

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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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 themselves of firearms in order to commit crimes and thereby demonstrate their lack of value for human life. It is also the intent of the Legislature that prosecutors should appropriately exercise their discretion in those cases in which the offenders' possession of the firearm is incidental to the commission of a crime and not used in furtherance of the crime, used in order to commit the crime, or used in preparation to commit the crime.

For every case in which the offender meets the criteria in this act and does not receive the mandatory minimum prison sentence, the state attorney must explain the sentencing deviation in writing and place such explanation in the case file maintained by the state attorney. ~~On a quarterly basis, each state attorney shall submit copies of deviation memoranda regarding offenses committed on or after the effective date of this act to the President of the Florida Prosecuting Attorneys Association, Inc. The association must maintain such information and make such information available to the public upon request for at least a 10-year period.~~

~~(2) Effective July 1, 2000, each state attorney shall annually report to the Speaker of the House of Representatives, the President of the Senate, and the Executive Office of the 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.