

Supreme Court of Florida

No. SC08-1312

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

[September 25, 2008]

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 and upon recommendations to the Florida Department of Corrections (DOC) by the State Attorney for the Seventeenth Judicial Circuit and the Public Defender of the

1. In Chapter 2008-238, Laws of Florida, the Legislature amended section 921.0024 (1)(a), Florida Statutes, which revises the labeling of the enhancement types under subdivision IX of the scoresheet. Ch. 2008-238, § 26, Laws of Fla. The Steering Committee's proposal is consistent with those revisions.

Seventeenth Judicial Circuit.² The Steering Committee further recommended including the web page address for the scoresheet manual on the Department of Corrections' website.

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, and deleted language is struck through. The amendments shall become effective October 1, 2008. 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.³

2. Section 921.0024(4), Florida Statutes, requires that the Department of Corrections develop and submit the revised Criminal Punishment Code Scoresheet to the Court for approval by June 15 of each year, as necessary, in consultation with the Office of the State Courts Administrator, state attorneys, and public defenders. Based upon the recommendations reported by DOC, the Steering Committee's proposal included clarifying the community sanction violation under subdivision VI, and adding an additional line for prior record under subdivision IV.

3. An original and nine paper copies of all comments must be filed with the Court on or before November 24, 2008, 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 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 15, 2008, 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).

It is so ordered.

QUINCE, C.J., and WELLS, ANSTEAD, PARIENTE, LEWIS, and CANADY, JJ., concur.

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

Original Proceedings – Florida Rules of Criminal Procedure

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 **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)

<small>Law Enforcement Protection/Law Enf. Protect.</small>	<small>Drug Trafficking/Drug Trafficker</small>	<small>Grand Theft Motor Vehicle/Motor Vehicle Theft</small>	<small>Street Gang/Criminal Gang Offense</small>	<small>Domestic Violence/Domestic Violence in the Presence of Related Child (offenses committed on or after 03/12/07)</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 _____

TOTAL SENTENCE POINTS _____

IX. _____

SENTENCE COMPUTATION

If total sentence points are less than or equal to 44, the lowest permissible sentence is any 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

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

Other Reason _____

JUDGE'S SIGNATURE	
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