For example, those who should receive a 15 year mandatory minimum sentence actually receive an average sentence of 8.2 years. Those who should receive a 25 year mandatory minimum sentence actually receive an average sentence of 9.8 years. Also, given the discretion that this bill provides to courts and the lack of trafficking data with mandatory minimum sentences removed, it is unknown what kinds of sentences will result once this option is legally available for trafficking in these drugs.

CONFERENCE ADOPTED ESTIMATE: Negative Indeterminate

Requested by: House