

ENROLLED  
 HB 4159, Engrossed 1

2011 Legislature

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

23  
 24   Be It Enacted by the Legislature of the State of Florida:

25  
 26           Section 1. Section 27.366, Florida Statutes, is amended to  
 27   read:  
 28           27.366 Legislative intent and policy in cases meeting

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29 criteria of s. 775.087(2) and (3); ~~report.~~

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

53 ~~(2)~~ ~~Effective July 1, 2000, each state attorney shall~~  
54 ~~annually report to the Speaker of the House of Representatives,~~  
55 ~~the President of the Senate, and the Executive Office of the~~  
56 ~~Governor regarding the prosecution and sentencing of offenders~~

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57 ~~who met the criteria in s. 775.087(2) and (3). The report must~~  
58 ~~categorize the defendants by age, gender, race, and ethnicity.~~  
59 ~~Cases in which a final disposition has not yet been reached~~  
60 ~~shall be reported in a subsequent annual report.~~

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

63 775.082 Penalties; applicability of sentencing structures;  
64 mandatory minimum sentences for certain reoffenders previously  
65 released from prison.—

66 (9)

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

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

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85 ~~upon request, for at least a 10-year period.~~

86 Section 3. Section 775.08401, Florida Statutes, is  
87 repealed.

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

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

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

94 775.0843 Policies to be adopted for career criminal  
95 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.