

By the Committee on Corrections and Representative
Trovillion

1 A bill to be entitled
2 An act relating to postrelease supervision of
3 offenders; creating the "Supervision of Violent
4 Offenders Act of 1999"; amending s. 947.01,
5 F.S.; increasing membership of the Parole
6 Commission from three to four effective July 1,
7 1999; amending s. 947.03, F.S.; permitting
8 commissioners serving on July 1, 1999, to
9 remain in office until the completion of their
10 term; amending s. 947.1405, F.S.; revising
11 criteria for eligibility for conditional
12 release; providing that an inmate who has
13 committed any crime but who has not served at
14 least one prior felony commitment may be
15 subject to conditional release supervision;
16 specifying that inmates are to be released
17 under conditional release supervision; revising
18 terms and conditions of conditional release
19 supervision applicable to inmates convicted of
20 offenses; providing for applicability of such
21 supervision to all sentences under specified
22 circumstances when an inmate's overall term of
23 sentences includes one or more sentences on
24 which the eligibility for conditional release
25 supervision is based; requiring supervision by
26 the Department of Corrections, according to the
27 conditions imposed by the court, when the
28 inmate who is placed on conditional release
29 supervision also is subject to probation or
30 community control resulting from a split
31 sentence within the overall term of sentences;

1 providing for revocation of the conditional
2 release supervision without further hearing by
3 the commission in those cases when the court
4 revokes probation or community control;
5 providing for forfeiture of all gain-time under
6 specified circumstances, and authorizing the
7 Parole Commission to revoke the resulting
8 deferred conditional release supervision and
9 take other appropriate action; providing for
10 the supervision to revert to the authority of
11 the commission and be subject to the conditions
12 of the commission, in certain cases when the
13 term of the probation or community control
14 expires before that of the conditional release
15 supervision; providing for applicability of
16 various changes made by the act to certain
17 inmates convicted of crimes committed before,
18 on, or after July 1, 1999; providing for
19 applicability of certain provisions relating to
20 the authority of the commission to establish
21 terms and conditions of such release and to
22 determine whether a violation has occurred or
23 revocation is warranted; providing for
24 applicability of a requirement that certain
25 offenders submit to random substance abuse
26 testing throughout the term of such conditional
27 release supervision; providing for increased
28 supervision caseloads under certain
29 circumstances; providing that prior to an
30 inmate being placed on conditional release
31 supervision as a sexually violent predator, the

1 supervision shall be suspended until the inmate
2 is discharged from the conditional release
3 program; providing authority for the commission
4 to establish conditions under which the
5 sexually violent predator shall be returned to
6 the conditional release program; authorizing
7 the Parole Commission to promulgate rules
8 necessary to implement this section; reenacting
9 s. 775.084(4)(i), relating to violent career
10 criminals, habitual felony offenders, and
11 habitual violent felony offenders, s.
12 921.001(10), F.S., relating to the Sentencing
13 Commission and sentencing guidelines, s.
14 944.70(1), relating to conditions for release
15 from incarceration, s. 947.13(1)(f), F.S.,
16 relating to powers and duties of the Parole
17 Commission, and s. 947.141(1) and (2), F.S.,
18 relating to violations of conditional release,
19 control release, or conditional medical
20 release, to incorporate said amendment in
21 references; providing an effective date.

22
23 WHEREAS, the current sentencing guidelines are no
24 longer based on the four category levels of severity which
25 served as the criteria for conditional release eligibility,
26 and

27 WHEREAS, inmates who commit serious violent offenses
28 should be required to serve a period of time under strict
29 conditions of supervision, when released from custody as a
30 result of accumulated gain-time, and

31

1 WHEREAS, the serious violent crimes which require a
2 period of strict supervision should be specified in statute
3 and include any attempt, solicitation, or conspiracy to commit
4 these serious violent crimes, and

5 WHEREAS, a conviction for one of the specified serious
6 violent crimes is sufficient in itself, without the necessity
7 of a prior felony commitment, to require imposition of a
8 period of strict conditional release supervision, and

