

By the Committee on Judiciary; and Senator Wise

590-04402-11

20111092c1

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

590-04402-11

20111092c1

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~~

590-04402-11

20111092c1

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

590-04402-11

20111092c1

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.