

1 A bill to be entitled
2 An act relating to parole; amending ss. 947.16,
3 947.174, 947.1745, F.S., relating to
4 eligibility for parole, parole interviews, and
5 the establishment of a parole release date;
6 providing for the Parole Commission to review
7 the presumptive release dates of certain
8 inmates less frequently; requiring the
9 commission to make certain written findings;
10 allowing the commission to establish earlier
11 review dates for certain inmates who are within
12 a designated time of their tentative release
13 dates; providing an effective date.

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

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17 Section 1. Paragraphs (c), (g), and (h) of subsection
18 (4) of section 947.16, Florida Statutes, are amended to read:

19 947.16 Eligibility for parole; initial parole
20 interviews; powers and duties of commission.--

21 (4) A person who has become eligible for an initial
22 parole interview and who may, according to the objective
23 parole guidelines of the commission, be granted parole shall
24 be placed on parole in accordance with the provisions of this
25 law; except that, in any case of a person convicted of murder,
26 robbery, burglary of a dwelling or burglary of a structure or
27 conveyance in which a human being is present, aggravated
28 assault, aggravated battery, kidnapping, sexual battery or
29 attempted sexual battery, incest or attempted incest, an
30 unnatural and lascivious act or an attempted unnatural and
31 lascivious act, lewd and lascivious behavior, assault or

1 aggravated assault when a sexual act is completed or
 2 attempted, battery or aggravated battery when a sexual act is
 3 completed or attempted, arson, or any felony involving the use
 4 of a firearm or other deadly weapon or the use of intentional
 5 violence, at the time of sentencing the judge may enter an
 6 order retaining jurisdiction over the offender for review of a
 7 commission release order. This jurisdiction of the trial
 8 court judge is limited to the first one-third of the maximum
 9 sentence imposed. When any person is convicted of two or more
 10 felonies and concurrent sentences are imposed, then the
 11 jurisdiction of the trial court judge as provided herein
 12 applies to the first one-third of the maximum sentence imposed
 13 for the highest felony of which the person was convicted. When
 14 any person is convicted of two or more felonies and
 15 consecutive sentences are imposed, then the jurisdiction of
 16 the trial court judge as provided herein applies to one-third
 17 of the total consecutive sentences imposed.

18 (c) In such a case of retained jurisdiction, the
 19 commission, within 30 days after the entry of its release
 20 order, shall send notice of its release order to the original
 21 sentencing judge and to the appropriate state attorney. The
 22 release order shall be made contingent upon entry of an order
 23 by the appropriate circuit judge relinquishing jurisdiction as
 24 provided for in paragraphs (d) and (f)~~paragraph 5(d) and (f)~~.
 25 If the original sentencing judge is no longer in service, such
 26 notice shall be sent to the chief judge of the circuit in
 27 which the offender was sentenced. The chief judge may
 28 designate any circuit judge within the circuit to act in the
 29 place of the original sentencing judge. Such notice shall
 30 stay the time requirements of s. 947.1745.

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1 (g) The decision of the original sentencing judge or,
2 in his absence, the chief judge of the circuit to vacate any
3 parole release order as provided in this section ~~act~~ is not
4 appealable. Each inmate whose parole release order has been
5 vacated by the court shall be reinterviewed within 2 years
6 after the date of receipt of the vacated release order and
7 every 2 years thereafter, or earlier by order of the court
8 retaining jurisdiction. However, each inmate whose parole
9 release order has been vacated by the court and who has been :

10 (i) convicted of murder or attempted murder;

11 (ii) convicted of sexual battery or attempted sexual
12 battery; or

13 (iii) sentenced to a 25 year minimum mandatory
14 sentence previously provided in s. 775.082,

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16 shall be reinterviewed once within 5 years after the date of
17 receipt of the vacated release order and once every 5 years
18 thereafter, if the commission finds that it is not reasonable
19 to expect that parole would be granted during the following
20 years and states the bases for the finding in writing. For
21 any inmate who is within 7 years of his or her tentative
22 release date, the commission may establish a reinterview date
23 prior to the 5-year schedule.