9 WHEREAS, any violation of these strict conditions of
10 release which results in revocation of supervision should
11 result in the forfeiture of all accumulated gain-time, and

12 WHEREAS, when an inmate also has been subject to
13 conditions of probation or community control following release
14 from incarceration, and the inmate has violated these
15 conditions with the result that the probation or community
16 control is revoked in a proceeding before a judge, the Parole
17 Commission should not be required to conduct a second
18 administrative proceeding to revoke any concurrent or
19 consecutive term of conditional release supervision, and

20 WHEREAS, such a second administrative proceeding is not
21 constitutionally required and is an unjustified and
22 inefficient use of limited state resources, NOW, THEREFORE,

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. This act may be cited as the "Supervision
27 of Violent Offenders Act of 1999."

28 Section 2. Section 947.01, Florida Statutes, is
29 amended to read:

30 947.01 Parole Commission; creation; number of
31 members.--A Parole Commission is created to consist of six

1 members who are residents of the state. Effective July 1,
2 1996, the membership of the commission shall be three members.
3 Effective July 1, 1999, the membership of the commission shall
4 be four members.

5 Section 3. Subsection (1) of section 947.03, Florida
6 Statutes, is amended to read:

7 947.03 Commissioners; tenure and removal.--

8 (1) Unless otherwise provided by law, each
9 commissioner serving on July 1, 1999 ~~1983~~, shall be permitted
10 to remain in office until completion of his or her current
11 term. Upon the expiration of the term, a successor shall be
12 appointed in the manner prescribed pursuant to the provisions
13 of this section, unless otherwise provided by law. Members
14 appointed by the Governor and Cabinet shall be appointed for
15 terms of 6 years, unless otherwise provided by law. No person
16 is eligible to be appointed for more than two consecutive
17 6-year terms.

18 Section 4. Section 947.1405, Florida Statutes, is
19 amended to read:

20 947.1405 Conditional release program.--

21 (1) This section and s. 947.141 may be cited as the
22 "Conditional Release Program Act."

23 (2) Any inmate who:

24 (a) Is convicted of a crime committed on or after
25 October 1, 1988, and before January 1, 1994, and any inmate
26 who is convicted of a crime committed on or after January 1,
27 1994, and before July 1, 1999, which crime is or was contained
28 in category 1, category 2, category 3, or category 4 of Rule
29 3.701 and Rule 3.988, Florida Rules of Criminal Procedure
30 (1993), and who has served at least one prior felony
31 commitment at a state or federal correctional institution;

1 (b) Is sentenced as a habitual or violent habitual
2 offender or a violent career criminal pursuant to s. 775.084
3 based on an offense committed before July 1, 1999; or

4 (c) Is found to be a sexual predator under s. 775.21
5 or former s. 775.23, based on an offense committed before July
6 1, 1999,

7
8 shall, upon reaching the tentative release date or provisional
9 release date, whichever is earlier, as established by the
10 Department of Corrections, be released under conditional
11 release supervision subject to specified terms and conditions,
12 including payment of the cost of supervision pursuant to s.
13 948.09. Such supervision shall be applicable to all sentences
14 within the overall term of sentences if an inmate's overall
15 term of sentences includes one or more sentences that are
16 eligible for conditional release supervision as provided
17 herein. Effective July 1, 1994, and applicable for offenses
18 committed on or after that date, the commission may require,
19 as a condition of conditional release, that the releasee make
20 payment of the debt due and owing to a county or municipal
21 detention facility under s. 951.032 for medical care,
22 treatment, hospitalization, or transportation received by the
23 releasee while in that detention facility. The commission, in
24 determining whether to order such repayment and the amount of
25 such repayment, shall consider the amount of the debt, whether
26 there was any fault of the institution for the medical
27 expenses incurred, the financial resources of the releasee,
28 the present and potential future financial needs and earning
29 ability of the releasee, and dependents, and other appropriate
30 factors. If an inmate has received a term of probation or
31 community control supervision to be served after release from

1 incarceration, the period of probation or community control
2 must be substituted for the conditional release supervision. A
3 panel of no fewer than two commissioners shall establish the
4 terms and conditions of any such release. If the offense was a
5 controlled substance violation, the conditions shall include a
6 requirement that the offender submit to random substance abuse
7 testing intermittently throughout the term of conditional
8 release supervision, upon the direction of the correctional
9 probation officer as defined in s. 943.10(3). The commission
10 shall also determine whether the terms and conditions of such
11 release have been violated and whether such violation warrants
12 revocation of the conditional release.

