

By Senator Rouson

16-00977-23

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1 A bill to be entitled
2 An act relating to sentencing of prison releasee
3 reoffenders; amending s. 775.082, F.S.; revising the
4 required sentencing structure for prison releasee
5 reoffenders; providing legislative intent; applying
6 the revised sentencing structure to certain persons
7 under certain circumstances; providing resentencing
8 requirements; deleting a provision that requires a
9 state attorney to explain a sentencing deviation in
10 writing in certain circumstances; providing an
11 effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Subsection (9) of section 775.082, Florida
16 Statutes, is amended to read:

17 775.082 Penalties; applicability of sentencing structures;
18 mandatory minimum sentences for certain reoffenders previously
19 released from prison.—

20 (9) (a) 1. "Prison releasee reoffender" means any defendant
21 who commits, or attempts to commit:

- 22 a. Treason;
23 b. Murder;
24 c. Manslaughter;
25 d. Sexual battery;
26 e. Carjacking;
27 f. Home-invasion robbery;
28 g. Robbery;
29 h. Arson;

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- 30 i. Kidnapping;
- 31 j. Aggravated assault with a deadly weapon;
- 32 k. Aggravated battery;
- 33 l. Aggravated stalking;
- 34 m. Aircraft piracy;
- 35 n. Unlawful throwing, placing, or discharging of a
- 36 destructive device or bomb;
- 37 o. Any felony that involves the use or threat of physical
- 38 force or violence against an individual;
- 39 p. Armed burglary;
- 40 q. Burglary of a dwelling or burglary of an occupied
- 41 structure; or
- 42 r. Any felony violation of s. 790.07, s. 800.04, s. 827.03,
- 43 s. 827.071, or s. 847.0135(5);
- 44
- 45 within 3 years after being released from a state correctional
- 46 facility operated by the Department of Corrections or a private
- 47 vendor, a county detention facility following incarceration for
- 48 an offense for which the sentence pronounced was a prison
- 49 sentence, or a correctional institution of another state, the
- 50 District of Columbia, the United States, any possession or
- 51 territory of the United States, or any foreign jurisdiction,
- 52 following incarceration for an offense for which the sentence is
- 53 punishable by more than 1 year in this state.
- 54 2. "Prison releasee reoffender" also means any defendant
- 55 who commits or attempts to commit any offense listed in sub-
- 56 subparagraphs ~~(a)~~1.a.-r. while the defendant was serving a
- 57 prison sentence or on escape status from a state correctional
- 58 facility operated by the Department of Corrections or a private

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59 vendor or while the defendant was on escape status from a
 60 correctional institution of another state, the District of
 61 Columbia, the United States, any possession or territory of the
 62 United States, or any foreign jurisdiction, following
 63 incarceration for an offense for which the sentence is
 64 punishable by more than 1 year in this state.

65 3. If the state attorney determines that a defendant is a
 66 prison releasee reoffender as defined in subparagraph 1., the
 67 state attorney may seek to have the court sentence the defendant
 68 as a prison releasee reoffender. Upon proof from the state
 69 attorney which ~~that~~ establishes ~~by a preponderance of the~~
 70 ~~evidence~~ that a defendant is a prison releasee reoffender as
 71 defined in this section, such defendant ~~is not eligible for~~
 72 ~~sentencing under the sentencing guidelines~~ and must be sentenced
 73 as follows:

74 a. For a felony punishable by life, to ~~by~~ a term of
 75 imprisonment of 25 years ~~imprisonment for life~~;

76 b. For a felony of the first degree, to ~~by~~ a term of
 77 imprisonment of 20 ~~30~~ years;

78 c. For a felony of the second degree, to ~~by~~ a term of
 79 imprisonment of 10 ~~15~~ years; and

80 d. For a felony of the third degree, to ~~by~~ a term of
 81 imprisonment of 3 ~~5~~ years.

