

By the Committee on Judiciary; and Senator Wise

590-04402-11

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1 A bill to be entitled

2 An act relating to state attorneys; amending s.
3 27.366, F.S.; deleting a provision that requires each
4 state attorney to quarterly submit deviation memoranda
5 relating to offenders who are not sentenced to the
6 mandatory minimum prison sentence in cases involving
7 the possession or use of a weapon; amending s.
8 775.082, F.S.; deleting a provision that requires each
9 state attorney to quarterly submit deviation memoranda
10 relating to why a defendant did not receive the
11 mandatory minimum prison sentence in cases involving
12 certain specified offenses; repealing s. 775.08401,
13 F.S., relating to criteria to be used when state
14 attorneys decide to pursue habitual felony offenders
15 or habitual violent felony offenders; repealing s.
16 775.087(5), F.S., relating to a provision that
17 requires each state attorney to report why a case-
18 qualified defendant did not receive the mandatory
19 minimum prison sentence in cases involving certain
20 specified offenses; repealing s. 985.557(4), F.S.,
21 relating to direct-file policies and guidelines for
22 juveniles; amending s. 775.0843, F.S.; conforming a
23 cross-reference; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Section 27.366, Florida Statutes, is amended to
28 read:

29 27.366 Legislative intent and policy in cases meeting

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30 criteria of s. 775.087(2) and (3), ~~report.~~

31 ~~(1)~~ It is the intent of the Legislature that convicted
32 criminal offenders who meet the criteria in s. 775.087(2) and
33 (3) be sentenced to the minimum mandatory prison terms provided
34 herein. It is the intent of the Legislature to establish zero
35 tolerance of criminals who use, threaten to use, or avail
36 themselves of firearms in order to commit crimes and thereby
37 demonstrate their lack of value for human life. It is also the
38 intent of the Legislature that prosecutors should appropriately
39 exercise their discretion in those cases in which the offenders'
40 possession of the firearm is incidental to the commission of a
41 crime and not used in furtherance of the crime, used in order to
42 commit the crime, or used in preparation to commit the crime.
43 For every case in which the offender meets the criteria in this
44 act and does not receive the mandatory minimum prison sentence,
45 the state attorney must explain the sentencing deviation in
46 writing and place such explanation in the case file maintained
47 by the state attorney. ~~On a quarterly basis, each state attorney~~
48 ~~shall submit copies of deviation memoranda regarding offenses~~
49 ~~committed on or after the effective date of this act to the~~
50 ~~President of the Florida Prosecuting Attorneys Association, Inc.~~
51 ~~The association must maintain such information and make such~~
52 ~~information available to the public upon request for at least a~~
53 ~~10-year period.~~

54 ~~(2)~~ ~~Effective July 1, 2000, each state attorney shall~~
55 ~~annually report to the Speaker of the House of Representatives,~~
56 ~~the President of the Senate, and the Executive Office of the~~
57 ~~Governor regarding the prosecution and sentencing of offenders~~
58 ~~who met the criteria in s. 775.087(2) and (3). The report must~~

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59 ~~categorize the defendants by age, gender, race, and ethnicity.~~
60 ~~Cases in which a final disposition has not yet been reached~~
61 ~~shall be reported in a subsequent annual report.~~

62 Section 2. Paragraph (d) of subsection (9) of section
63 775.082, Florida Statutes, is amended to read:

64 775.082 Penalties; applicability of sentencing structures;
65 mandatory minimum sentences for certain reoffenders previously
66 released from prison.-

67 (9)

68 (d)1. It is the intent of the Legislature that offenders
69 previously released from prison who meet the criteria in
70 paragraph (a) be punished to the fullest extent of the law and
71 as provided in this subsection, unless the state attorney
72 determines that extenuating circumstances exist which preclude
73 the just prosecution of the offender, including whether the
74 victim recommends that the offender not be sentenced as provided
75 in this subsection.

76 2. For every case in which the offender meets the criteria
77 in paragraph (a) and does not receive the mandatory minimum
78 prison sentence, the state attorney must explain the sentencing
79 deviation in writing and place such explanation in the case file
80 maintained by the state attorney. ~~On an annual basis, each state~~
81 ~~attorney shall submit copies of deviation memoranda regarding~~
82 ~~offenses committed on or after the effective date of this~~
83 ~~subsection, to the president of the Florida Prosecuting~~
84 ~~Attorneys Association, Inc. The association must maintain such~~
85 ~~information, and make such information available to the public~~
86 ~~upon request, for at least a 10-year period.~~

87 Section 3. Section 775.08401, Florida Statutes, is

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88 repealed.

89 Section 4. Subsection (5) of section 775.087, Florida
90 Statutes, is repealed.

91 Section 5. Subsection (4) of section 985.557, Florida
92 Statutes, is repealed.

93 Section 6. Subsection (5) of section 775.0843, Florida
94 Statutes, is amended to read:

95 775.0843 Policies to be adopted for career criminal cases.-

96 (5) Each career criminal apprehension program shall
97 concentrate on the identification and arrest of career criminals
98 and the support of subsequent prosecution. The determination of
99 which suspected felony offenders shall be the subject of career
100 criminal apprehension efforts shall be made in accordance with
101 written target selection criteria selected by the individual law
102 enforcement agency and state attorney consistent with the
103 provisions of this section and s. ss. ~~775.08401~~ and 775.0842.

104 Section 7. This act shall take effect July 1, 2011.