

## **HB 287 – Criminal Sentencing (Identical SB 1200)**

This bill amends s. 921.002, F.S., replacing all instances of “permissible sentence” with “recommended sentence.” Furthermore, it further describes how departures from the recommended sentence, while still having to be articulated in writing and made only when circumstances or factors reasonably justify the mitigation of the sentence, now can be “due to a mitigating circumstance of a kind, or to a degree, not adequately taken into consideration in the formulation of the code.” It also adds that the judge may “impose a sentence above the highest sentence recommended by the code when circumstances or factors reasonably justify the aggravation of the sentence due to an aggravating circumstance of a kind, or to a degree, not adequately taken into consideration in the formulation of the code.” It also adds “recommended sentence” to ss. 921.0024, 921.0026, and 921.00265, F.S. Finally, under s. 921.00265, F.S., where once a departure sentence was prohibited unless there are mitigating factors present, it is now “discouraged.”

Per DOC, in FY 15-16, 59.6% of sentences were mitigated (where offenders scored more than 44 points), with 20.3% having sentence length mitigated and 39.2% having the sanction mitigated where offenders did not receive a prison sentence. Data on sentence aggravation is not available. It cannot be determined how judges will respond to this less restrictive language.

**CONFERENCE ADOPTED ESTIMATE: Negative Indeterminate**

**Requested by: House**