

1 SB329
2 115686-2
3 By Senators Smitherman and Penn
4 RFD: Judiciary
5 First Read: 02-FEB-10

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8 SYNOPSIS: Under existing law, the initial voluntary
9 sentencing standards were adopted by the Alabama
10 Sentencing Commission and approved by the
11 Legislature and became effective on October 1,
12 2006.

13 This bill would approve the initial
14 voluntary sentencing standards and the accompanying
15 instructions and worksheets as modified and adopted
16 by the Sentencing Commission on November 6, 2009,
17 and as filed with the Clerk of the Alabama Supreme
18 Court, Secretary of the Alabama Senate, and Clerk
19 of the Alabama House of Representatives.

20 This bill would also require that the
21 worksheets used to determine sentencing
22 recommendations in each case be made a part of the
23 record for each case in which the use of the
24 standards has been considered.

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26 A BILL
27 TO BE ENTITLED

1 AN ACT

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3 Relating to criminal sentencing; to add Section
4 12-25-34.2 to the Code of Alabama 1975, to approve
5 modifications to the initial voluntary sentencing standards,
6 worksheets, and instructions adopted by the Alabama Sentencing
7 Commission; and to require that sentencing standards
8 worksheets used to determine sentencing recommendations in
9 each case be made a part of the record for each case in which
10 the use of the standards has been considered.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. (a) The Legislature finds the Alabama
13 Sentencing Commission has followed the directives of the
14 Legislature in the Sentence Reform Act of 2003, Act 2003-354,
15 2003 Regular Session, now appearing as Article 2 (commencing
16 with Section 12-25-30), Chapter 25, Title 12, Code of Alabama
17 1975, to develop and recommend to the Legislature a
18 discretionary sentencing structure designed to protect public
19 safety and provide a fair, effective, and efficient criminal
20 sentencing system for this state by doing all of the
21 following:

22 (1) Reviewing the initial voluntary sentencing
23 standards, worksheets, and instructions adopted by the Alabama
24 Sentencing Commission, approved by the Legislature, and
25 implemented effective October 1, 2006, providing a system of
26 statewide voluntary sentencing standards and worksheets for
27 use in felony cases for 26 felony offenses.

1 (2) Taking into account historical sentencing data
2 concerning the use of the initial voluntary sentencing
3 standards.

4 (3) Considering and adopting modifications to the
5 initial voluntary sentencing standards to include the
6 additional offenses of attempts, conspiracies, and
7 solicitations to commit murder and attempts, conspiracies, and
8 solicitations to commit the felony drug offenses of possession
9 of marijuana; unlawful possession of a controlled substance;
10 sale or distribution of marijuana (other than to a minor); and
11 sale or distribution of schedule I-V controlled substances
12 (other than to a minor), which are covered offenses under the
13 standards.

14 (4) Adopting the initial voluntary sentencing
15 standards worksheets as modified to include the offenses
16 enumerated in subdivision (3).

17 (5) Adopting the worksheet instructions as modified
18 to further clarify the use of the worksheets and the sentence
19 length tables that comprise the initial voluntary sentencing
20 standards.

21 (b) The Legislature further recognizes that the
22 development of voluntary sentencing standards by the Alabama
23 Sentencing Commission is and should be a continuous process,
24 and the Alabama Sentencing Commission has been directed to
25 continue the development of the voluntary sentencing standards
26 recommendations by collecting and analyzing sentencing data
27 and incorporating a continuum of punishment options, as

1 required by subdivision (1) of Section 4 of Act 2003-354, now
2 appearing as subdivision (1) of Section 12-25-33, Code of
3 Alabama 1975, and by identifying, testing, and recommending
4 modifications of the initial voluntary sentencing standards
5 and worksheets as may be necessary to accomplish the purposes
6 and goals set out in Act 2003-354 and Rule 26 of the Alabama
7 Rules of Criminal Procedure.

8 Section 2. Section 12-25-34.2 is added to the Code
9 of Alabama 1975, to read as follows:

10 §12-25-34.2.

11 The initial voluntary sentencing standards and the
12 accompanying worksheets and instructions, as modified and
13 adopted by the Sentencing Commission on November 6, 2009, and
14 filed with the Clerk of the Alabama Supreme Court, the
15 Secretary of the Alabama Senate, and the Clerk of the Alabama
16 House of Representatives are approved for implementation and
17 shall become effective for worksheet offenses sentenced on or
18 after October 1, 2010, under the terms and conditions set out
19 in Sections 12-25-34 and 12-25-35.

20 Section 3. On and after October 1, 2010, the initial
21 voluntary sentencing standards worksheets used to determine
22 applicable sentencing recommendations in each case in which
23 the use of the standards has been considered shall be filed
24 with the clerk of the trial court and made a part of the
25 record for the case.

26 Section 4. All laws or parts of laws which conflict
27 with this act are repealed.

1 Section 5. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.