

Supreme Court of Florida

No. SC14-1545

**IN RE: AMENDMENTS TO FLORIDA RULE OF CRIMINAL
PROCEDURE 3.992—CRIMINAL PUNISHMENT CODE SCORESHEETS.**

[September 4, 2014]

PER CURIAM.

This matter is before the Court for consideration of proposed amendments to Florida Rule of Criminal Procedure Rule 3.992(a) (Criminal Punishment Code Scoresheet). We have jurisdiction. See art. V, § 2(a), Fla. Const.

The Supreme Court Criminal Court Steering Committee (Steering Committee) proposes amendments to rule 3.992(a) in light of chapter 2014-4, section 9, Laws of Florida, which amends section 921.0024(1)(b), Florida Statutes (effective October 1, 2014). Consistent with the new legislation, the amendment creates a multiplier of 2.0 of the subtotal sentence points for certain adult-on-minor sex offenses.

After considering the Steering Committee's proposals and reviewing the relevant legislation, we adopt the proposed amendments to rule 3.992(a), as

reflected in the appendix to this opinion. New language is indicated by underscoring. The amendments shall become effective October 1, 2014, at 12:01 a.m. Because the amendments were not published for comment prior to their adoption, interested persons shall have sixty days from the date of this opinion in which to file comments with the Court.¹

It is so ordered.

LABARGA, C.J., and PARIENTE, LEWIS, QUINCE, CANADY, POLSTON, and PERRY, JJ., concur.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE AMENDMENTS.

1. All comments must be filed with the Court on or before November 3, 2014, with a certificate of service verifying that a copy has been served on the Chair of the Supreme Court Criminal Court Steering Committee, the Honorable Jay P. Cohen, Fifth District Court of Appeal, 300 South Beach Street, Daytona Beach, Florida 32114-5002, cohenj@flcourts.org, and on the Office of State Courts Administrator, Staff to the Committee, Bart Schneider, Office of the General Counsel, 500 South Duval Street, Tallahassee, Florida 32399-1925, schneiderb@flcourts.org, as well as a separate request for oral argument if the person filing the comment wishes to participate in oral argument, which may be scheduled in this case. The Committee Chair has until November 24, 2014, to file a response to any comments filed with the Court. If filed by an attorney in good standing with The Florida Bar, the comment must be electronically filed via the Portal in accordance with In re: Electronic Filing in the Supreme Court of Florida via the Florida Courts E-Filing Portal, Fla. Admin. Order No. AOSC13-7 (Feb 18, 2013). If filed by a nonlawyer or a lawyer not licensed to practice in Florida, the comment must be electronically filed via e-mail in accordance with In re Mandatory Submission of Electronic Copies of Documents, Fla. Admin. Order No. AOSC04-84 (Sept. 13, 2004). Electronically filed documents must be submitted in Microsoft Word 97 or higher. Any person unable to submit a comment electronically must mail or hand-deliver the originally signed comment to the Florida Supreme Court, Office of the Clerk, 500 South Duval Street, Tallahassee, Florida 32399-1927; no additional copies are required or will be accepted.

Original Proceedings – Florida Rules of Criminal Procedure

Judge Jay P. Cohen, Chair, Supreme Court Criminal Court Steering Committee,
Daytona Beach, Florida, and Bart Schneider, Senior Attorney, Office of the State
Courts Administrator, Tallahassee, Florida,

for Petitioner

APPENDIX

3.992 Criminal Punishment Code Scoresheets

(a) Criminal Punishment Code Scoresheet

The Criminal Punishment Code Scoresheet Preparation Manual is available at: http://www.dc.state.fl.us/pub/sen_cpcm/index.html

1. DATE OF SENTENCE	2. PREPARER'S NAME	3. COUNTY	4. SENTENCING JUDGE	
5. NAME (LAST, FIRST, M.I.)	6. DOB	8. RACE <input type="checkbox"/> B <input type="checkbox"/> W <input type="checkbox"/> OTHER	10. PRIMARY OFF. DATE	12. PLEA <input type="checkbox"/>
	7. DC #	9. GENDER <input type="checkbox"/> M <input type="checkbox"/> F	11. PRIMARY DOCKET #	TRIAL <input type="checkbox"/>

I. **PRIMARY OFFENSE:** If Qualifier, please check ___A___S___C___R (A=Attempt, S=Solicitation, C=Conspiracy, R=Reclassification)

FELONY DEGREE	F.S.#	DESCRIPTION	OFFENSE LEVEL	POINTS
_____ / _____	_____ / _____	_____ / _____	_____ / _____	_____ / _____
(Level - Points: 1=4, 2=10, 3=16, 4=22, 5=28, 6=36, 7=56, 8=74, 9=92, 10=116)				
Prior capital felony triples Primary Offense points <input type="checkbox"/>				I. _____

II. **ADDITIONAL OFFENSE(S):** Supplemental page attached

DOCKET#	FEL/MM DEGREE	F.S.#	OFFENSE LEVEL	QUALIFY A S C R	COUNTS	POINTS	TOTAL
_____ / _____	_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____ x _____	_____ = _____	_____
DESCRIPTION _____							
_____ / _____	_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____ x _____	_____ = _____	_____
DESCRIPTION _____							
_____ / _____	_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____ x _____	_____ = _____	_____
DESCRIPTION _____							
_____ / _____	_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____ x _____	_____ = _____	_____
DESCRIPTION _____							

