

CS/SB 1716 – Sentencing

This bill amends s. 775.082, F.S., removing “preponderance of evidence” for how a state attorney establishes that a defendant is a prison releasee reoffender, as well as deleting that the defendant “is not eligible for sentencing under the sentencing guidelines.” Furthermore, it adjusts how the prison releasee reoffenders must be sentenced to the following:

- for a felony punishable by life, to a term of 25 years (currently Life)
- for a felony of the 1st degree, to a term of 20 years (currently 30 years)
- for a felony of the 2nd degree, to a term of 10 years (currently 15 years)
- for a felony of the 3rd degree, to a term of 3 years (currently 5 years)

This would also apply retroactively to those offenders currently incarcerated and those not sentenced before the effective date. A process for resentencing currently incarcerated offenders is explained in detail, with the note that if DOC and the court of original jurisdiction determine eligibility, they must be resentenced under the new statutory language. Additionally, all prison releasee reoffenders would now be eligible for gain-time, with those currently incarcerated receiving any gain-time not accrued prior to passage of the law. This law would go into effect on July 1, 2020.

Per DOC, in FY 18-19, there were 510 potentially eligible releasee reoffenders admitted to prison. Currently, there are 7,396 potentially eligible releasee reoffenders incarcerated with varying mandatory sentences: 1,126 with 5 years, 3,579 with 15 years, 799 with 30 years, 1,750 with Life, and 142 listed as “Other” (sentence lengths that do not conform to the mandatory minimums). It should be noted that this is strictly releasee reoffender sentence length, rather than the full length of their prison sentences.

With the retroactive application of gain-time and lowered mandatory sentence lengths, the large number of offenders in the 5 years and 15 years groups with varying lengths of time spent in prison would likely be enough to have a significant impact on the prison population. However, without enough information on gain-time application and determination of eligibility, the bed impact cannot be quantified.

CONFERENCE ADOPTED ESTIMATE: Negative Significant

Requested by: Senate