

## **HB 705 – Sentencing and Incarceration (Similar CS/SB 642)**

This bill amends s. 944.801, F.S., stating that “the Correctional Education Program may establish a Prison Entrepreneurship Program and adopt procedures for admitting student inmates,” and amends s. 944.275, F.S., adding someone who has completed the Prison Entrepreneurship Program as a person eligible for the one-time award of 60 additional days of incentive gain-time. Furthermore, it provides a list of offenses that would make an inmate ineligible for the program. While this creates an opportunity for additional gain-time and earlier releases, it is the decision of the Department of Corrections whether it will establish this program within existing resources.

Additionally, this bill amends s. 944.275, F.S., allowing the current 60 days educational-incentive gain-time and the new Prison Entrepreneurship Program 60 days gain-time to “cause a sentence to expire, end, or terminate, or that would result in a prisoner's release, prior to serving a minimum of 85 percent of the sentence imposed.” While it is not known if DOC would establish the entrepreneurship program, and if so, how many would be eligible for such a program, there is data available on those receiving educational-incentive gain-time.

**See “Sentencing and Incarceration: Educational-Incentive Gain-Time Permitting Under 85% Minimum Sentence Served” Handout for a subset of the effect.**

### **CONFERENCE ADOPTED ESTIMATE: The Conference adopted a minimum Bed Impact**

This bill also amends s. 948.001, F.S., s. 948.013, F.S., and s. 948.06, F.S., reorganizing the definition of administrative probation and restructuring the details of the alternative sanctioning program. DOC does not believe that this would significantly change the actual operations of the alternative sanctioning program.

### **CONFERENCE ADOPTED ESTIMATE: No Impact**

This bill also amends s. 893.135, F.S., adding that for an offense under this section the court shall impose a sentence pursuant to chapter 921 without regard to any statutory minimum sentence, if the court finds at sentencing, after the State Attorney has been afforded the opportunity to make a recommendation, that:

- (a) The defendant has not previously been convicted of a violation of a dangerous crime as defined in s. 907.041, F.S., or a violation specified as a predicate offense for registration as a sexual predator under s. 775.21, F.S. or for registration as a sexual offender under s. 943.0435, F.S.;
- (b) The defendant did not use violence or credible threats of violence or possess a firearm or other dangerous weapon or induce another participant to do so in connection with the offense;
- (c) The offense did not result in death or serious bodily injury to any person;

(d) The defendant was not engaged in a continuing criminal enterprise, as defined in s. 893.20, F.S.; and

(e) Not later than the time of the sentencing hearing, the defendant has truthfully provided to the state all information and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan. The fact that the defendant has no relevant or useful other information to provide or that the state is already aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.

Per DOC, in FY 17-18, there were 526 offenders fitting the criteria for eligibility under the above language. Of those, 48.7% received a sentence under the mandatory minimum, with 121 receiving a prison sentence under the mandatory minimum and 135 receiving a probation sentence. Additionally, of the 392 sentenced to prison, 118 of these offenders would have received a prison sentence that was higher than their actual sentence if the Criminal Punishment Code was used. Therefore, it cannot be quantified how judges' sentencing practices would be impacted under the Criminal Punishment Code.

**CONFERENCE ADOPTED ESTIMATE: Negative Significant**

**CONFERENCE ADOPTED ESTIMATE FOR ENTIRE BILL:  
Negative Significant**

**Requested by: House**

# HB 705 (Similar CS/SB 642)

## Sentencing and Incarceration: Educational-Incentive Gain-Time Permitting Under 85% Minimum Sentence Served

July 1, 2019 Effective Date

The Criminal Justice Estimating Conference met on 4/8/2019 and estimated the following net impact on the inmate population over the next five years:

a	c	d
Fiscal Year	Projected Additional Annual Prison Beds Required	FUNDS REQUIRED
		Annual Operating Costs
2019-2020	-66	(\$241,382)
2020-2021	-40	(\$387,674)
2021-2022	-40	(\$292,584)
2022-2023	-40	(\$292,584)
2023-2024	-40	(\$292,584)
<b>Total</b>	<b>-226</b>	<b>(\$1,506,808)</b>

Prepared by Florida Legislature, Office of Economic and Demographic Research, March 14, 2019

FY 2017-18 full operating costs per inmate were obtained from DOC. The \$56.96 per diem (\$20,790 annual cost) is for all department facilities (excluding private institutions and approximately 150 beds in PRCs) and includes operations, health services, and education services. It does not include debt service costs. It also does not include indirect and administrative costs of \$4.31 per inmate (state facilities). Operating costs in future years were increased by the change in the CPI from the National Economic Estimating Conference.

FY 2017-18 dorm/work camp operating costs per inmate were obtained from DOC. The \$36.72 per diem (\$13,403 annual cost) includes costs such as health care, inmate personal care items, and officers assigned to dorms.

FY 2017-18 variable operating costs per inmate were obtained from DOC. The \$20.04 per diem (\$7,315 annual cost) includes costs such as health care and inmate personal care items.

FY 2006-07 capital costs per bed were based on Department of Corrections cost to build Suwanee CI (\$94,000,000 for 2,003 lawful capacity beds) as reported at the Criminal Justice Impact Conference held February 23, 2010. Capital costs in later years were increased by the change in the chained price index for state and local construction spending obtained from Global Insight, Inc.

**Note: This impact statement is not intended to represent the direct appropriations impact of this bill. Rather, it provides a stand-alone estimate of the prison bed need of this particular bill. Cost data are included to allow a comparison of the impact of this bill with other proposed legislation. The actual appropriation associated with passage of this bill will differ depending on a number of factors including the existing inventory of prison beds.**