

By Representatives Putnam, Crist, Harrington and Warner

1 A bill to be entitled
2 An act relating to to criminal penalties;
3 creating the "Prison Releasee Reoffender
4 Punishment Act"; amending s. 775.082, F.S.;
5 providing that certain offenders are ineligible
6 for sentencing under the sentencing guidelines
7 under specified circumstances when the offender
8 has been released from correctional custody
9 without having served at least 85 percent of
10 the offender's sentences and is convicted of a
11 forcible felony or specified violation of s.
12 790.07, F.S., relating to having weapons while
13 engaged in criminal offense, s. 800.04, F.S.,
14 relating to lewd, lascivious, or indecent
15 assault or act upon or in presence of child, or
16 chapter 827, F.S., relating to abuse of
17 children; providing for such offender to be
18 sentenced to specified mandatory minimum
19 sentences; making such offender ineligible for
20 parole, probation, or early release; providing
21 for forfeiture by the offender of gain-time or
22 other early release credits; amending s.
23 944.705, F.S., relating to release orientation
24 program; requiring notice to certain released
25 offenders by the Department of Corrections with
26 respect to the new minimum mandatory sentencing
27 provisions; providing for inadmissibility of
28 certain evidence or claims regarding
29 departmental failure to provide such notice;
30 providing an effective date.
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1 WHEREAS, recent court decisions have mandated the early
2 release of violent felony offenders, and

3 WHEREAS, the people of this state and the millions of
4 people who visit our state deserve public safety and
5 protection from violent felony offenders who have previously
6 been sentenced to prison and who continue to prey on society
7 by reoffending, and

8 WHEREAS, the Legislature finds that the best deterrent
9 to prevent prison release from committing future crimes is to
10 require that any releasee who commits new serious felonies
11 must be sentenced to the maximum term of incarceration allowed
12 by law, and

13 WHEREAS, the Legislature finds that any prison releasee
14 who commits a new serious felony shall forfeit all
15 early-release credits previously granted, NOW, THEREFORE,

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17 Be It Enacted by the Legislature of the State of Florida:

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19 Section 1. This act shall be known and may be cited as
20 the "Prison Releasee Reoffender Punishment Act."

21 Section 2. Section 775.082, Florida Statutes, is
22 amended to read:

23 775.082 Penalties; mandatory minimum sentences for
24 certain offenders previously released from prison.--

25 (1) A person who has been convicted of a capital
26 felony shall be punished by death if the proceeding held to
27 determine sentence according to the procedure set forth in s.
28 921.141 results in findings by the court that such person
29 shall be punished by death, otherwise such person shall be
30 punished by life imprisonment and shall be ineligible for
31 parole.

1 (2) In the event the death penalty in a capital felony
2 is held to be unconstitutional by the Florida Supreme Court or
3 the United States Supreme Court, the court having jurisdiction
4 over a person previously sentenced to death for a capital
5 felony shall cause such person to be brought before the court,
6 and the court shall sentence such person to life imprisonment
7 as provided in subsection (1).

8 (3) A person who has been convicted of any other
9 designated felony may be punished as follows:

10 (a)1. For a life felony committed prior to October 1,
11 1983, by a term of imprisonment for life or for a term of
12 years not less than 30.

13 2. For a life felony committed on or after October 1,
14 1983, by a term of imprisonment for life or by a term of
15 imprisonment not exceeding 40 years.

16 3. For a life felony committed on or after July 1,
17 1995, by a term of imprisonment for life or by imprisonment
18 for a term of years not exceeding life imprisonment.

19 (b) For a felony of the first degree, by a term of
20 imprisonment not exceeding 30 years or, when specifically
21 provided by statute, by imprisonment for a term of years not
22 exceeding life imprisonment.

23 (c) For a felony of the second degree, by a term of
24 imprisonment not exceeding 15 years.

25 (d) For a felony of the third degree, by a term of
26 imprisonment not exceeding 5 years.

