

By the Committee on Crime & Punishment and Representatives Putnam, Crist, Harrington, Ball, Warner, Flanagan, Culp, Morroni, Morse, Fasano, Valdes, Lacasa, Goode, Thrasher, Bronson, Smith, Wiles, Livingston, Laurent, Bainter, Dockery, (Additional Sponsors on Last Printed Page)

1 A bill to be entitled
2 An act relating to criminal justice; creating
3 the "Prison Releasee Reoffender Punishment
4 Act"; amending s. 775.082, F.S.; providing that
5 certain offenders are ineligible for sentencing
6 under the sentencing guidelines under specified
7 circumstances when the offender has been
8 released from correctional custody and, within
9 5 years of being released, commits treason,
10 murder, manslaughter, sexual battery,
11 carjacking, home-invasion robbery, robbery,
12 arson, kidnapping, aggravated battery, aircraft
13 piracy, unlawful throwing, placing, or
14 discharging of a destructive device or bomb, or
15 a violation of s. 790.07, F.S., relating to
16 having weapons while engaged in criminal
17 offense, or s. 800.04, F.S., relating to lewd,
18 lascivious, or indecent assault or act upon or
19 in presence of child; providing for such
20 offender to be sentenced to specified mandatory
21 minimum sentences; making such offender
22 ineligible for parole, probation, or early
23 release; providing for forfeiture by the
24 offender of gain-time or other early release
25 credits; amending s. 944.705, F.S., relating to
26 release orientation program; requiring notice
27 to certain released offenders by the Department
28 of Corrections with respect to the new minimum
29 mandatory sentencing provisions; providing for
30 inadmissibility of certain evidence regarding
31 departmental failure to provide such notice;

1 amending s. 947.141, F.S.; providing for
2 mandatory forfeiture of previously granted
3 early release credits under specified
4 circumstances when conditional release, control
5 release, or conditional medical release is
6 revoked; amending s. 948.06, F.S.; permitting a
7 law enforcement officer to arrest a probationer
8 or offender in community control upon probable
9 cause that the probationer or offender has
10 materially violated probation or community
11 control, under specified circumstances;
12 providing for mandatory forfeiture of
13 previously granted early release credits under
14 specified circumstances when probation or
15 community control is revoked; reenacting ss.
16 948.01(9) and (13)(b) and 958.14, F.S., to
17 incorporate said amendment in references;
18 providing an effective date.

19
20 WHEREAS, recent court decisions have mandated the early
21 release of violent felony offenders, and

22 WHEREAS, the people of this state and the millions of
23 people who visit our state deserve public safety and
24 protection from violent felony offenders who have previously
25 been sentenced to prison and who continue to prey on society
26 by reoffending, and

27 WHEREAS, the Legislature finds that the best deterrent
28 to prevent prison releasees from committing future crimes is
29 to require that any releasee who commits new serious felonies
30 must be sentenced to the maximum term of incarceration allowed

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1 by law, and serve 100 percent of the court-imposed sentence,
2 NOW, THEREFORE,

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

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6 Section 1. This act shall be known and may be cited as
7 the "Prison Releasee Reoffender Punishment Act."

8 Section 2. Section 775.082, Florida Statutes, is
9 amended to read:

10 775.082 Penalties; mandatory minimum sentences for
11 certain offenders previously released from prison.--

12 (1) A person who has been convicted of a capital
13 felony shall be punished by death if the proceeding held to
14 determine sentence according to the procedure set forth in s.
15 921.141 results in findings by the court that such person
16 shall be punished by death, otherwise such person shall be
17 punished by life imprisonment and shall be ineligible for
18 parole.

19 (2) In the event the death penalty in a capital felony
20 is held to be unconstitutional by the Florida Supreme Court or
21 the United States Supreme Court, the court having jurisdiction
22 over a person previously sentenced to death for a capital
23 felony shall cause such person to be brought before the court,
24 and the court shall sentence such person to life imprisonment
25 as provided in subsection (1).

26 (3) A person who has been convicted of any other
27 designated felony may be punished as follows:

28 (a)1. For a life felony committed prior to October 1,
29 1983, by a term of imprisonment for life or for a term of
30 years not less than 30.

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1 2. For a life felony committed on or after October 1,
2 1983, by a term of imprisonment for life or by a term of
3 imprisonment not exceeding 40 years.

4 3. For a life felony committed on or after July 1,
5 1995, by a term of imprisonment for life or by imprisonment
6 for a term of years not exceeding life imprisonment.

7 (b) For a felony of the first degree, by a term of
8 imprisonment not exceeding 30 years or, when specifically
9 provided by statute, by imprisonment for a term of years not
10 exceeding life imprisonment.

