

SB 570 – Sentencing (Identical HB 355)

This bill amends s. 921.0024, F.S., adding that offenses committed on or after October 1, 2018 would be subject to a new scoring point threshold for nonstate prison sanctions and a new sentence length scoring system for state prison sanctions. Currently, for offenses equal to or less than 44 points, the lowest permissible sentence is a nonstate prison sanction, “unless the court determines within its discretion that a prison sentence, which may be up to the statutory maximums for the offenses committed, is appropriate,” with those above 44 points subject to a state prison sentence as the lowest permissible sentence. Sentence length is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25%. Under this bill, 52 points or less would be the new range where the lowest permissible sentence is a nonstate prison sanction, “unless the court determines within its discretion that a prison sentence, which may be up to the statutory maximums for the offenses committed, is appropriate,” and prison sentence length above 52 points would be calculated by subtracting 36 points from the total sentence points and decreasing the remaining total by 25%. This would reduce future prison sentences by 6 months for point calculations.

Per DOC, in FY 16-17, about 7.9% of sentences up to 44 points were state prison sanctions. Between 44 and 52 points, prison sentences jumped to 47.9% of all sentences, and above 52 points they reached 62.6%. This shows that judges already give nonstate prison sanctions to offenders between 44 and 52 points in over half of the sentences. Furthermore, such discretion also applies for prison sentence length. Currently, a person with 53 points should receive a prison sentence of 18.75 months, with the new bill dropping that to 12.75 months. However, a close examination of the 53 point category shows that 34% of offenders sentenced under this point total received a prison sentence that was 18 months or less.

It is not known how this bill will impact current judicial discretion. However, it is likely that judicial activity will change in some form with the implementation of this new scoring structure, with a reduction in prison sentencing between 45 and 52 points. Although the magnitude of that reduction cannot be quantified, there are 4,419 (adj.) offenders who received prison sentences across these points, so even a small shift among judges toward nonstate sanctions could significantly impact prison sentences, as well as with the additional shift downwards in prison sentence length for those with 53 points or more.

CONFERENCE ADOPTED ESTIMATE: Negative Significant

Requested by: Senate