

1 A bill to be entitled
 2 An act relating to violent offenses committed against
 3 criminal defense attorneys; amending s. 775.0823,
 4 F.S.; providing for the reclassification of specified
 5 offenses committed against criminal defense attorneys;
 6 amending ss. 921.0024 and 947.146, F.S.; conforming
 7 provisions to changes made by the act; providing an
 8 effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Section 775.0823, Florida Statutes, is amended
 13 to read:

14 775.0823 Violent offenses committed against specified
 15 justice system personnel ~~law enforcement officers, correctional~~
 16 ~~officers, state attorneys, assistant state attorneys, justices,~~
 17 ~~or judges.~~—The Legislature does hereby provide for an increase
 18 and certainty of penalty for any person convicted of a violent
 19 offense against any law enforcement or correctional officer, as
 20 defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9);
 21 against any state attorney elected pursuant to s. 27.01 or
 22 assistant state attorney appointed under s. 27.181; against any
 23 public defender elected pursuant to s. 27.50 or regional counsel
 24 appointed pursuant to s. 27.511(3); against any court-appointed
 25 counsel appointed under s. 27.40 or defense attorney in a

26 criminal proceeding; or against any justice or judge of a court
27 described in Art. V of the State Constitution, which offense
28 arises out of or in the scope of the officer's duty as a law
29 enforcement or correctional officer, the state attorney's or
30 assistant state attorney's duty as a prosecutor or investigator,
31 the public defender or regional counsel acting in his or her
32 capacity as defense counsel, the court-appointed counsel or
33 defense attorney in a criminal proceeding acting in his or her
34 capacity as defense counsel, or the justice's or judge's duty as
35 a judicial officer, as follows:

36 (1) For murder in the first degree as described in s.
37 782.04(1), if the death sentence is not imposed, a sentence of
38 imprisonment for life without eligibility for release.

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

42 (3) For attempted felony murder as described in s.
43 782.051, a sentence pursuant to s. 775.082, s. 775.083, or s.
44 775.084.

45 (4) For murder in the second degree as described in s.
46 782.04(2) and (3), a sentence pursuant to s. 775.082, s.
47 775.083, or s. 775.084.

48 (5) For attempted murder in the second degree as described
49 in s. 782.04(2) and (3), a sentence pursuant to s. 775.082, s.
50 775.083, or s. 775.084.

51 (6) For murder in the third degree as described in s.
 52 782.04(4), a sentence pursuant to s. 775.082, s. 775.083, or s.
 53 775.084.

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

57 (8) For manslaughter as described in s. 782.07 during the
 58 commission of a crime, a sentence pursuant to s. 775.082, s.
 59 775.083, or s. 775.084.

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

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

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

66
 67 Notwithstanding ~~the provisions of~~ s. 948.01, with respect to any
 68 person who is found to have violated this section, adjudication
 69 of guilt or imposition of sentence shall not be suspended,
 70 deferred, or withheld.

71 Section 2. Paragraph (b) of subsection (1) of section
 72 921.0024, Florida Statutes, is amended to read:

73 921.0024 Criminal Punishment Code; worksheet computations;
 74 scoresheets.—

75 (1)

76 (b) WORKSHEET KEY:

77

78 Legal status points are assessed when any form of legal status
 79 existed at the time the offender committed an offense before the
 80 court for sentencing. Four (4) sentence points are assessed for
 81 an offender's legal status.

82

83 Community sanction violation points are assessed when a
 84 community sanction violation is before the court for sentencing.
 85 Six (6) sentence points are assessed for each community sanction
 86 violation and each successive community sanction violation,
 87 unless any of the following apply:

88 1. If the community sanction violation includes a new
 89 felony conviction before the sentencing court, twelve (12)
 90 community sanction violation points are assessed for the
 91 violation, and for each successive community sanction violation
 92 involving a new felony conviction.

93 2. If the community sanction violation is committed by a
 94 violent felony offender of special concern as defined in s.
 95 948.06:

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

99 I. The violation does not include a new felony conviction;
 100 and

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

104 b. Twenty-four (24) community sanction violation points
 105 are assessed for the violation and for each successive violation
 106 of felony probation or community control where the violation
 107 includes a new felony conviction.

108
 109 Multiple counts of community sanction violations before the
 110 sentencing court shall not be a basis for multiplying the
 111 assessment of community sanction violation points.

112
 113 Prior serious felony points: If the offender has a primary
 114 offense or any additional offense ranked in level 8, level 9, or
 115 level 10, and one or more prior serious felonies, a single
 116 assessment of thirty (30) points shall be added. For purposes of
 117 this section, a prior serious felony is an offense in the
 118 offender's prior record that is ranked in level 8, level 9, or
 119 level 10 under s. 921.0022 or s. 921.0023 and for which the
 120 offender is serving a sentence of confinement, supervision, or
 121 other sanction or for which the offender's date of release from
 122 confinement, supervision, or other sanction, whichever is later,
 123 is within 3 years before the date the primary offense or any
 124 additional offense was committed.

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126 Prior capital felony points: If the offender has one or more
127 prior capital felonies in the offender's criminal record, points
128 shall be added to the subtotal sentence points of the offender
129 equal to twice the number of points the offender receives for
130 the primary offense and any additional offense. A prior capital
131 felony in the offender's criminal record is a previous capital
132 felony offense for which the offender has entered a plea of nolo
133 contendere or guilty or has been found guilty; or a felony in
134 another jurisdiction which is a capital felony in that
135 jurisdiction, or would be a capital felony if the offense were
136 committed in this state.

