

## **Proposed amendments to Rule of Criminal Procedure 3.992 (Criminal Punishment Code Scoresheets)**

The Criminal Court Steering Committee (Committee) has submitted to the Florida Supreme Court a report proposing amendments to Florida Rule of Criminal Procedure 3.992 (Criminal Punishment Code Scoresheets). The proposed amendments update the sentencing scoresheet to include directions about calculating, and a designated area to record, the lowest permissible sentence.

The Court invites all interested persons to comment on the proposed amendments, which are listed below and reproduced in full online at [www.floridasupremecourt.org/SC21-891](http://www.floridasupremecourt.org/SC21-891). All comments must be filed with the Court on or before September 1, 2021, with a certificate of service verifying that a copy has been served on the Committee Chair, Judge Debra J. Riva, Twelfth Judicial Circuit, P.O. Box 48927, Sarasota, Florida 34230-5927, [driva@jud12.flcourts.org](mailto:driva@jud12.flcourts.org), and on the OSCA Staff Liaison to the Committee, Bart Schneider, 500 S. Duval Street, Tallahassee, Florida 32399, [schneidb@flcourts.org](mailto:schneidb@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 September 22, 2021, 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 Florida Courts E-Filing Portal (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 may be, but is not required to be, filed via the Portal. 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.

### **IN THE SUPREME COURT OF FLORIDA**

**IN RE: AMENDMENTS TO FLORIDA RULE OF CRIMINAL  
PROCEDURE 3.992, CASE NO. SC21-891**

### Rule 3.992(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](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 POINTS DEGREE	F.S.#	DESCRIPTION	OFFENSE LEVEL
_____/	_____/	_____/	_____/

(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

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   
points \_\_\_\_\_

Supplemental page

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 TOTAL DEGREE	F.S.#	OFFENSE LEVEL	QUALIFY: A S C R	DESCRIPTION	NUMBER	POINTS
_____/	_____/	_____	<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	_____ =

_____	_____ / _____	□□□□	_____	X _____	=
_____	_____ / _____	□□□□	_____	X _____	=
_____	_____ / _____	□□□□	_____	X _____	=
_____	_____ / _____	□□□□	_____	X _____	=
_____	_____ / _____	□□□□	_____	X _____	=
_____	_____ / _____	□□□□	_____	X _____	=
_____	_____ / _____	□□□□	_____	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.

**Distribution:**

White/Original/Clerk	Pink/Defense Attorney
Green/ DC Data	Goldenrod/ DC Offender File
Canary/ State Attorney	

NAME (LAST, FIRST, MI)	DOCKET #
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**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 (offenses committed on or after 3/12/07)	Adult-on-Minor Sex Offense (offenses committed on or after 10/1/14)
___ 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 each additional offenses as provided in s. 775.082, F.S., unless the lowest permissible sentence (LPS) under the Code exceeds the statutory maximum, in which case the LPS becomes the statutory maximum for the primary and each additional offense. Such sentences if the LPS exceeds the statutory maximum and if there is no legal basis to downward depart, the LPS must be imposed, however, such sentence may be imposed concurrently or consecutively. If total sentence points are greater than or equal to 363, a life sentence may be imposed.

\_\_\_\_\_ OR \_\_\_\_\_  
 years Maximum sentence for each offense when the LPS exceeds the statutory maximum Statutory maximum sentence in

**TOTAL SENTENCE IMPOSED**

	Years	Months	Days
<input type="checkbox"/> State Prison	_____	_____	_____
<input type="checkbox"/> County Jail	_____	_____	_____
<input type="checkbox"/> Community Control	_____	_____	_____
<input type="checkbox"/> Probation <input type="checkbox"/> 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** \_\_\_\_\_

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**RULE 3.992(b) Supplemental Criminal Punishment Code Scoresheet**

NAME (LAST, FIRST, MI.I)	DOCKET #	DATE OF SENTENCE
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II. **ADDITIONAL OFFENSES(S):**

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 \_\_\_\_\_  
 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ □ □ □ □ \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_  
 DESCRIPTION \_\_\_\_\_  
 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ □ □ □ □ \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_  
 DESCRIPTION \_\_\_\_\_  
 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ □ □ □ □ \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_  
 DESCRIPTION \_\_\_\_\_  
 \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ □ □ □ □ \_\_\_\_\_ 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)

II. \_\_\_\_\_

IV. PRIOR RECORD

FEL/MM TOTAL DEGREE	F.S.#	OFFENSE LEVEL	QUALIFY: A S C R	OFFENSE/DATE/STATE	NUMBER	POINTS
_____	_____ / _____	_____	□ □ □ □	_____ / _____ / _____	_____ X _____	= _____
_____	_____ / _____	_____	□ □ □ □	_____ / _____ / _____	_____ X _____	= _____
_____	_____ / _____	_____	□ □ □ □	_____ / _____ / _____	_____ X _____	= _____
_____	_____ / _____	_____	□ □ □ □	_____ / _____ / _____	_____ X _____	= _____
_____	_____ / _____	_____	□ □ □ □	_____ / _____ / _____	_____ X _____	= _____
_____	_____ / _____	_____	□ □ □ □	_____ / _____ / _____	_____ 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)

**REASONS FOR DEPARTURE - MITIGATING CIRCUMSTANCES**  
 (reasons may be checked here or written on the scoresheet)

- Legitimate, uncoerced plea bargain.
- The defendant was an accomplice to the offense and was a relatively minor participant in the criminal conduct.
- The capacity of the defendant to appreciate the criminal nature of the conduct or to conform that conduct to the requirements of law was substantially impaired.
- The defendant requires specialized treatment for a mental disorder that is unrelated to substance abuse or addiction, or for a physical disability, and the defendant is amenable to treatment.
- The need for payment of restitution to the victim outweighs the need for a prison sentence.
- The victim was an initiator, willing participant, aggressor, or provoker of the incident.
- The defendant acted under extreme duress or under the domination of another person.
- Before the identity of the defendant was determined, the victim was substantially compensated.
- The defendant cooperated with the State to resolve the current offense or any other offense.
- The offense was committed in an unsophisticated manner and was an isolated incident for which the defendant has shown remorse.
- At the time of the offense the defendant was too young to appreciate the consequences of the offense.
- The defendant is to be sentenced as a youthful offender.
- The defendant is amenable to the services of a postadjudicatory treatment-based drug court program and is otherwise qualified to participate in the program.
- The defendant was making a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose.

Pursuant to 921.0026(3) the defendant's substance abuse or addiction does not justify a downward departure from the lowest permissible sentence, except for the provisions of s. 921.0026(2)(m).

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