

## **CS/CS/SB 346 – Criminal Justice**

This bill amends s. 893.13, F.S., adding that “Notwithstanding chapter 921, any provision of this section, or any other law relating to the punishment for possessing, purchasing, or possessing with the intent to purchase a controlled substance, a person who possesses, purchases, or possesses with the intent to purchase less than 2 grams of a controlled substance, other than fentanyl or any substance or mixture described in s. 893.135(1)(c)4.a.(I)-(VII), F.S. may not be imprisoned for a term longer than 12 months.” Currently, a Level 2, 3<sup>rd</sup> degree felony exists for possession of any substance under 10 grams (other than cannabis), with purchasing or possessing with intent to purchase any substance under 10 grams (other than cannabis) falling under either a Level 2, 3<sup>rd</sup> degree felony or a Level 4, 2<sup>nd</sup> degree felony, depending on the substance. Per DOC, in FY 18-19, there were 2,571 new commitments for these offenses. Given the current threshold breakdown, it is not possible to quantify how many of those new commitments fall at or below the 2 gram threshold, nor is it possible to separate fentanyl or analog/derivative offenses from these admissions. However, there are large numbers of people admitted each year for these penalties.

### **CONFERENCE ADOPTED ESTIMATE: Negative Significant**

This bill also amends s. 893.135, F.S., adding that for any offense under this section, the court may impose a sentence other than the mandatory minimum term of imprisonment and mandatory fine if the court finds on the record that all of the following circumstances exist:

- (a) The defendant has no prior conviction for a forcible felony as defined in s. 776.08, F.S.
- (b) The defendant did not use violence or credible threats of violence, or possess a firearm or other dangerous weapon, or induce another participant to use violence or credible threats of violence, in connection with the offense.
- (c) The offense did not result in the death of or serious bodily injury to any person.
- (d) The defendant was not an organizer, leader, manager, or supervisor of others in the offense and was not engaged in a continuing criminal enterprise as defined in s. 893.20, F.S.
- (e) At the time of the sentencing hearing or earlier, the defendant has truthfully provided to the state all information and evidence that he or she possesses concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan.
- (f) The defendant has not previously benefited from the application of this subsection.

Furthermore, “a court may not apply this subsection to an offense under this section which carries a mandatory minimum term of imprisonment of 25 years.”

Per DOC, in FY 18-19, there were 1,027 offenders fitting the criteria for eligibility under the above language. Of those, 41.8% received a sentence under the mandatory minimum, with 217 receiving a prison sentence under the mandatory minimum and 212 receiving a probation sentence. Therefore, it cannot be quantified how judges' sentences would be impacted under this new language.

**CONFERENCE ADOPTED ESTIMATE: Negative Indeterminate**

**CONFERENCE ADOPTED ESTIMATE FOR ENTIRE BILL:  
Negative Significant**

**Requested by: Senate**