

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Criminal Justice
 2 Subcommittee

3 Representative Maney offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 775.0823, Florida Statutes, is amended
 8 to read:

9 775.0823 Violent offenses committed against specified
 10 justice system personnel ~~law enforcement officers, correctional~~
 11 ~~officers, state attorneys, assistant state attorneys, justices,~~
 12 ~~or judges.~~—The Legislature does hereby provide for an increase
 13 and certainty of penalty for any person convicted of a violent
 14 offense against any law enforcement or correctional officer, as
 15 defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9);
 16 against any state attorney elected pursuant to s. 27.01 or

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17 assistant state attorney appointed under s. 27.181; against any
18 public defender elected pursuant to s. 27.50 or regional counsel
19 appointed pursuant to s. 27.511(3); against any court-appointed
20 counsel appointed under s. 27.40 or defense attorney in a
21 criminal proceeding; or against any justice or judge of a court
22 described in Art. V of the State Constitution, which offense
23 arises out of or in the scope of the officer's duty as a law
24 enforcement or correctional officer, the state attorney's or
25 assistant state attorney's duty as a prosecutor or investigator,
26 the public defender or regional counsel acting in his or her
27 capacity as defense counsel, the court-appointed counsel or
28 defense attorney in a criminal proceeding acting in his or her
29 capacity as defense counsel, or the justice's or judge's duty as
30 a judicial officer, as follows:

31 (1) For murder in the first degree as described in s.
32 782.04(1), if the death sentence is not imposed, a sentence of
33 imprisonment for life without eligibility for release.

34 (2) For attempted murder in the first degree as described
35 in s. 782.04(1), a sentence pursuant to s. 775.082, s. 775.083,
36 or s. 775.084.

37 (3) For attempted felony murder as described in s.
38 782.051, a sentence pursuant to s. 775.082, s. 775.083, or s.
39 775.084.

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40 (4) For murder in the second degree as described in s.
41 782.04(2) and (3), a sentence pursuant to s. 775.082, s.
42 775.083, or s. 775.084.

43 (5) For attempted murder in the second degree as described
44 in s. 782.04(2) and (3), a sentence pursuant to s. 775.082, s.
45 775.083, or s. 775.084.

46 (6) For murder in the third degree as described in s.
47 782.04(4), a sentence pursuant to s. 775.082, s. 775.083, or s.
48 775.084.

49 (7) For attempted murder in the third degree as described
50 in s. 782.04(4), a sentence pursuant to s. 775.082, s. 775.083,
51 or s. 775.084.

52 (8) For manslaughter as described in s. 782.07 during the
53 commission of a crime, a sentence pursuant to s. 775.082, s.
54 775.083, or s. 775.084.

55 (9) For kidnapping as described in s. 787.01, a sentence
56 pursuant to s. 775.082, s. 775.083, or s. 775.084.

57 (10) For aggravated battery as described in s. 784.045, a
58 sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

59 (11) For aggravated assault as described in s. 784.021, a
60 sentence pursuant to s. 775.082, s. 775.083, or s. 775.084.

61
62 Notwithstanding ~~the provisions of~~ s. 948.01, with respect to any
63 person who is found to have violated this section, adjudication

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64 of guilt or imposition of sentence shall not be suspended,
65 deferred, or withheld.

66 Section 2. Paragraph (b) of subsection (1) of section
67 921.0024, Florida Statutes, is amended to read:

68 921.0024 Criminal Punishment Code; worksheet computations;
69 scoresheets.—

70 (1)

71 (b) WORKSHEET KEY:

72 Legal status points are assessed when any form of legal status
73 existed at the time the offender committed an offense before the
74 court for sentencing. Four (4) sentence points are assessed for
75 an offender's legal status.

76 Community sanction violation points are assessed when a
77 community sanction violation is before the court for sentencing.
78 Six (6) sentence points are assessed for each community sanction
79 violation and each successive community sanction violation,
80 unless any of the following apply:

81 1. If the community sanction violation includes a new
82 felony conviction before the sentencing court, twelve (12)
83 community sanction violation points are assessed for the
84 violation, and for each successive community sanction violation
85 involving a new felony conviction.

