

House Bill No. 861

An act relating to state attorneys; amending s. 27.345, F.S., relating to the State Attorney RICO Trust Fund; revising reporting requirements; amending s. 775.082, F.S.; revising requirements for explanation, submission, and maintenance of sentencing deviation reports for prison release reoffenders who do not receive the mandatory minimum sentence; repealing s. 27.365, F.S., relating to the annual report by the Florida Prosecuting Attorneys Association regarding prosecutions under ss. 794.011, 794.05, 800.04, and 827.04(3), F.S.; repealing s. 39.205(7), F.S., relating to establishment and publication of procedures for prosecution of persons under s. 39.205, F.S., and reports on the disposition of complaints relating to reporting of child abuse, abandonment, or neglect; repealing s. 415.111(6), F.S., relating to establishment and publication of procedures for prosecution of persons under s. 415.111, F.S., and reports on the disposition of complaints relating to reporting of abuse, neglect, or exploitation of vulnerable adults; amending s. 775.08401(3), F.S.; revising requirements for explanation, submission, and maintenance of sentencing deviation reports relating to eligibility criteria for sentencing of habitual offenders, habitual violent felony offenders, and violent career criminals; providing an effective date.

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

Section 1. Subsection (3) of section 27.345, Florida Statutes, is amended to read:

27.345 State Attorney RICO Trust Fund; authorized use of funds; reporting.—

(3) Each state attorney that has established a State Attorney RICO Trust Fund shall report to the Executive Office of the Governor annually by November 15, commencing in 1985, the amounts recovered pursuant to this section for the previous fiscal year.

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

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

(9)

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

2. For every case in which the offender meets the criteria in paragraph (a) 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 an annual ~~a quarterly~~ basis, each state attorney shall submit copies of deviation memoranda regarding offenses committed on or after the effective date of this subsection, 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.

Section 3. Subsection (3) of Section 775.08401, Florida Statutes, is amended to read:

(3)~~(a)~~ A deviation from this criteria must be explained in writing, signed by the state attorney, and placed in the case file maintained by the state attorney.

~~(b) — On a quarterly basis, each state attorney shall submit copies of deviation memoranda regarding offenses committed on or after October 1, 1995, to the president of the Florida Prosecuting Attorneys Association, Inc. The association must maintain such information for at least a 10-year period.~~

Section 4. Section 27.365, subsection (7) of section 39.205, and subsection (6) of section 415.111, Florida Statutes, are repealed.

Section 5. This act shall take effect July 1, 2002.

Approved by the Governor April 22, 2002.

Filed in Office Secretary of State April 22, 2002.