(Level - Points: M=0.2, 1=0.7, 2=1.2, 3=2.4, 4=3.6, 5=5.4, 6=18, 7=28, 8=37, 9=46, 10=58)

Prior capital felony triples Additional Offense points Supplemental page points _____
II. _____

III. **VICTIM INJURY:**

	Number	Total		Number	Total
2nd Degree Murder	240 x _____	= _____	Slight	4 x _____	= _____
Death	120 x _____	= _____	Sex Penetration	80 x _____	= _____
Severe	40 x _____	= _____	Sex Contact	40 x _____	= _____
Moderate	18 x _____	= _____			

III. _____

IV. **PRIOR RECORD:** Supplemental page attached

FEL/MM DEGREE	F.S.#	OFFENSE LEVEL	QUALIFY: A S C R	DESCRIPTION	NUMBER	POINTS	TOTAL
_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____ x _____	_____ = _____	_____
_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____ x _____	_____ = _____	_____
_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____ x _____	_____ = _____	_____
_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____ x _____	_____ = _____	_____
_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____ x _____	_____ = _____	_____
_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____ x _____	_____ = _____	_____
_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____ x _____	_____ = _____	_____
_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____ x _____	_____ = _____	_____
_____ / _____	_____ / _____	_____ / _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	_____	_____ x _____	_____ = _____	_____

(Level = Points: M=0.2, 1=0.5, 2=0.8, 3=1.6, 4=2.4, 5=3.6, 6=9, 7=14, 8=19, 9=23, 10=29)

Supplemental page points _____

IV. _____

Page 1 Subtotal: _____

Effective Date: For offenses committed under the Criminal Punishment Code effective for offenses committed on or after October 1, 1998 and subsequent revisions.

NAME (LAST, FIRST, M.I.)	DOCKET #
---------------------------------	-----------------

Page 1 Subtotal: _____

V. Legal Status violation = 4 Points

- Escape
 Fleeing
 Failure to appear
 Supersedeas bond
 Incarceration
 Pretrial intervention or diversion program
 Court imposed or post prison release community supervision resulting in a conviction

V. _____

VI. Community Sanction violation before the court for sentencing

- Probation
 Community Control
 Pretrial Intervention or diversion

VI. _____

- 6 points for any violation other than new felony conviction x _____ each successive violation OR
 New felony conviction = 12 points x _____ each successive violation if new offense results in conviction before or at same time as sentence for violation of probation OR
 12 points x _____ each successive violation for a violent felony offender of special concern when the violation is not based solely on failure to pay costs, fines, or restitution OR
 New felony conviction = 24 points x _____ each successive violation for a violent felony offender of special concern if new offense results in a conviction before or at the same time for violation of probation

VII. Firearm/Semi-Automatic or Machine Gun = 18 or 25 Points

VII. _____

VIII. Prior Serious Felony - 30 Points

VIII. _____

Subtotal Sentence Points _____

IX. Enhancements (only if the primary offense qualifies for enhancement)

Law Enf. Protect.	Drug Trafficker	Motor Vehicle Theft	Criminal Gang Offense	Domestic Violence in the Presence of Related Child <small>(offenses committed on or after 3/12/07)</small>	Adult-on-Minor Sex Offense <small>(offenses committed on or after 10/1/14)</small>
____ x 1.5 ____ x 2.0 ____ x 2.5	____ x 1.5	____ x 1.5	____ x 1.5	____ x 1.5	____ x 2.0

Enhanced Subtotal Sentence Points IX. _____

TOTAL SENTENCE POINTS _____

SENTENCE COMPUTATION

If total sentence points are less than or equal to 44, the lowest permissible sentence is any non-state prison sanction. If the total sentence points are 22 points or less, see Section 775.082(10), Florida Statutes, to determine if the court must sentence the offender to a non-state prison sanction.

If total sentence points are greater than 44:

_____ minus 28 = _____ x .75 = _____

total sentence points

lowest permissible prison sentence in months

If total sentence points are 60 points or less and court makes findings pursuant to both Florida Statute 948.20 and 397.334(3), the court may place the defendant into a treatment-based drug court program.

The maximum sentence is up to the statutory maximum for the primary and any additional offenses as provided in s. 775.082, F.S., unless the lowest permissible sentence under the Code exceeds the statutory maximum. Such sentences may be imposed concurrently or consecutively. If total sentence points are greater than or equal to 363, a life sentence may be imposed.

_____ maximum sentence In years

TOTAL SENTENCE IMPOSED

Years Months Days

State Prison

Life

- County Jail Time Served _____ _____ _____
- Community Control _____ _____ _____
- Probation Modified _____ _____ _____

Please check if sentenced as habitual offender, habitual violent offender, violent career criminal, prison releasee reoffender, or a mandatory minimum applies.

- Mitigated Departure Plea Bargain Prison Diversion Program

Other Reason _____

JUDGE'S SIGNATURE	
--------------------------	--

Effective Date: For offenses committed under the Criminal Punishment Code effective for offenses committed on or after October 1, 1998, and subsequent revisions.

(b) [No Changes]