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LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AD/2R	.	Floor: C
05/03/2011 03:53 PM	.	05/04/2011 04:50 PM
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Senator Wise moved the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

27.366 Legislative intent and policy in cases meeting  
criteria of s. 775.087(2) and (3); ~~report.~~

~~(1)~~ It is the intent of the Legislature that convicted  
criminal offenders who meet the criteria in s. 775.087(2) and  
(3) be sentenced to the minimum mandatory prison terms provided  
herein. It is the intent of the Legislature to establish zero  
tolerance of criminals who use, threaten to use, or avail



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14 themselves of firearms in order to commit crimes and thereby  
15 demonstrate their lack of value for human life. It is also the  
16 intent of the Legislature that prosecutors should appropriately  
17 exercise their discretion in those cases in which the offenders'  
18 possession of the firearm is incidental to the commission of a  
19 crime and not used in furtherance of the crime, used in order to  
20 commit the crime, or used in preparation to commit the crime.  
21 For every case in which the offender meets the criteria in this  
22 act and does not receive the mandatory minimum prison sentence,  
23 the state attorney must explain the sentencing deviation in  
24 writing and place such explanation in the case file maintained  
25 by the state attorney. ~~On a quarterly basis, each state attorney~~  
26 ~~shall submit copies of deviation memoranda regarding offenses~~  
27 ~~committed on or after the effective date of this act to the~~  
28 ~~President of the Florida Prosecuting Attorneys Association, Inc.~~  
29 ~~The association must maintain such information and make such~~  
30 ~~information available to the public upon request for at least a~~  
31 ~~10-year period.~~

32 ~~(2) Effective July 1, 2000, each state attorney shall~~  
33 ~~annually report to the Speaker of the House of Representatives,~~  
34 ~~the President of the Senate, and the Executive Office of the~~  
35 ~~Governor regarding the prosecution and sentencing of offenders~~  
36 ~~who met the criteria in s. 775.087(2) and (3). The report must~~  
37 ~~categorize the defendants by age, gender, race, and ethnicity.~~  
38 ~~Cases in which a final disposition has not yet been reached~~  
39 ~~shall be reported in a subsequent annual report.~~

40 Section 2. Paragraph (d) of subsection (9) of section  
41 775.082, Florida Statutes, is amended to read:

42 775.082 Penalties; applicability of sentencing structures;



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43 mandatory minimum sentences for certain reoffenders previously  
44 released from prison.-

45 (9)

46 (d)1. It is the intent of the Legislature that offenders  
47 previously released from prison who meet the criteria in  
48 paragraph (a) be punished to the fullest extent of the law and  
49 as provided in this subsection, unless the state attorney  
50 determines that extenuating circumstances exist which preclude  
51 the just prosecution of the offender, including whether the  
52 victim recommends that the offender not be sentenced as provided  
53 in this subsection.

54 2. For every case in which the offender meets the criteria  
55 in paragraph (a) and does not receive the mandatory minimum  
56 prison sentence, the state attorney must explain the sentencing  
57 deviation in writing and place such explanation in the case file  
58 maintained by the state attorney. ~~On an annual basis, each state~~  
59 ~~attorney shall submit copies of deviation memoranda regarding~~  
60 ~~offenses committed on or after the effective date of this~~  
61 ~~subsection, to the president of the Florida Prosecuting~~  
62 ~~Attorneys Association, Inc. The association must maintain such~~  
63 ~~information, and make such information available to the public~~  
64 ~~upon request, for at least a 10-year period.~~

65 Section 3. Section 775.08401, Florida Statutes, is  
66 repealed.

67 Section 4. Subsection (5) of section 775.087, Florida  
68 Statutes, is repealed.

69 Section 5. Subsection (4) of section 985.557, Florida  
70 Statutes, is repealed.

71 Section 6. Subsection (5) of section 775.0843, Florida



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72 Statutes, is amended to read:

73 775.0843 Policies to be adopted for career criminal cases.-

74 (5) Each career criminal apprehension program shall  
75 concentrate on the identification and arrest of career criminals  
76 and the support of subsequent prosecution. The determination of  
77 which suspected felony offenders shall be the subject of career  
78 criminal apprehension efforts shall be made in accordance with  
79 written target selection criteria selected by the individual law  
80 enforcement agency and state attorney consistent with the  
81 provisions of this section and s. ss. 775.08401 and 775.0842.

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

83

84 ===== T I T L E A M E N D M E N T =====

85 And the title is amended as follows:

86 Delete everything before the enacting clause  
87 and insert:

88 A bill to be entitled  
89 An act relating to state attorneys; amending s.  
90 27.366, F.S.; deleting a provision that requires each  
91 state attorney to quarterly submit deviation memoranda  
92 relating to offenders who are not sentenced to the  
93 mandatory minimum prison sentence in cases involving  
94 the possession or use of a weapon; amending s.  
95 775.082, F.S.; deleting a provision that requires each  
96 state attorney to quarterly submit deviation memoranda  
97 relating to why a defendant did not receive the  
98 mandatory minimum prison sentence in cases involving  
99 certain specified offenses; repealing s. 775.08401,  
100 F.S., relating to criteria to be used when state



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101 attorneys decide to pursue habitual felony offenders  
102 or habitual violent felony offenders; repealing s.  
103 775.087(5), F.S., relating to a provision that  
104 requires each state attorney to report why a case-  
105 qualified defendant did not receive the mandatory  
106 minimum prison sentence in cases involving certain  
107 specified offenses; repealing s. 985.557(4), F.S.,  
108 relating to direct-file policies and guidelines for  
109 juveniles; amending s. 775.0843, F.S.; conforming a  
110 cross-reference; providing an effective date.