11 (c) For a felony of the second degree, by a term of
12 imprisonment not exceeding 15 years.

13 (d) For a felony of the third degree, by a term of
14 imprisonment not exceeding 5 years.

15 (4) A person who has been convicted of a designated
16 misdemeanor may be sentenced as follows:

17 (a) For a misdemeanor of the first degree, by a
18 definite term of imprisonment not exceeding 1 year;

19 (b) For a misdemeanor of the second degree, by a
20 definite term of imprisonment not exceeding 60 days.

21 (5) Any person who has been convicted of a noncriminal
22 violation may not be sentenced to a term of imprisonment nor
23 to any other punishment more severe than a fine, forfeiture,
24 or other civil penalty, except as provided in chapter 316 or
25 by ordinance of any city or county.

26 (6) Nothing in this section shall be construed to
27 alter the operation of any statute of this state authorizing a
28 trial court, in its discretion, to impose a sentence of
29 imprisonment for an indeterminate period within minimum and
30 maximum limits as provided by law, except as provided in
31 subsection (1).

1 (7) This section does not deprive the court of any
2 authority conferred by law to decree a forfeiture of property,
3 suspend or cancel a license, remove a person from office, or
4 impose any other civil penalty. Such a judgment or order may
5 be included in the sentence.

6 (8)(a) A person who commits, or attempts to commit,
7 treason, murder, manslaughter, sexual battery, carjacking,
8 home-invasion robbery, robbery, arson, kidnapping, aggravated
9 battery, aircraft piracy, unlawful throwing, placing, or
10 discharging of a destructive device or bomb, or any violation
11 of s. 790.07 or s. 800.04 within 5 years of being released
12 from a state correctional facility operated by the Department
13 of Corrections or a private vendor is ineligible for
14 sentencing under the sentencing guidelines and must be
15 sentenced as follows:

16 1. For a felony punishable by life, by a term of
17 imprisonment for life;

18 2. For a felony of the first degree, by a term of
19 imprisonment of 30 years;

20 3. For a felony of the second degree, by a term of
21 imprisonment of 15 years;

22 4. For a felony of the third degree, by a term of
23 imprisonment of 5 years.

24 (b) A person sentenced under paragraph (a) shall be
25 released only by expiration of sentence and shall not be
26 eligible for probation, parole, control release, or any form
27 of early release. Any person sentenced under paragraph (a)
28 must serve 100 percent of the court-imposed sentence.

29 (c) Nothing in this subsection shall prevent a court
30 from imposing a greater sentence of incarceration as
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1 authorized by law, pursuant to s. 775.084, or any other
2 provision of law.

3 (9)(8) The purpose of this section is to provide
4 uniform punishment for those crimes made punishable under this
5 section and, to this end, a reference to this section
6 constitutes a general reference under the doctrine of
7 incorporation by reference.

8 Section 3. Subsection (6) is added to section 944.705,
9 Florida Statutes, to read:

10 944.705 Release orientation program.--

11 (6)(a) The department shall notify every inmate, in no
12 less than 18-point type in the inmate's release documents,
13 that the inmate shall be sentenced pursuant to s. 775.082(8)
14 should the inmate commit any felony offense described in s.
15 775.082(8) within 5 years of the inmate's release. This notice
16 shall be prefaced by the word "WARNING" in boldfaced type.

17 (b) Nothing herein shall preclude the sentencing of a
18 person pursuant to s. 775.082(8), nor shall evidence that the
19 department failed to provide this notice prohibit a person
20 from being sentenced pursuant to s. 775.082(8). The state
21 shall not be required to demonstrate that a person received
22 any notice from the department in order for the court to
23 impose a sentence pursuant to s. 775.082(8).

24 Section 4. Subsection (6) of section 947.141, Florida
25 Statutes, is amended to read:

26 947.141 Violations of conditional release, control
27 release, or conditional medical release.--

28 (6) Whenever a conditional release, control release,
29 or conditional medical release is revoked by a panel of no
30 fewer than two commissioners and the releasee is ordered to be
31 returned to prison, the releasee, by reason of the misconduct,

1 shall ~~may~~ be deemed to have forfeited all gain-time or
2 commutation of time for good conduct, as provided for by law,
3 earned up to the date of release. However, if a conditional
4 medical release is revoked due to the improved medical or
5 physical condition of the releasee, the releasee shall not
6 forfeit gain-time accrued before the date of conditional
7 medical release. This subsection does not deprive the prisoner
8 of the right to gain-time or commutation of time for good
9 conduct, as provided by law, from the date of return to
10 prison.

