

By the Committee on Criminal Justice; and Senator Crist

307-2080A-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;
6 authorizing the court to impose a sentence
7 greater than that otherwise provided by law
8 using the scoresheet of the sentencing
9 guidelines or punishment code; providing an
10 effective date.

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

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

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

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

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24 a. Treason;

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26 b. Murder;

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28 c. Manslaughter;

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30 d. Sexual battery;

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 e. Carjacking;

 f. Home-invasion robbery;

 g. Robbery;

 h. Arson;

 i. Kidnapping;

 j. Aggravated assault with a deadly weapon;

 k. Aggravated battery;

- 1 l. Aggravated stalking;
2 m. Aircraft piracy;
3 n. Unlawful throwing, placing, or discharging of a
4 destructive device or bomb;
5 o. Any felony that involves the use or threat of
6 physical force or violence against an individual;
7 p. Armed burglary;
8 q. Burglary of a dwelling or burglary of an occupied
9 structure; or
10 r. Any felony violation of s. 790.07, s. 800.04, s.
11 827.03, or s. 827.071;
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13 within 3 years after being released from a state correctional
14 facility operated by the Department of Corrections or a
15 private vendor or within 3 years after being released from a
16 correctional institution of another state, the District of
17 Columbia, the United States, any possession or territory of
18 the United States, or any foreign jurisdiction, following
19 incarceration for an offense for which the sentence is
20 punishable by more than 1 year in this state.
21 2. "Prison releasee reoffender" also means any
22 defendant who commits or attempts to commit any offense listed
23 in sub-subparagraphs (a)1.a.-r. while the defendant was
24 serving a prison sentence or on escape status from a state
25 correctional facility operated by the Department of
26 Corrections or a private vendor or while the defendant was on
27 escape status from a correctional institution of another
28 state, the District of Columbia, the United States, any
29 possession or territory of the United States, or any foreign
30 jurisdiction, following incarceration for an offense for which
31 the sentence is punishable by more than 1 year in this state.

1 3. If the state attorney determines that a defendant
2 is a prison releasee reoffender as defined in subparagraph 1.,
3 the state attorney may seek to have the court sentence the
4 defendant as a prison releasee reoffender. Upon proof from the
5 state attorney that establishes by a preponderance of the
6 evidence that a defendant is a prison releasee reoffender as
7 defined in this section, such defendant ~~is not eligible for~~
8 ~~sentencing under the sentencing guidelines~~ and must be
9 sentenced as follows:

10 a. For a felony punishable by life, by a term of
11 imprisonment for life;

12 b. For a felony of the first degree, by a term of
13 imprisonment of 30 years;

14 c. For a felony of the second degree, by a term of
15 imprisonment of 15 years; and

16 d. For a felony of the third degree, by a term of
17 imprisonment of 5 years.

18 (b) A person sentenced under paragraph (a) shall be
19 released only by expiration of sentence and shall not be
20 eligible for parole, control release, or any form of early
21 release. Any person sentenced under paragraph (a) must serve
22 100 percent of the court-imposed sentence.

23 (c) Nothing in this subsection shall prevent a court
24 from imposing a greater sentence of incarceration as
25 authorized by law, pursuant to s. 775.084, the Criminal
26 Punishment Code, the sentencing guidelines, or any other
27 provision of law.

28 (d)1. It is the intent of the Legislature that
29 offenders previously released from prison who meet the
30 criteria in paragraph (a) be punished to the fullest extent of
31 the law and as provided in this subsection, unless the state

1 attorney determines that extenuating circumstances exist which
2 preclude the just prosecution of the offender, including
3 whether the victim recommends that the offender not be
4 sentenced as provided in this subsection.

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

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

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19 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
20 COMMITTEE SUBSTITUTE FOR
21 Senate Bill 2156

- 22 - The bill amended s. 775.082(9), F.S., to provide that
23 mandatory sentencing of prison releasee reoffenders
24 would only be applicable if the prison releasee
reoffender sentence was greater than the sentencing
guidelines sentence.
25 - Amends s. 775.082(9), F.S., to provide for application
26 of prison releasee reoffender sentencing in all cases,
27 without precluding imposition of a greater concurrent
28 sentence pursuant to other provisions of law.
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