

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 676  
 SPONSOR: Senator Smith  
 SUBJECT: Sentencing  
 DATE: February 20, 2001      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gardner	Cannon	CJ	Favorable
2.	_____	_____	APJ	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

Senate Bill 676 amends the Prison Releasee Reoffender Act (Act), to expand the provisions of the current law. Currently the Act applies specifically to persons who have been released from a Florida prison, and who, within 3 years, commit one of the enumerated offenses. This bill would make the Act apply to prison releasees from other states and jurisdictions who come to Florida to commit new crimes.

This bill substantially amends the following section of the Florida Statutes: 775.082(9).

## II. Present Situation:

Under the current version of s. 775.082(9), F.S., a judge must sentence a person as a prison releasee reoffender if the defendant meets the following criteria:

- The defendant has committed or attempted to commit one or more of a list of violent offenses such as treason, murder, manslaughter, sexual battery, carjacking, home-invasion robbery, robbery, arson, kidnapping aggravated assault, aggravated battery, aggravated stalking, aircraft piracy, unlawful throwing, placing, or discharging of a destructive device or bomb; armed burglary, burglary of a dwelling, possession of a firearm by a felon, lewd in the presence of a child; or any felony that involves the use or threat of physical force or violence against an individual.
- The offender committed one of the enumerated offenses within 3 years of being released from, on escape from, or while still incarcerated in a state or private correctional facility.

The Act provides legislative intent that prison releasee reoffenders be punished to the fullest extent of the law unless the prosecuting attorney does not have sufficient evidence to prove the

highest charge available, the testimony of material witness cannot be obtained, the victim provides a written statement that he or she does not want the offender to receive a mandatory sentence, or other extenuating circumstances exist which preclude the just prosecution of the offender.

The Fifth District Court of Appeal recently determined that the Prison Releasee Reoffender Act could not be applied to those persons recently released from prisons outside the state of Florida. *Damien v. State*, 743 So.2d 611 (Fla.5<sup>th</sup> DCA 1999). That is because the Act states that it applies to persons who commit an enumerated felony, “within 3 years of being released from a state correctional facility operated by the Department of Corrections or a private vendor.” s. 775.082(9)(a), F.S.

### **III. Effect of Proposed Changes:**

This bill will expand the definition of a prison releasee. The definition that currently exists in s. 775.082(9)(a), F.S., makes the statute not applicable to persons who are released or escape from prisons in other states or jurisdictions, then come to Florida and commit one of the enumerated offenses. Criminals recently released from prisons outside of Florida, who commit violent crimes in this state, will be sentenced equally with criminals recently released from Florida Prisons.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Economic Impact and Fiscal Note:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

None.

#### **C. Government Sector Impact:**

An impact analysis from the Criminal Justice Estimating Conference was not received at the time this analysis was completed.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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