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86 2. If the community sanction violation is committed by a
87 violent felony offender of special concern as defined in s.
88 948.06:

89 a. Twelve (12) community sanction violation points are
90 assessed for the violation and for each successive violation of
91 felony probation or community control where:

92 I. The violation does not include a new felony conviction;
93 and

94 II. The community sanction violation is not based solely
95 on the probationer or offender's failure to pay costs or fines
96 or make restitution payments.

97 b. Twenty-four (24) community sanction violation points
98 are assessed for the violation and for each successive violation
99 of felony probation or community control where the violation
100 includes a new felony conviction.

101 Multiple counts of community sanction violations before the
102 sentencing court shall not be a basis for multiplying the
103 assessment of community sanction violation points.

104 Prior serious felony points: If the offender has a primary
105 offense or any additional offense ranked in level 8, level 9, or
106 level 10, and one or more prior serious felonies, a single
107 assessment of thirty (30) points shall be added. For purposes of
108 this section, a prior serious felony is an offense in the
109 offender's prior record that is ranked in level 8, level 9, or

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110 level 10 under s. 921.0022 or s. 921.0023 and for which the
111 offender is serving a sentence of confinement, supervision, or
112 other sanction or for which the offender's date of release from
113 confinement, supervision, or other sanction, whichever is later,
114 is within 3 years before the date the primary offense or any
115 additional offense was committed.

116 Prior capital felony points: If the offender has one or more
117 prior capital felonies in the offender's criminal record, points
118 shall be added to the subtotal sentence points of the offender
119 equal to twice the number of points the offender receives for
120 the primary offense and any additional offense. A prior capital
121 felony in the offender's criminal record is a previous capital
122 felony offense for which the offender has entered a plea of nolo
123 contendere or guilty or has been found guilty; or a felony in
124 another jurisdiction which is a capital felony in that
125 jurisdiction, or would be a capital felony if the offense were
126 committed in this state.

127 Possession of a firearm, semiautomatic firearm, or machine gun:
128 If the offender is convicted of committing or attempting to
129 commit any felony other than those enumerated in s. 775.087(2)
130 while having in his or her possession: a firearm as defined in
131 s. 790.001(6), an additional eighteen (18) sentence points are
132 assessed; or if the offender is convicted of committing or
133 attempting to commit any felony other than those enumerated in

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134 s. 775.087(3) while having in his or her possession a
135 semiautomatic firearm as defined in s. 775.087(3) or a machine
136 gun as defined in s. 790.001(9), an additional twenty-five (25)
137 sentence points are assessed.

138 Sentencing multipliers:

139 Drug trafficking: If the primary offense is drug trafficking
140 under s. 893.135, the subtotal sentence points are multiplied,
141 at the discretion of the court, for a level 7 or level 8
142 offense, by 1.5. The state attorney may move the sentencing
143 court to reduce or suspend the sentence of a person convicted of
144 a level 7 or level 8 offense, if the offender provides
145 substantial assistance as described in s. 893.135(4).

146 Violent offenses committed against specified justice system
147 personnel ~~Law enforcement protection~~: If the primary offense is
148 a violation of ~~the Law Enforcement Protection Act~~ under s.
149 775.0823(2), (3), or (4), the subtotal sentence points are
150 multiplied by 2.5. If the primary offense is a violation of s.
151 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
152 are multiplied by 2.0. If the primary offense is a violation of
153 s. 784.07(3) or s. 775.0875(1), or ~~of the Law Enforcement~~
154 ~~Protection Act~~ under s. 775.0823(10) or (11), the subtotal
155 sentence points are multiplied by 1.5.

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156 Grand theft of a motor vehicle: If the primary offense is grand
157 theft of the third degree involving a motor vehicle and in the
158 offender's prior record, there are three or more grand thefts of
159 the third degree involving a motor vehicle, the subtotal
160 sentence points are multiplied by 1.5.

161 Offense related to a criminal gang: If the offender is convicted
162 of the primary offense and committed that offense for the
163 purpose of benefiting, promoting, or furthering the interests of
164 a criminal gang as defined in s. 874.03, the subtotal sentence
165 points are multiplied by 1.5. If applying the multiplier results
166 in the lowest permissible sentence exceeding the statutory
167 maximum sentence for the primary offense under chapter 775, the
168 court may not apply the multiplier and must sentence the
169 defendant to the statutory maximum sentence.

