

By Senator Crist

13-1167-02

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:

17 775.082 Penalties; applicability of sentencing
18 structures; mandatory minimum sentences for certain
19 reoffenders previously released from prison.--

20 (9)(a)1. "Prison releasee reoffender" means any
21 defendant who commits, or attempts to commit:

- 22 a. Treason;
- 23 b. Murder;
- 24 c. Manslaughter;
- 25 d. Sexual battery;
- 26 e. Carjacking;
- 27 f. Home-invasion robbery;
- 28 g. Robbery;
- 29 h. Arson;
- 30 i. Kidnapping;
- 31 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.