13 (3) Any inmate who has been convicted of committing or
14 attempting, soliciting, or conspiring to commit any offense on
15 or after July 1, 1999, shall, upon reaching the tentative
16 release date established by the Department of Corrections, be
17 released under conditional release supervision subject to the
18 terms and conditions determined by the commission as provided
19 in this subsection and subsection (5). Such supervision shall
20 be applicable to all sentences within the overall term of
21 sentences if an inmate's overall term of sentences includes
22 one or more sentences that are eligible for conditional
23 release supervision as provided herein. If any inmate placed
24 on conditional release supervision is also subject to
25 probation or community control, resulting from a probationary
26 or community control split sentence within the overall term of
27 sentences, the Department of Corrections shall supervise such
28 person according to the conditions imposed by the court, and
29 the commission shall defer to such supervision. If the court
30 revokes probation or community control, and resentences the
31 offender to a term of incarceration, such revocation also

1 constitutes a sufficient basis for the revocation of the
2 conditional release supervision on any nonprobationary or
3 noncommunity control sentence, without further hearing by the
4 commission. If any such supervision on any nonprobationary or
5 noncommunity control sentence is revoked, such revocation may
6 result in a forfeiture of all gain-time, and the commission
7 may revoke the resulting deferred conditional release
8 supervision or take other action it considers appropriate. If
9 the term of conditional release supervision exceeds that of
10 the probation or community control, then upon expiration of
11 the probation or community control, authority for the
12 supervision shall revert to the commission, and the
13 supervision shall be subject to the conditions of the
14 commission.

15 (4) A panel of no fewer than two commissioners shall
16 establish the terms and conditions of any conditional release.
17 If the offense was a controlled substance violation, the
18 conditions shall include a requirement that the offender
19 submit to random substance abuse testing intermittently
20 throughout the term of conditional release supervision, upon
21 the direction of the correctional probation officer as defined
22 in s. 943.10(3). The commission shall also determine whether
23 the terms and conditions of such release have been violated
24 and whether such violation warrants revocation of the
25 conditional release.

26 (5)~~(3)~~ As part of the conditional release process, the
27 commission shall determine:

28 (a) The amount of reparation or restitution.

29 (b) The consequences of the offense as reported by the
30 aggrieved party.

31

1 (c) The aggrieved party's fear of the inmate or
2 concerns about the release of the inmate.

3 (6)~~(4)~~ The commission shall provide to the aggrieved
4 party information regarding the manner in which notice of any
5 developments concerning the status of the inmate during the
6 term of conditional release may be requested.

7 (7)~~(5)~~ Within 180 days prior to the tentative release
8 date or provisional release date, whichever is earlier, a
9 representative of the commission shall interview the inmate.
10 The commission representative shall review the inmate's
11 program participation, disciplinary record, psychological and
12 medical records, and any other information pertinent to the
13 impending release. A commission representative shall conduct
14 a personal interview with the inmate for the purpose of
15 determining the details of the inmate's release plan,
16 including the inmate's planned residence and employment. The
17 results of the interview must be forwarded to the commission
18 in writing.

19 (8)~~(6)~~ Upon receipt of notice as required under s.
20 947.175, the commission shall conduct a review of the inmate's
21 record for the purpose of establishing the terms and
22 conditions of the conditional release. The commission may
23 impose any special conditions it considers warranted from its
24 review of the record. If the commission determines that the
25 inmate is eligible for release under this section, the
26 commission shall enter an order establishing the length of
27 supervision and the conditions attendant thereto. However, an
28 inmate who has been convicted of a violation of chapter 794 or
29 found by the court to be a sexual predator is subject to the
30 maximum level of supervision provided, with the mandatory
31 conditions as required in subsection(9)~~(7)~~, and that

1 supervision shall continue through the end of the releasee's
2 original court-imposed sentence. The length of supervision
3 must not exceed the maximum penalty imposed by the court.