170 Domestic violence in the presence of a child: If the offender is
171 convicted of the primary offense and the primary offense is a
172 crime of domestic violence, as defined in s. 741.28, which was
173 committed in the presence of a child under 16 years of age who
174 is a family or household member as defined in s. 741.28(3) with
175 the victim or perpetrator, the subtotal sentence points are
176 multiplied by 1.5.

177 Adult-on-minor sex offense: If the offender was 18 years of age
178 or older and the victim was younger than 18 years of age at the

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179 time the offender committed the primary offense, and if the
180 primary offense was an offense committed on or after October 1,
181 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the
182 violation involved a victim who was a minor and, in the course
183 of committing that violation, the defendant committed a sexual
184 battery under chapter 794 or a lewd act under s. 800.04 or s.
185 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.
186 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
187 800.04; or s. 847.0135(5), the subtotal sentence points are
188 multiplied by 2.0. If applying the multiplier results in the
189 lowest permissible sentence exceeding the statutory maximum
190 sentence for the primary offense under chapter 775, the court
191 may not apply the multiplier and must sentence the defendant to
192 the statutory maximum sentence.

193 Section 3. Paragraph (k) of subsection (3) of section
194 947.146, Florida Statutes, is amended to read:

195 947.146 Control Release Authority.—

196 (3) Within 120 days prior to the date the state
197 correctional system is projected pursuant to s. 216.136 to
198 exceed 99 percent of total capacity, the authority shall
199 determine eligibility for and establish a control release date
200 for an appropriate number of parole ineligible inmates committed
201 to the department and incarcerated within the state who have
202 been determined by the authority to be eligible for
203 discretionary early release pursuant to this section. In

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204 establishing control release dates, it is the intent of the
205 Legislature that the authority prioritize consideration of
206 eligible inmates closest to their tentative release date. The
207 authority shall rely upon commitment data on the offender
208 information system maintained by the department to initially
209 identify inmates who are to be reviewed for control release
210 consideration. The authority may use a method of objective risk
211 assessment in determining if an eligible inmate should be
212 released. Such assessment shall be a part of the department's
213 management information system. However, the authority shall have
214 sole responsibility for determining control release eligibility,
215 establishing a control release date, and effectuating the
216 release of a sufficient number of inmates to maintain the inmate
217 population between 99 percent and 100 percent of total capacity.
218 Inmates who are ineligible for control release are inmates who
219 are parole eligible or inmates who:

220 (k)1. Are serving a sentence for an offense committed on
221 or after January 1, 1994, for a violation of ~~the Law Enforcement~~
222 ~~Protection Act under~~ s. 775.0823(2), (3), (4), (5), or (6), and
223 the subtotal of the offender's sentence points is multiplied
224 pursuant to former s. 921.0014 or s. 921.0024;

225 2. Are serving a sentence for an offense committed on or
226 after October 1, 1995, for a violation of ~~the Law Enforcement~~
227 ~~Protection Act under~~ s. 775.0823(2), (3), (4), (5), (6), (7),

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228 (8), or (9), and the subtotal of the offender's sentence points
229 is multiplied pursuant to former s. 921.0014 or s. 921.0024;

230
231 In making control release eligibility determinations under this
232 subsection, the authority may rely on any document leading to or
233 generated during the course of the criminal proceedings,
234 including, but not limited to, any presentence or postsentence
235 investigation or any information contained in arrest reports
236 relating to circumstances of the offense.

237 Section 4. This act shall take effect July 1, 2023.

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240 **T I T L E A M E N D M E N T**

241 Remove everything before the enacting clause and insert:
242 An act relating to violent offenses committed against
243 criminal defense attorneys; amending s. 775.0823,
244 F.S.; providing for the reclassification of specified
245 offenses committed against criminal defense attorneys;
246 amending ss. 921.0024 and 947.146, F.S.; conforming
247 provisions to changes made by the act; providing an
248 effective date.