27 (4) A person who has been convicted of a designated
28 misdemeanor may be sentenced as follows:

29 (a) For a misdemeanor of the first degree, by a
30 definite term of imprisonment not exceeding 1 year;

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1 (b) For a misdemeanor of the second degree, by a
2 definite term of imprisonment not exceeding 60 days.

3 (5) Any person who has been convicted of a noncriminal
4 violation may not be sentenced to a term of imprisonment nor
5 to any other punishment more severe than a fine, forfeiture,
6 or other civil penalty, except as provided in chapter 316 or
7 by ordinance of any city or county.

8 (6) Nothing in this section shall be construed to
9 alter the operation of any statute of this state authorizing a
10 trial court, in its discretion, to impose a sentence of
11 imprisonment for an indeterminate period within minimum and
12 maximum limits as provided by law, except as provided in
13 subsection (1).

14 (7) This section does not deprive the court of any
15 authority conferred by law to decree a forfeiture of property,
16 suspend or cancel a license, remove a person from office, or
17 impose any other civil penalty. Such a judgment or order may
18 be included in the sentence.

19 (8)(a) A person who is released from the custody of
20 the Department of Corrections between October 1, 1996, and
21 September 30, 1998, who did not serve at least 85 percent of
22 his or her court-imposed prison sentences, and who is
23 convicted of a forcible felony as described in s. 776.08, or
24 any violation of s. 790.07 or s. 800.04, or any felony
25 violation of chapter 827 that was committed after the
26 effective date of this act, is ineligible for sentencing under
27 the sentencing guidelines and must at a minimum be sentenced
28 as follows:

29 1. For a felony punishable by life, by a term of
30 imprisonment for life;

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1 2. For a felony of the first degree, by a term of
2 imprisonment of thirty years;

3 3. For a felony of the second degree, by a term of
4 imprisonment of fifteen years;

5 4. For a felony of the third degree, by a term of
6 imprisonment of five years.

7 (b) A person sentenced under paragraph (a) shall not
8 be eligible for probation, parole, or any other early release
9 from incarceration.

10 (c) For a person sentenced under paragraph (a), the
11 Department of Corrections shall forfeit any gain-time credits,
12 provisional credits or other early release credits previously
13 granted to the person by the department.

14 (d) Nothing in this subsection shall prevent a court
15 from imposing a greater sentence of incarceration as
16 authorized by law.

17 ~~(9)~~~~(8)~~ The purpose of this section is to provide
18 uniform punishment for those crimes made punishable under this
19 section and, to this end, a reference to this section
20 constitutes a general reference under the doctrine of
21 incorporation by reference.

22 Section 3. Subsection (6) is added to section 944.705,
23 Florida Statutes, to read:

24 944.705 Release orientation program.--

25 (6)(a) The Department of Corrections shall notify
26 every inmate who could be eligible for sentencing under s.
27 775.082(8), in no less than 18-point type in the inmate's
28 release documents, that the inmate shall be sentenced pursuant
29 to s. 775.082(8), should the inmate commit any felony offense
30 described in s. 775.082(8) after the inmate's release. This
31 notice shall be prefaced by the word "WARNING" in bold print.

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1 (b) Nothing herein shall preclude the sentencing of a
 2 person pursuant to s. 775.082(8), nor shall evidence that the
 3 Department of Corrections failed to provide this notice be
 4 admissible in court.

5 Section 4. This act shall take effect upon becoming a
 6 law.

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9 HOUSE SUMMARY

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 15 at least 85 percent of the offender's sentences and is
 16 convicted of a forcible felony or specified violation of
 17 s. 790.07, F.S., relating to having weapons while engaged
 18 in criminal offense, s. 800.04, F.S., relating to lewd,
 19 lascivious, or indecent assault or act upon or in
 20 presence of child, or chapter 827, F.S., relating to
 21 abuse of children. Provides specified mandatory minimum
 22 sentences for such offender. Makes such offender
 23 ineligible for parole, probation, or early release.
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 25 other early release credits.

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