4 (9)~~(7)~~(a) Any inmate who is convicted of a crime
5 committed on or after October 1, 1995, or who has been
6 previously convicted of a crime committed on or after October
7 1, 1995, in violation of chapter 794, s. 800.04, s. 827.071,
8 or s. 847.0145, and is subject to conditional release
9 supervision, shall have, in addition to any other conditions
10 imposed, the following special conditions imposed by the
11 commission:

12 1. A mandatory curfew from 10 p.m. to 6 a.m. The court
13 may designate another 8-hour period if the offender's
14 employment precludes the above specified time, and such
15 alternative is recommended by the Department of Corrections.
16 If the court determines that imposing a curfew would endanger
17 the victim, the court may consider alternative sanctions.

18 2. If the victim was under the age of 18, a
19 prohibition on living within 1,000 feet of a school, day care
20 center, park, playground, or other place where children
21 regularly congregate.

22 3. Active participation in and successful completion
23 of a sex offender treatment program with therapists
24 specifically trained to treat sex offenders, at the releasee's
25 own expense. If a specially trained therapist is not available
26 within a 50-mile radius of the releasee's residence, the
27 offender shall participate in other appropriate therapy.

28 4. A prohibition on any contact with the victim,
29 directly or indirectly, including through a third person,
30 unless approved by the victim, the offender's therapist, and
31 the sentencing court.

1 5. If the victim was under the age of 18, a
2 prohibition, until successful completion of a sex offender
3 treatment program, on unsupervised contact with a child under
4 the age of 18, unless authorized by the commission without
5 another adult present who is responsible for the child's
6 welfare, has been advised of the crime, and is approved by the
7 commission.

8 6. If the victim was under age 18, a prohibition on
9 working for pay or as a volunteer at any school, day care
10 center, park, playground, or other place where children
11 regularly congregate, as prescribed by the commission.

12 7. Unless otherwise indicated in the treatment plan
13 provided by the sexual offender treatment program, a
14 prohibition on viewing, owning, or possessing any obscene,
15 pornographic, or sexually stimulating visual or auditory
16 material, including telephone, electronic media, computer
17 programs, or computer services that are relevant to the
18 offender's deviant behavior pattern.

19 8. A requirement that the releasee must submit two
20 specimens of blood to the Florida Department of Law
21 Enforcement to be registered with the DNA database.

22 9. A requirement that the releasee make restitution to
23 the victim, as determined by the sentencing court or the
24 commission, for all necessary medical and related professional
25 services relating to physical, psychiatric, and psychological
26 care.

27 10. Submission to a warrantless search by the
28 community control or probation officer of the probationer's or
29 community controllee's person, residence, or vehicle.

30 (b) For a releasee whose crime was committed on or
31 after October 1, 1997, in violation of chapter 794, s. 800.04,

1 s. 827.071, or s. 847.0145, and who is subject to conditional
2 release supervision, in addition to any other provision of
3 this subsection, the commission shall impose the following
4 additional conditions of conditional release supervision:

5 1. As part of a treatment program, participation in a
6 minimum of one annual polygraph examination to obtain
7 information necessary for risk management and treatment and to
8 reduce the sex offender's denial mechanisms. The polygraph
9 examination must be conducted by a polygrapher trained
10 specifically in the use of the polygraph for the monitoring of
11 sex offenders, where available, and at the expense of the sex
12 offender. The results of the polygraph examination shall not
13 be used as evidence in a hearing to prove that a violation of
14 supervision has occurred.

15 2. Maintenance of a driving log and a prohibition
16 against driving a motor vehicle alone without the prior
17 approval of the supervising officer.

