

HB 731 – Controlled Substance Offenses (Identical SB 1436)

Amends s. 893.135, F.S., reducing mandatory minimum sentences for trafficking in cannabis:

- between 25-2,000 pounds (300-2,000 plants) – reduced to a 2 year mandatory minimum (currently 3 years)
- between 2,000-10,000 pounds (2,000-10,000 plants) – reduced to a 5 year mandatory minimum (currently 7 years)
- 10,000 pounds or more (10,000 plants or more) – reduced to a 10 year mandatory minimum (currently 15 years)

Furthermore, it increases the weight and reduces the mandatory minimum sentences for trafficking in cocaine:

- increased to between 50-300 grams (currently 28-200 grams) – reduced to a 2 year mandatory minimum (currently 3 years)
- increased to between 300-500 grams (currently 200-400 grams) – reduced to a 5 year mandatory minimum (currently 7 years)
- increased to between 500-150 kilograms (currently 400-150 kilograms) – reduced to a 10 year mandatory minimum (currently 15 years)

It also deletes the 3 year mandatory minimum for trafficking in hydrocodone between 14-28 grams, and reduces other mandatory sentences for this offense:

- between 28-50 grams – reduced to a 5 year mandatory minimum (currently 7 years)
- between 50-200 grams – reduced to a 10 year mandatory minimum (currently 15 years)
- between 200-30 kilograms – reduced to a 15 year mandatory minimum (currently 25 years)

Following these new minimums, it adds that someone sentenced for trafficking in under 200 grams of hydrocodone may receive a departure “from the mandatory minimum sentence if the court finds that imposition of the mandatory minimum sentence is not necessary for the protection of the public. However, the sentencing court may not impose a sentence lower than the lowest permissible sentence.”

It also deletes the 3 year mandatory minimum for trafficking in oxycodone between 7-14 grams, and reduces other mandatory sentences for this offense:

- between 14-25 grams – reduced to a 5 year mandatory minimum (currently 7 years)
- between 25 grams-100 grams – reduced to a 10 year mandatory minimum (currently 15 years)

- 100-30 kilograms – reduced to a 15 year mandatory minimum (currently 25 years)

Following these new minimums, it adds that someone sentenced for trafficking in under 100 grams of oxycodone may receive a departure “from the mandatory minimum sentence if the court finds that imposition of the mandatory minimum sentence is not necessary for the protection of the public. However, the sentencing court may not impose a sentence lower than the lowest permissible sentence.”

Finally, this bill amends s. 921.0024, F.S., increasing the current court discretion to multiply a Level 7 or Level 8 drug trafficking offense by 1.5 to now multiplying by 2, but also expands the ability of the state attorney to move the sentencing court to reduce or suspend the sentence by deleting the offender providing substantial assistance as the only exception.

Per DOC, in FY 15-16, there were 751 (adj.) offenders sentenced for the trafficking offenses described above, and 558 (adj.) were sentenced to prison (mean sentence length=64.4 m, incarceration rate: 74.3% adj.-74.2% unadj.). There were 1,335 (adj.) offenders sentenced for the remaining trafficking offenses, and 1,007 (adj.) of these offenders were sentenced to prison (mean sentence length=72.7 m, incarceration rate: 75.4% adj.-75.4% unadj.).

It is unknown how many of these offenses fall under the new drug thresholds described above. Furthermore, most of these offenses had some offenders who did not receive prison sanctions, and when sanctions were enforced, sentences were given below the mandatory minimum. Therefore, it cannot be determined how these changes would affect current court practices.

CONFERENCE ADOPTED ESTIMATE: Negative Indeterminate

Requested by: House