

By the Committee on Criminal Justice; and Senator Smith

307-2063-02

1                                   A bill to be entitled  
2           An act relating to state attorneys; amending s.  
3           27.345, F.S., relating to the State Attorney  
4           RICO Trust Fund; revising reporting  
5           requirements; amending s. 775.082, F.S.;  
6           revising requirements for explanation,  
7           submission, and maintenance of sentencing  
8           deviation reports for prison release  
9           reoffenders who do not receive the mandatory  
10          minimum sentence; amending s. 775.08401, F.S.;  
11          revising requirements for explanation,  
12          submission, and maintenance of sentencing  
13          deviation reports relating to eligibility  
14          criteria for sentencing of habitual offenders,  
15          habitual violent felony offenders, and violent  
16          career criminals; repealing s. 27.365, F.S.,  
17          relating to the annual report by the Florida  
18          Prosecuting Attorneys Association regarding  
19          prosecutions under ss. 794.011, 794.05, 800.04,  
20          827.04(3), F.S.; repealing s. 39.205(7), F.S.,  
21          relating to establishment and publication of  
22          procedures for prosecution of persons under s.  
23          39.205, F.S., and reports on the disposition of  
24          complaints relating to reporting of child  
25          abuse, abandonment, or neglect; repealing s.  
26          415.111(6), F.S., relating to establishment and  
27          publication of procedures for prosecution of  
28          persons under s. 415.111, F.S., and reports on  
29          the disposition of complaints relating to  
30          reporting of abuse, neglect, or exploitation of  
31          vulnerable adults; providing an effective date.

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

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3 Section 1. Subsection (3) of section 27.345, Florida  
4 Statutes, is amended to read:

5 27.345 State Attorney RICO Trust Fund; authorized use  
6 of funds; reporting.--

7 (3) Each state attorney that has established a State  
8 Attorney RICO Trust Fund shall report to the Executive Office  
9 of the Governor annually by November 15, commencing in 1985,  
10 the amounts recovered pursuant to this section for the  
11 previous fiscal year.

12 Section 2. Paragraph (d) of subsection (9) of section  
13 775.082, Florida Statutes, is amended to read:

14 775.082 Penalties; applicability of sentencing  
15 structures; mandatory minimum sentences for certain  
16 reoffenders previously released from prison.--

17 (9)

18 (d)1. It is the intent of the Legislature that  
19 offenders previously released from prison who meet the  
20 criteria in paragraph (a) be punished to the fullest extent of  
21 the law and as provided in this subsection, unless the state  
22 attorney determines that extenuating circumstances exist which  
23 preclude the just prosecution of the offender, including  
24 whether the victim recommends that the offender not be  
25 sentenced as provided in this subsection.

26 2. For every case in which the offender meets the  
27 criteria in paragraph (a) and does not receive the mandatory  
28 minimum prison sentence, the state attorney must explain the  
29 sentencing deviation in writing and place such explanation in  
30 the case file maintained by the state attorney. ~~On a quarterly~~  
31 ~~basis, each state attorney shall submit copies of deviation~~

1 ~~memoranda regarding offenses committed on or after the~~  
2 ~~effective date of this subsection, to the president of the~~  
3 ~~Florida Prosecuting Attorneys Association, Inc. The~~  
4 ~~association must maintain such information, and make such~~  
5 ~~information available to the public upon request, for at least~~  
6 ~~a 10-year period.~~

7 Section 3. Subsection (3) of section 775.08401,  
8 Florida Statutes, is amended to read:

9 775.08401 Habitual offenders and habitual violent  
10 felony offenders; violent career criminals; eligibility  
11 criteria.--

12 (3)(a) A deviation from these ~~this~~ criteria must be  
13 explained in writing, signed by the state attorney, and placed  
14 in the case file maintained by the state attorney.

15 ~~(b) On a quarterly basis, each state attorney shall~~  
16 ~~submit copies of deviation memoranda regarding offenses~~  
17 ~~committed on or after October 1, 1995, to the president of the~~  
18 ~~Florida Prosecuting Attorneys Association, Inc. The~~  
19 ~~association must maintain such information for at least a~~  
20 ~~10-year period.~~

21 Section 4. Section 27.365, subsection (7) of section  
22 39.205, and subsection (6) of section 415.111, Florida  
23 Statutes, are repealed.

24 Section 5. This act shall take effect July 1, 2002.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 948

- Amends s. 27.345(3), F.S., to clarify that only those state attorneys' offices that have established a RICO Trust Fund need file the report required by that subsection.
- Maintains the requirements in current law regarding maintaining records of deviations in sentencing of prison releasee reoffenders and deviations from the statutory scheme for the prosecution of habitual felony offenders, habitual violent felony offenders, and violent career criminals.