18 3. A prohibition against obtaining or using a post
19 office box without the prior approval of the supervising
20 officer.

21 4. If there was sexual contact, a submission to, at
22 the probationer's or community controllee's expense, an HIV
23 test with the results to be released to the victim or the
24 victim's parent or guardian.

25 5. Electronic monitoring when deemed necessary by the
26 community control or probation officer and his or her
27 supervisor, and ordered by the court at the recommendation of
28 the Department of Corrections.

29 (10)~~(8)~~ It is the finding of the Legislature that the
30 population of offenders released from state prison into the
31 community who meet the conditional release criteria poses the

1 greatest threat to the public safety of the groups of
2 offenders under community supervision. Therefore, the
3 Department of Corrections is to provide intensive supervision
4 by experienced correctional probation officers to conditional
5 release offenders. Subject to specific appropriation by the
6 Legislature, caseloads may be restricted to a maximum of 75 ~~40~~
7 conditional release offenders per officer to provide for
8 enhanced public safety and to effectively monitor conditions
9 of electronic monitoring or curfews, if so ordered by the
10 commission.

11 (11) If any inmate, prior to being placed on
12 conditional release supervision, is subject to control, care,
13 and treatment as a sexually violent predator pursuant to ss.
14 916.31-916.49, the inmate's placement on conditional release
15 supervision shall be suspended until the inmate is discharged
16 from such control, care, and treatment at which time the
17 inmate shall be placed on conditional release supervision and
18 under conditions established by the commission. If any inmate
19 placed on conditional release supervision is also subject to
20 control, care, and treatment as a sexually violent predator
21 pursuant to ss. 916.31-916.49, the term of conditional release
22 supervision shall be suspended until the inmate is discharged
23 from such control, care, and treatment at which time the
24 inmate shall be returned to conditional release supervision
25 status and under conditions established by the commission.

26 (12) The commission may adopt rules pursuant to ss.
27 120.536(1) and 120.54 necessary for implementing provisions of
28 this section.

29 Section 5. For the purpose of incorporating the
30 amendment to section 947.1405, Florida Statutes, in references
31 thereto, the following sections or subdivisions of Florida

1 Statutes, or Florida Statutes, 1998 Supplement, are reenacted
2 to read:

3 775.084 Violent career criminals; habitual felony
4 offenders and habitual violent felony offenders; definitions;
5 procedure; enhanced penalties.--

6 (4)

7 (i) The provisions of s. 947.1405 shall apply to
8 persons sentenced as habitual felony offenders and persons
9 sentenced as habitual violent felony offenders.

10 921.001 Sentencing Commission and sentencing
11 guidelines generally.--

12 (10)(a) A person who is convicted of a crime committed
13 on or after October 1, 1983, but before January 1, 1994, may
14 be released from incarceration only:

- 15 1. Upon expiration of the person's sentence;
- 16 2. Upon expiration of the person's sentence as reduced
17 by accumulated gain-time;
- 18 3. As directed by an executive order granting
19 clemency;
- 20 4. Upon attaining the provisional release date;
- 21 5. Upon placement in a conditional release program
22 pursuant to s. 947.1405; or
- 23 6. Upon the granting of control release pursuant to s.
24 947.146.

25 (b) A person who is convicted of a crime committed on
26 or after January 1, 1994, may be released from incarceration
27 only:

- 28 1. Upon expiration of the person's sentence;
- 29 2. Upon expiration of the person's sentence as reduced
30 by accumulated meritorious or incentive gain-time;