82 ~~(b) A person sentenced under paragraph (a) shall be~~
 83 ~~released only by expiration of sentence and shall not be~~
 84 ~~eligible for parole, control release, or any form of early~~
 85 ~~release. Any person sentenced under paragraph (a) must serve 100~~
 86 ~~percent of the court-imposed sentence.~~

87 (b) ~~(c)~~ ~~Nothing in~~ This subsection does not ~~shall~~ prevent a

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88 court from imposing a greater sentence of incarceration as
89 authorized by law, pursuant to s. 775.084 or any other ~~provision~~
90 ~~of~~ law.

91 (c)~~(d)~~1. It is the intent of the Legislature to
92 retroactively apply the amendments to this subsection which are
93 effective on July 1, 2023.

94 2. As used in this paragraph, the term "former s.
95 775.082(9)" means s. 775.082(9) as it existed before the
96 amendment of this subsection, which took effect on July 1, 2023.

97 3. A person who qualified as a prison releasee reoffender
98 before July 1, 2023, and who was not sentenced as a prison
99 releasee reoffender before July 1, 2023, may not be sentenced as
100 such under former s. 775.082(9). Such person, if sentenced as a
101 prison releasee reoffender, must be sentenced as provided in
102 paragraph (a).

103 4. A person who qualified as a prison releasee reoffender
104 before July 1, 2023, who was sentenced as such before July 1,
105 2023, to a mandatory minimum term of imprisonment pursuant to
106 former s. 775.082(9), and who is serving such mandatory minimum
107 term of imprisonment on or after July 1, 2023, must be
108 resentenced in accordance with subparagraph 5. to a sentence as
109 provided in paragraph (a) and sub-subparagraph 5.d.

110 5. Resentencing must occur in the following manner:

111 a. The Department of Corrections shall notify a person
112 described in subparagraph 4. of his or her eligibility to
113 request a sentence review hearing.

114 b. The person seeking sentence review may submit an
115 application to the court of original jurisdiction requesting
116 that a sentence review hearing be held. The sentencing court

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117 retains original jurisdiction for the duration of the sentence
118 for this purpose.

119 c. A person who is eligible for a sentence review hearing
120 under this paragraph is entitled to representation by legal
121 counsel. If the person is indigent and unable to employ counsel,
122 the court must appoint counsel under s. 27.52. Determination of
123 indigence and costs of representation is as provided in ss.
124 27.52 and 938.29.

125 d. Upon receiving an application from an eligible person,
126 the court of original jurisdiction shall hold a sentence review
127 hearing to determine if the eligible person meets the criteria
128 for resentencing under subparagraph 4. If the court determines
129 at the sentence review hearing that the eligible person meets
130 such criteria, the court must resentence the person as provided
131 in paragraph (a); however, the new sentence may not exceed the
132 person's original sentence with credit for time served. If the
133 court determines that such person does not meet the criteria for
134 resentencing under subparagraph 4., the court must provide
135 written reasons why such person does not meet such criteria.

136 6. A person resentenced pursuant to this subsection is
137 eligible to receive any gain-time pursuant to s. 944.275 which
138 he or she was previously ineligible to receive under former s.
139 775.082(9) ~~It is the intent of the Legislature that offenders~~
140 ~~previously released from prison or a county detention facility~~
141 ~~following incarceration for an offense for which the sentence~~
142 ~~pronounced was a prison sentence who meet the criteria in~~
143 ~~paragraph (a) be punished to the fullest extent of the law and~~
144 ~~as provided in this subsection, unless the state attorney~~
145 ~~determines that extenuating circumstances exist which preclude~~

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146 ~~the just prosecution of the offender, including whether the~~
147 ~~victim recommends that the offender not be sentenced as provided~~
148 ~~in this subsection.~~

149 ~~2. For every case in which the offender meets the criteria~~
150 ~~in paragraph (a) and does not receive the mandatory minimum~~
151 ~~prison sentence, the state attorney must explain the sentencing~~
152 ~~deviation in writing and place such explanation in the case file~~
153 ~~maintained by the state attorney.~~

154 Section 2. This act shall take effect July 1, 2023.