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

29 criteria of s. 775.087(2) and (3)<s>; report.</s>—

30   <s>(1)</s> 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. <s>On a quarterly basis, each state attorney</s>

47 <s>shall submit copies of deviation memoranda regarding offenses</s>

48 <s>committed on or after the effective date of this act to the</s>

49 <s>President of the Florida Prosecuting Attorneys Association, Inc.</s>

50 <s>The association must maintain such information and make such</s>

51 <s>information available to the public upon request for at least a</s>

52 <s>10-year period.</s>

53   <s>(2) Effective July 1, 2000, each state attorney shall</s>

54 <s>annually report to the Speaker of the House of Representatives,</s>

55 <s>the President of the Senate, and the Executive Office of the</s>

56 <s>Governor regarding the prosecution and sentencing of offenders</s>

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

hb4159-01-e1

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

 86   Section 3. <u>Section 775.08401, Florida Statutes, is</u>

 87 <u>repealed.</u>

 88   Section 4. <u>Subsection (5) of section 775.087, Florida</u>

 89 <u>Statutes, is repealed.</u>

 90   Section 5. <u>Subsection (4) of section 985.557, Florida</u>

 91 <u>Statutes, is repealed.</u>

 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 <u>s.</u> ~~ss. 775.08401 and~~ 775.0842.

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

hb4159-01-e1