24 (h) An inmate whose parole release order has been
25 vacated by the court may not be given a presumptive parole
26 release date during the period of retention of jurisdiction by
27 the court. During such period, a new effective parole release
28 date may be authorized at the discretion of the commission
29 without further interview unless an interview is requested by
30 no fewer than two commissioners. Any such new effective
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1 parole release date ~~must shall~~ be reviewed in accordance with
2 the provisions of paragraphs (c), (d), (e), (f), and (g).

3 Section 2. Subsection (1) of section 947.174, Florida
4 Statutes, is amended to read:

5 947.174 Subsequent interviews.--

6 (1)(a) For any inmate, except an inmate convicted of an
7 offense enumerated in paragraph (b), whose presumptive parole
8 release date falls more than 2 years after the date of the
9 initial interview, a hearing examiner shall schedule an
10 interview for review of the presumptive parole release date.
11 Such interview shall take place within 2 years after the
12 initial interview and every 2 years thereafter.

13 (b) For any inmate convicted of murder, attempted
14 murder, sexual battery, attempted sexual battery, or who has
15 been sentenced to a 25 year minimum mandatory sentence
16 previously provided in s. 775.082, and whose presumptive
17 parole release date is more than 5 years after the date of the
18 initial interview, a hearing examiner shall schedule an
19 interview for review of the presumptive parole release date.
20 Such interview shall take place once within 5 years after the
21 initial interview and once every 5 years thereafter if the
22 commission finds that it is not reasonable to expect that
23 parole will be granted at a hearing during the following years
24 and states the bases for the finding in writing. For any
25 inmate who is within 7 years of his or her tentative release
26 date, the commission may establish an interview date prior to
27 the 5-year schedule.

28 (c) Such interviews shall be limited to determining
29 whether or not information has been gathered which might
30 affect the presumptive parole release date. The provisions of
31 this subsection shall not apply to an inmate serving a

1 concurrent sentence in another jurisdiction pursuant to s.
2 921.16(2).

3 Section 3. Subsection (6) of section 947.1745, Florida
4 Statutes, is amended to read:

5 947.1745 Establishment of effective parole release
6 date.--If the inmate's institutional conduct has been
7 satisfactory, the presumptive parole release date shall become
8 the effective parole release date as follows:

9 (6) Within 90 days before the effective parole release
10 date interview, the commission shall send written notice to
11 the sentencing judge of any inmate who has been scheduled for
12 an effective parole release date interview. If the sentencing
13 judge is no longer serving, the notice must be sent to the
14 chief judge of the circuit in which the offender was
15 sentenced. The chief judge may designate any circuit judge
16 within the circuit to act in the place of the sentencing
17 judge. Within 30 days after receipt of the commission's
18 notice, the sentencing judge, or the designee, shall send to
19 the commission notice of objection to parole release, if the
20 judge objects to such release. If there is objection by the
21 judge, such objection may constitute good cause in exceptional
22 circumstances as described in s. 947.173, and the commission
23 may schedule a subsequent review within 2 years, extending the
24 presumptive parole release date beyond that time. However,
25 for an inmate who has been:

- 26 (i) convicted of murder or attempted murder;
27 (ii) convicted of sexual battery or attempted sexual
28 battery; or
29 (iii) sentenced to a 25 year minimum mandatory sentence
30 previously provided in s.775.082,

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1 the commission may schedule a subsequent review under this
 2 subsection once every 5 years, extending the presumptive
 3 parole release date beyond that time if the commission finds
 4 that it is not reasonable to expect that parole would be
 5 granted at a review during the following years and states the
 6 bases for the finding in writing. For any inmate who is within
 7 7 years of his or her release date, the commission may
 8 schedule a subsequent review prior to the 5 year schedule.
 9 With any subsequent review the same procedure outlined above
 10 will be followed. If the judge remains silent with respect to
 11 parole release, the commission may authorize an effective
 12 parole release date. This subsection applies if the
 13 commission desires to consider the establishment of an
 14 effective release date without delivery of the effective
 15 parole release date interview. Notice of the effective
 16 release date must be sent to the sentencing judge, and either
 17 the judge's response to the notice must be received or the
 18 time period allowed for such response must elapse before the
 19 commission may authorize an effective release date.

20 Section 4. This act shall take effect October 1, 1997,
 21 and shall apply to the setting of subsequent interview dates
 22 as authorized by s. 947.16(4)(g) and s. 947.174(1), and the
 23 setting of subsequent review dates as authorized by s.
 24 947.1745(6), on or after such effective date.

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