31

- 1 3. As directed by an executive order granting
2 clemency;
- 3 4. Upon placement in a conditional release program
4 pursuant to s. 947.1405 or a conditional medical release
5 program pursuant to s. 947.149; or
- 6 5. Upon the granting of control release, including
7 emergency control release, pursuant to s. 947.146.
- 8 944.70 Conditions for release from incarceration.--
- 9 (1)(a) A person who is convicted of a crime committed
10 on or after October 1, 1983, but before January 1, 1994, may
11 be released from incarceration only:
- 12 1. Upon expiration of the person's sentence;
- 13 2. Upon expiration of the person's sentence as reduced
14 by accumulated gain-time;
- 15 3. As directed by an executive order granting
16 clemency;
- 17 4. Upon attaining the provisional release date;
- 18 5. Upon placement in a conditional release program
19 pursuant to s. 947.1405; or
- 20 6. Upon the granting of control release pursuant to s.
21 947.146.
- 22 (b) A person who is convicted of a crime committed on
23 or after January 1, 1994, may be released from incarceration
24 only:
- 25 1. Upon expiration of the person's sentence;
- 26 2. Upon expiration of the person's sentence as reduced
27 by accumulated meritorious or incentive gain-time;
- 28 3. As directed by an executive order granting
29 clemency;
- 30
- 31

1 4. Upon placement in a conditional release program
2 pursuant to s. 947.1405 or a conditional medical release
3 program pursuant to s. 947.149; or

4 5. Upon the granting of control release, including
5 emergency control release, pursuant to s. 947.146.

6 947.13 Powers and duties of commission.--

7 (1) The commission shall have the powers and perform
8 the duties of:

9 (f) Establishing the terms and conditions of persons
10 released on conditional release under s. 947.1405, and
11 determining subsequent ineligibility for conditional release
12 due to a violation of the terms or conditions of conditional
13 release and taking action with respect to such a violation.

14 947.141 Violations of conditional release, control
15 release, or conditional medical release.--

16 (1) If a member of the commission or a duly authorized
17 representative of the commission has reasonable grounds to
18 believe that an offender who is on release supervision under
19 s. 947.1405, s. 947.146, or s. 947.149 has violated the terms
20 and conditions of the release in a material respect, such
21 member or representative may cause a warrant to be issued for
22 the arrest of the releasee; if the offender was found to be a
23 sexual predator, the warrant must be issued.

24 (2) Upon the arrest on a felony charge of an offender
25 who is on release supervision under s. 947.1405, s. 947.146,
26 or s. 947.149, the offender must be detained without bond
27 until the initial appearance of the offender at which a
28 judicial determination of probable cause is made. If the
29 magistrate determines that there was no probable cause for the
30 arrest, the offender may be released. If the magistrate
31 determines that there was probable cause for the arrest, such

1 determination also constitutes reasonable grounds to believe
2 that the offender violated the conditions of the release.
3 Within 24 hours after the magistrate's finding of probable
4 cause, the detention facility administrator or designee shall
5 notify the commission and the department of the finding and
6 transmit to each a facsimile copy of the probable cause
7 affidavit or the sworn offense report upon which the
8 magistrate's probable cause determination is based. The
9 offender must continue to be detained without bond for a
10 period not exceeding 72 hours excluding weekends and holidays
11 after the date of the probable cause determination, pending a
12 decision by the commission whether to issue a warrant charging
13 the offender with violation of the conditions of release. Upon
14 the issuance of the commission's warrant, the offender must
15 continue to be held in custody pending a revocation hearing
16 held in accordance with this section.

17 Section 6. This act shall take effect July 1, 1999.

18
19
20
21
22
23
24
25
26
27
28
29
30
31

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

HOUSE SUMMARY

Increases the number of members of the Parole Commission from three to four. Revises the Conditional Release Program Act. Revises criteria for eligibility for conditional release. Revises terms and conditions of conditional release supervision applicable to an inmate convicted of any of specified offenses or sentenced as a habitual or violent felony offender or a violent career criminal. Provides that an inmate who has committed any of specified crimes but who has not served at least one prior felony commitment may be subject to conditional release supervision. Requires supervision by the Department of Corrections, according to the conditions imposed by the court, when the inmate who is placed on conditional release supervision also is subject to probation or community control resulting from a split sentence within the overall term of sentences. Provides for revocation of the conditional release supervision without further hearing by the commission in those cases when the court revokes probation or community control. Provides for forfeiture of all gain-time under specified circumstances. Provides for applicability of various changes made by the act to certain inmates convicted of crimes committed before, on, or after July 1, 1999. See bill for details.