

By Representative Kravitz

1                                   A bill to be entitled  
2           An act relating to sentencing; amending s.  
3           775.082, F.S.; requiring that the court  
4           sentence a prison releasee reoffender under  
5           provisions requiring enhanced penalties rather  
6           than under the sentencing guidelines if the  
7           defendant's sentence under the guidelines would  
8           be less severe; authorizing the court to impose  
9           a sentence greater than that otherwise provided  
10          by law using the scoresheet of the punishment  
11          code; providing an effective date.

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

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15           Section 1. Subsection (9) of section 775.082, Florida  
16 Statutes, is amended to read:

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18           775.082 Penalties; applicability of sentencing  
19 structures; mandatory minimum sentences for certain  
20 reoffenders previously released from prison.--

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22           (9)(a)1. "Prison releasee reoffender" means any

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- a. Treason;
- b. Murder;
- c. Manslaughter;
- d. Sexual battery;
- e. Carjacking;
- f. Home-invasion robbery;
- g. Robbery;
- h. Arson;
- i. Kidnapping;
- j. Aggravated assault with a deadly weapon;

- 1           k. Aggravated battery;
- 2           l. Aggravated stalking;
- 3           m. Aircraft piracy;
- 4           n. Unlawful throwing, placing, or discharging of a
- 5 destructive device or bomb;
- 6           o. Any felony that involves the use or threat of
- 7 physical force or violence against an individual;
- 8           p. Armed burglary;
- 9           q. Burglary of a dwelling or burglary of an occupied
- 10 structure; or
- 11           r. Any felony violation of s. 790.07, s. 800.04, s.
- 12 827.03, or s. 827.071;
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- 14 within 3 years after being released from a state correctional
- 15 facility operated by the Department of Corrections or a
- 16 private vendor or within 3 years after being released from a
- 17 correctional institution of another state, the District of
- 18 Columbia, the United States, any possession or territory of
- 19 the United States, or any foreign jurisdiction, following
- 20 incarceration for an offense for which the sentence is
- 21 punishable by more than 1 year in this state.
- 22           2. "Prison releasee reoffender" also means any
- 23 defendant who commits or attempts to commit any offense listed
- 24 in sub-subparagraphs (a)1.a.-r. while the defendant was
- 25 serving a prison sentence or on escape status from a state
- 26 correctional facility operated by the Department of
- 27 Corrections or a private vendor or while the defendant was on
- 28 escape status from a correctional institution of another
- 29 state, the District of Columbia, the United States, any
- 30 possession or territory of the United States, or any foreign
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1 jurisdiction, following incarceration for an offense for which  
2 the sentence is punishable by more than 1 year in this state.  
3 3. If the state attorney determines that a defendant  
4 is a prison releasee reoffender as defined in subparagraph 1.,  
5 the state attorney may seek to have the court sentence the  
6 defendant as a prison releasee reoffender. Upon proof from the  
7 state attorney that establishes by a preponderance of the  
8 evidence that a defendant is a prison releasee reoffender as  
9 defined in this section and if the defendant's sentence under  
10 the sentencing guidelines is a lesser sentence than the  
11 following applicable sentence, such defendant is not eligible  
12 for sentencing under the sentencing guidelines and must be  
13 sentenced as follows:  
14 a. For a felony punishable by life, by a term of  
15 imprisonment for life;  
16 b. For a felony of the first degree, by a term of  
17 imprisonment of 30 years;  
18 c. For a felony of the second degree, by a term of  
19 imprisonment of 15 years; and  
20 d. For a felony of the third degree, by a term of  
21 imprisonment of 5 years.  
22 (b) A person sentenced under paragraph (a) shall be  
23 released only by expiration of sentence and shall not be  
24 eligible for parole, control release, or any form of early  
25 release. Any person sentenced under paragraph (a) must serve  
26 100 percent of the court-imposed sentence.  
27 (c) Nothing in this subsection shall prevent a court  
28 from imposing a greater sentence of incarceration as  
29 authorized by law, pursuant to s. 775.084, s. 921.0024, or any  
30 other provision of law.  
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1 (d)1. It is the intent of the Legislature that  
2 offenders previously released from prison who meet the  
3 criteria in paragraph (a) be punished to the fullest extent of  
4 the law and as provided in this subsection, unless the state  
5 attorney determines that extenuating circumstances exist which  
6 preclude the just prosecution of the offender, including  
7 whether the victim recommends that the offender not be  
8 sentenced as provided in this subsection.

9 2. For every case in which the offender meets the  
10 criteria in paragraph (a) and does not receive the mandatory  
11 minimum prison sentence, the state attorney must explain the  
12 sentencing deviation in writing and place such explanation in  
13 the case file maintained by the state attorney. On a quarterly  
14 basis, each state attorney shall submit copies of deviation  
15 memoranda regarding offenses committed on or after the  
16 effective date of this subsection, to the president of the  
17 Florida Prosecuting Attorneys Association, Inc. The  
18 association must maintain such information, and make such  
19 information available to the public upon request, for at least  
20 a 10-year period.

21 Section 2. This act shall take effect July 1, 2002.

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24 SENATE SUMMARY

25 Requires that, in certain circumstances, a prison  
26 releasee reoffender be sentenced under provisions  
27 requiring enhanced penalties rather than under the  
28 sentencing guidelines. Provides that the court may use  
29 the scoresheet of the punishment code to impose a  
30 sentence greater than the sentence otherwise provided by  
31 law.