137
138 Possession of a firearm, semiautomatic firearm, or machine gun:
139 If the offender is convicted of committing or attempting to
140 commit any felony other than those enumerated in s. 775.087(2)
141 while having in his or her possession: a firearm as defined in
142 s. 790.001(6), an additional eighteen (18) sentence points are
143 assessed; or if the offender is convicted of committing or
144 attempting to commit any felony other than those enumerated in
145 s. 775.087(3) while having in his or her possession a
146 semiautomatic firearm as defined in s. 775.087(3) or a machine
147 gun as defined in s. 790.001(9), an additional twenty-five (25)
148 sentence points are assessed.

149
150 Sentencing multipliers:

151
 152 Drug trafficking: If the primary offense is drug trafficking
 153 under s. 893.135, the subtotal sentence points are multiplied,
 154 at the discretion of the court, for a level 7 or level 8
 155 offense, by 1.5. The state attorney may move the sentencing
 156 court to reduce or suspend the sentence of a person convicted of
 157 a level 7 or level 8 offense, if the offender provides
 158 substantial assistance as described in s. 893.135(4).

159 Violent offenses committed against specified justice system
 160 personnel ~~Law enforcement protection~~: If the primary offense is
 161 a violation of ~~the Law Enforcement Protection Act~~ under s.
 162 775.0823(2), (3), or (4), the subtotal sentence points are
 163 multiplied by 2.5. If the primary offense is a violation of s.
 164 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
 165 are multiplied by 2.0. If the primary offense is a violation of
 166 s. 784.07(3) or s. 775.0875(1), or ~~of the Law Enforcement~~
 167 ~~Protection Act~~ under s. 775.0823(10) or (11), the subtotal
 168 sentence points are multiplied by 1.5.

169
 170 Grand theft of a motor vehicle: If the primary offense is grand
 171 theft of the third degree involving a motor vehicle and in the
 172 offender's prior record, there are three or more grand thefts of
 173 the third degree involving a motor vehicle, the subtotal
 174 sentence points are multiplied by 1.5.

175

176 Offense related to a criminal gang: If the offender is convicted
177 of the primary offense and committed that offense for the
178 purpose of benefiting, promoting, or furthering the interests of
179 a criminal gang as defined in s. 874.03, the subtotal sentence
180 points are multiplied by 1.5. If applying the multiplier results
181 in the lowest permissible sentence exceeding the statutory
182 maximum sentence for the primary offense under chapter 775, the
183 court may not apply the multiplier and must sentence the
184 defendant to the statutory maximum sentence.

185

186 Domestic violence in the presence of a child: If the offender is
187 convicted of the primary offense and the primary offense is a
188 crime of domestic violence, as defined in s. 741.28, which was
189 committed in the presence of a child under 16 years of age who
190 is a family or household member as defined in s. 741.28(3) with
191 the victim or perpetrator, the subtotal sentence points are
192 multiplied by 1.5.

193

194 Adult-on-minor sex offense: If the offender was 18 years of age
195 or older and the victim was younger than 18 years of age at the
196 time the offender committed the primary offense, and if the
197 primary offense was an offense committed on or after October 1,
198 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the
199 violation involved a victim who was a minor and, in the course
200 of committing that violation, the defendant committed a sexual

201 battery under chapter 794 or a lewd act under s. 800.04 or s.
202 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.
203 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
204 800.04; or s. 847.0135(5), the subtotal sentence points are
205 multiplied by 2.0. If applying the multiplier results in the
206 lowest permissible sentence exceeding the statutory maximum
207 sentence for the primary offense under chapter 775, the court
208 may not apply the multiplier and must sentence the defendant to
209 the statutory maximum sentence.

210 Section 3. Paragraph (k) of subsection (3) of section
211 947.146, Florida Statutes, is amended to read:

212 947.146 Control Release Authority.—

213 (3) Within 120 days prior to the date the state
214 correctional system is projected pursuant to s. 216.136 to
215 exceed 99 percent of total capacity, the authority shall
216 determine eligibility for and establish a control release date
217 for an appropriate number of parole ineligible inmates committed
218 to the department and incarcerated within the state who have
219 been determined by the authority to be eligible for
220 discretionary early release pursuant to this section. In
221 establishing control release dates, it is the intent of the
222 Legislature that the authority prioritize consideration of
223 eligible inmates closest to their tentative release date. The
224 authority shall rely upon commitment data on the offender
225 information system maintained by the department to initially

226 identify inmates who are to be reviewed for control release
227 consideration. The authority may use a method of objective risk
228 assessment in determining if an eligible inmate should be
229 released. Such assessment shall be a part of the department's
230 management information system. However, the authority shall have
231 sole responsibility for determining control release eligibility,
232 establishing a control release date, and effectuating the
233 release of a sufficient number of inmates to maintain the inmate
234 population between 99 percent and 100 percent of total capacity.
235 Inmates who are ineligible for control release are inmates who
236 are parole eligible or inmates who:

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

242 2. Are serving a sentence for an offense committed on or
243 after October 1, 1995, for a violation of ~~the Law Enforcement~~
244 ~~Protection Act under~~ s. 775.0823(2), (3), (4), (5), (6), (7),
245 (8), or (9), and the subtotal of the offender's sentence points
246 is multiplied pursuant to former s. 921.0014 or s. 921.0024;

247
248 In making control release eligibility determinations under this
249 subsection, the authority may rely on any document leading to or
250 generated during the course of the criminal proceedings,

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251 | including, but not limited to, any presentence or postsentence
252 | investigation or any information contained in arrest reports
253 | relating to circumstances of the offense.

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