

Supreme Court of Florida

No. SC09-1053

**IN RE: AMENDMENTS TO FLORIDA RULE OF CRIMINAL
PROCEDURE 3.992(A)—CRIMINAL PUNISHMENT CODE
SCORESHEET.**

[July 16, 2009]

PER CURIAM.

We have for consideration proposed amendments to Florida Rule of Criminal Procedure 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 recent legislation¹

1. In chapter 2009-63, section 1, Laws of Florida, the Legislature amended section 775.082, Florida Statutes, to include a new subsection (10), which affects the sentence computation as follows:

If a defendant is sentenced for an offense committed on or after July 1, 2009, which is a third-degree felony but not a forcible felony as defined in s. 776.08, and excluding any third-degree felony violation under chapter 810, and if the total sentence points pursuant to s. 921.0024 are 22 points or fewer, the court must sentence the offender to a nonstate prison sanction. However, if the court makes written

and upon recommendations to the Florida Department of Corrections. After considering the 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 immediately upon release of this opinion. 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.²

It is so ordered.

findings that a nonstate prison sanction could present a danger to the public, the court may sentence the offender to a state correctional facility pursuant to this section.

Ch. 2009-63, § 1, Laws of Fla. The Legislature also created a new prison diversion program under section 921.00241, Florida Statutes, which may affect the sentence imposed. See ch. 2009-63, § 2, Laws of Fla. The Steering Committee's proposed amendments to the scoresheet are consistent with those legislative revisions.

2. An original and nine paper copies of all comments must be filed with the Court on or before September 14, 2009, with a certificate of service verifying that a copy has been served on the Committee Chair, Honorable O. H. Eaton, Jr., Circuit Judge, C/O Les Garringer, Office of the General Counsel, 500 S. Duval Street, Tallahassee, Florida 32399-1925, 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 October 5, 2009, to file a response to any comments filed with the Court. Electronic copies of all comments and responses also must be filed in accordance with the Court's administrative order in In re Mandatory Submission of Electronic Copies of Documents, Fla. Admin. Order No. AOSC04-84 (Sept. 13, 2004).

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

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION, AND
IF FILED, DETERMINED.

Original Proceeding – Florida Rules of Criminal Procedure Committee

Judge O. H. Eaton, Jr., Chair, Criminal Court Steering Committee, Eighteenth
Judicial Circuit, Sanford, Florida,

for Petitioner

APPENDIX

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

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
	7. DC #	9. GENDER <input type="checkbox"/> M <input type="checkbox"/> F		11. PRIMARY DOCKET #
				12. PLEA <input type="checkbox"/>
				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

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	_____	= _____

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