

CS/SB 552 – Sentencing

This bill amends s. 775.082(10), F.S., increasing total sentence points for when the court must sentence the offender to a nonstate prison sanction from 22 points or fewer to 44 points or fewer. This applies to those who are sentenced “on or after October 1, 2020, for an offense that is a third degree felony but not a forcible felony as defined in s. 776.08, F.S. and excluding any third degree felony violation under chapter 810.”

Per DOC, in FY 17-18, 3,788 admissions fell between the 22 and 44 points thresholds where a third degree violation was committed that was not a forcible felony (excluding Chapter 810), with incarceration rates for this group at 10.1% in FY 17-18. It should be noted that while prison sentences dropped for those below 22 points following prior legislation requiring a nonstate prison sanction, from a high of 6.4% in FY 10-11 (offense prior to passage of 22-point diversion) to 1.3% in FY 17-18 (offense after passage of 22-point diversion), it does not mean that the same declines will occur for this new cohort.

With data not available for FY 18-19, it is not known how the recent Florida Supreme Court decision requiring the jury to determine that an offender is a danger to the public has impacted sentencing decisions. It is possible that juries sentence more or fewer offenders to prison out of perceived dangerousness compared to prior court decisions. For this reason and also not knowing how sentencing decisions will respond to the higher point scores, the prison bed impact cannot be quantified. However, given the large numbers of offenders admitted to prison between 22 and 44 points, even a small decrease in prison sentences would have a significant impact on admissions and the resulting prison population.

CONFERENCE ADOPTED ESTIMATE: Negative Significant

Requested by: Senate