11 Section 5. Subsections (1) and (6) of section 948.06,
12 Florida Statutes, are amended to read:

13 948.06 Violation of probation or community control;
14 revocation; modification; continuance; failure to pay
15 restitution or cost of supervision.--

16 (1) Whenever within the period of probation or
17 community control there are reasonable grounds to believe that
18 a probationer or offender in community control has violated
19 his probation or community control in a material respect, any
20 law enforcement officer who is aware of the probationary or
21 community control status of the probationer or offender in
22 community control or any parole or probation supervisor may
23 arrest or request any county or municipal law enforcement
24 officer to arrest such probationer or offender without warrant
25 wherever found and forthwith return him to the court granting
26 such probation or community control. Any committing
27 magistrate may issue a warrant, upon the facts being made
28 known to him by affidavit of one having knowledge of such
29 facts, for the arrest of the probationer or offender,
30 returnable forthwith before the court granting such probation
31 or community control. Any parole or probation supervisor, any

1 officer authorized to serve criminal process, or any peace
2 officer of this state is authorized to serve and execute such
3 warrant. The court, upon the probationer or offender being
4 brought before it, shall advise him of such charge of
5 violation and, if such charge is admitted to be true, may
6 forthwith revoke, modify, or continue the probation or
7 community control or place the probationer into a community
8 control program. If probation or community control is revoked,
9 the court shall adjudge the probationer or offender guilty of
10 the offense charged and proven or admitted, unless he has
11 previously been adjudged guilty, and impose any sentence which
12 it might have originally imposed before placing the
13 probationer on probation or the offender into community
14 control. If such violation of probation or community control
15 is not admitted by the probationer or offender, the court may
16 commit him or release him with or without bail to await
17 further hearing, or it may dismiss the charge of probation or
18 community control violation. If such charge is not at that
19 time admitted by the probationer or offender and if it is not
20 dismissed, the court, as soon as may be practicable, shall
21 give the probationer or offender an opportunity to be fully
22 heard on his behalf in person or by counsel. After such
23 hearing, the court may revoke, modify, or continue the
24 probation or community control or place the probationer into
25 community control. If such probation or community control is
26 revoked, the court shall adjudge the probationer or offender
27 guilty of the offense charged and proven or admitted, unless
28 he has previously been adjudged guilty, and impose any
29 sentence which it might have originally imposed before placing
30 the probationer or offender on probation or into community
31 control.

1 (6) Any provision of law to the contrary
2 notwithstanding, whenever probation, community control, or
3 control release, including the probationary, community control
4 portion of a split sentence, is violated and the probation or
5 community control is revoked, the offender, by reason of his
6 misconduct, shall ~~may~~ be deemed to have forfeited all
7 gain-time or commutation of time for good conduct, as provided
8 by law, earned up to the date of his release on probation,
9 community control, or control release. This subsection does
10 not deprive the prisoner of his right to gain-time or
11 commutation of time for good conduct, as provided by law, from
12 the date on which he is returned to prison. However, if a
13 prisoner is sentenced to incarceration following termination
14 from a drug punishment program imposed as a condition of
15 probation, the sentence may include incarceration without the
16 possibility of gain-time or early release for the period of
17 time remaining in his treatment program placement term.

18 Section 6. For the purpose of incorporating the
19 amendment to section 948.06, Florida Statutes, in references
20 thereto, the sections or subdivisions of Florida Statutes set
21 forth below are reenacted to read:

22 948.01 When court may place defendant on probation or
23 into community control.--

24 (9) Procedures governing violations of community
25 control shall be the same as those described in s. 948.06 with
26 respect to probation.

27 (13) If it appears to the court upon a hearing that
28 the defendant is a chronic substance abuser whose criminal
29 conduct is a violation of chapter 893, the court may either
30 adjudge the defendant guilty or stay and withhold the
31 adjudication of guilt; and, in either case, it may stay and

1 withhold the imposition of sentence and place the defendant on
2 drug offender probation.

3 (b) Offenders placed on drug offender probation are
4 subject to revocation of probation as provided in s. 948.06.

5 958.14 Violation of probation or community control
6 program.--A violation or alleged violation of probation or the
7 terms of a community control program shall subject the
8 youthful offender to the provisions of s. 948.06(1). However,
9 no youthful offender shall be committed to the custody of the
10 department for a substantive violation for a period longer
11 than the maximum sentence for the offense for which he was
12 found guilty, with credit for time served while incarcerated,
13 or for a technical or nonsubstantive violation for a period
14 longer than 6 years or for a period longer than the maximum
15 sentence for the offense for which he was found guilty,
16 whichever is less, with credit for time served while
17 incarcerated.

18 Section 7. This act shall take effect upon becoming a
19 law.

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ADDITIONAL SPONSORS

25

26 Byrd, Posey, Cosgrove, Melvin, Sanderson, Argenziano, Brooks,
27 Edwards and Healey

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