

## CS/SB 602 – Mandatory Minimum Sentences

Amends s. 893.135, F.S., adding language that would allow for courts to depart from certain drug trafficking mandatory minimum sentences. The language affects the following trafficking penalties:

- Trafficking in cannabis – greater than 25 pounds, less than 2,000 pounds; 300 or more cannabis plants, but not more than 2,000 cannabis plants (mandatory minimum of 3 years)
- Trafficking in cocaine – 28 grams or more, but less than 200 grams (mandatory minimum of 3 years)
- Trafficking in phencyclidine – 28 grams or more, but less than 200 grams (mandatory minimum of 3 years)
- Trafficking in methaqualone – 200 grams or more, but less than 5 kilograms (mandatory minimum of 3 years)
- Trafficking in amphetamine – 14 grams or more, but less than 28 grams (mandatory minimum of 3 years)
- Trafficking in flunitrazepam – 4 grams or more, but less than 14 grams (mandatory minimum of 3 years)
- Trafficking in gamma-hydroxybutyric acid (GHB) – 1 kilogram or more, but less than 5 kilograms (mandatory minimum of 3 years)
- Trafficking in gamma-butyrolactone (GBL) – 1 kilogram or more, but less than 5 kilograms (mandatory minimum of 3 years)
- Trafficking in 1,4-Butanediol – 1 kilogram or more, but less than 5 kilograms (mandatory minimum of 3 years)
- Trafficking in phenethylamines – 10 grams or more, but less than 200 grams (mandatory minimum of 3 years)
- Trafficking in lysergic acid diethylamide (LSD) – 1 gram or more, but less than 5 grams (mandatory minimum of 3 years)
- Trafficking in synthetic cannabinoids – 280 grams or more, but less than 500 grams (mandatory minimum of 3 years)
- Trafficking in n-benzyl phenethylamines – 14 grams or more, but less than 100 grams (mandatory minimum of 3 years)

For each trafficking mandatory minimum listed above, it now states that “the court may depart from the mandatory minimum term of imprisonment if” it makes written findings that the violation only involved possession, the offender did not use or threaten violence or use a weapon during the commission of the offense, the offense did not result in the death or serious bodily injury of a person not a party to the offense, and that a factor, consideration, or circumstance clearly demonstrates that imposing the mandatory minimum term of imprisonment would constitute or result in an injustice.

Per DOC, in FY 16-17, there were 723 (adj.) offenders sentenced for the trafficking offenses described above, and 545 (adj.) were sentenced to prison (mean sentence length=58.0 m, incarceration rate: 75.4% adj.-75.4% unadj.).

It is unknown which of these offenses this new language would impact. Furthermore, almost 25% of offenders charged with these trafficking offenses did not receive prison sanctions. When sanctions were enforced, sentences were given below the mandatory minimum of 3 years. Therefore, it cannot be determined how these changes to the language would affect current court practices.

**CONFERENCE ADOPTED ESTIMATE: Negative Indeterminate**

**Requested by: Senate**