

Supreme Court of Florida

No. SC11-1381

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

[September 28, 2011]

PER CURIAM.

This matter is before the Court for consideration of proposed amendments to Florida Rule of Criminal Procedure 3.992(a). 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 legislation and on recommendation of the Florida Department of Corrections (DOC). That legislation, chapter 2011-33, sections 2 and 3, Laws of Florida, increases the total sentence points from fifty-two or less to sixty or less, for which the court may place a defendant into a treatment-based drug court program. 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, and deleted language is indicated by struck-through type. 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.¹

It is so ordered.

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

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

Original Proceeding - Florida Rules of Criminal Procedure Committee

Judge Kevin M. Emas, Chair, Criminal Courts Steering Committee, Third District Court of Appeal, Miami, Florida, and Bart Schneider, Senior Attorney, Office of State Courts Administrator, Tallahassee, Florida,

for Petitioner

1. An original and nine paper copies of all comments must be filed with the Court on or before November 28, 2011, with a certificate of service verifying that a copy has been served on the Committee Chair, Honorable Kevin Emas, c/o Bart Schneider, 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 December 19, 2011, to file a response to any comments filed with the Court. Electronic copies of all comments and responses must also 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).

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 <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 <input type="checkbox"/>							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	____	= ____
(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: _____

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
- 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

VI. _____

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>
____ x 1.5 ____ x 2.0 ____ x 2.5	____ x 1.5	____ x 1.5	____ x 1.5	____ x 1.5

Enhanced Subtotal Sentence Points **IX.** _____

TOTAL SENTENCE POINTS _____

SENTENCE COMPUTATION

If the 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 Statutes 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
<input type="checkbox"/> State Prison <input type="checkbox"/> Life	_____	_____	_____
<input type="checkbox"/> County Jail <input type="checkbox"/> Time Served	_____	_____	_____
<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 [No Changes]