

STORAGE NAME: h1449.cor

DATE: February 24, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CORRECTIONS
ANALYSIS**

BILL #: HB 1449 (PCB COR 00-03a)

RELATING TO: Inmate Parole Interviews

SPONSOR(S): Committee on Corrections and Representative Trovillion

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

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I. SUMMARY:

House Bill 1449 amends Chapter 947 of the Florida Statutes. The bill specifies minimum and maximum frequencies for certain inmates for interviews, reinterviews, and reviews for parole by the Parole Commission.

The minimum frequency for reviews, interviews, and reinterviews for certain inmates is no less than once every five years. The maximum frequency for reviews, interviews, and reinterviews for this group is to be no more often than once every 30 months.

The bill shall take effect upon becoming law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

The Florida Legislature and the Parole Commission:

Although constitutionally authorized, the Florida Parole Commission is a legislatively-created entity. The Florida Constitution is generally silent as to the specifics of parole. Thus, the details as to the granting and procedures relating to parole are the prerogative of the Legislature, if those procedures do not violate constitutional provisions.

Parole Eligibility:

Parole is not a right but an act of grace exercised by the Parole Commission. For parole-eligible inmates, the Parole Commission may grant parole release supervision subject to terms and conditions. Parole eligibility is defined by s. 947.16 of the Florida Statutes. Only persons convicted of crimes committed prior to October 1, 1983, who receive a sentence of twelve months or more (excluding those persons sentenced to death) are eligible for parole. Also, those persons convicted of crimes prior to October 1, 1995, who were given a 25-year minimum mandatory sentence (with eligibility for parole after service of the mandatory portion of the sentence) and who have satisfactory prison conduct, are eligible for parole.

Parole eligible inmates are initially interviewed by the Parole Commission within specified time lines defined in s. 947.16, F. S. Subsequent to the initial interview, based upon information obtained during that interview by a parole examiner, together with other information obtain by the parole examiner, the Commission establishes a presumptive parole release date, which is a tentative future parole release date as determined by objective parole guidelines. After the establishment of the presumptive parole release date, the Commission is required to provide further interviews with the inmate, as provided in 947.174 and 947.1745. If the Parole Commission decides to parole an eligible inmate and place the inmate on parole supervision, the Parole Commission sets the terms and conditions of parole. According to the department's FY 1998-99 Annual Report, there are 5,897 inmates eligible for parole.

Parole interviews and reviews for offenders under jurisdiction of trial court judges:

At the time of original sentencing, the trial court judge may have elected to retain jurisdiction over offenders who have been convicted of specific crimes (defined in s. 947.16 (4), F. S.). In such a case of retained jurisdiction, the Parole Commission must send notice of their release order (if they decide the offender should be paroled) to the original

sentencing judge or his or her replacement. The original sentencing judge (or replacement) shall review the Parole Commission's findings for release, and shall either uphold or vacate the release order. Each inmate whose parole release order has been vacated by the court shall be reinterviewed for parole within two years of receipt of the date of the vacated release order, and every two years thereafter.

However, inmates whose parole release orders were vacated by the court and who have been convicted of murder (or attempted murder), sexual battery (or attempted sexual battery), or sentenced to a 25-year minimum mandatory sentence may have a different time line schedule to be reinterviewed, depending on the Parole Commission. If the Parole Commission finds it unreasonable to expect that parole would be granted to such an offender during the years immediately following the vacated release order, then the offender shall only be reinterviewed for parole once within five years of the date of the receipt of the vacated release order.

For purposes of clarification, s. 947.005, F. S. offers the following definitions:

- tentative release date = the date projected for the prisoner's release from custody by virtue of gain-time granted or forfeited pursuant to s. 944.275(3)(a), F. S.

- presumptive parole release date = the tentative parole release date as determined by objective parole guidelines

- effective parole release date = the actual parole release date as determined by the presumptive parole release date, satisfactory institutional conduct, and an acceptable parole plan

C. EFFECT OF PROPOSED CHANGES:

House Bill 1449 will grant discretion to the Parole Commission to reinterview specific offenders no more than once every 30 months rather than the current limitation of once every five years. This reinterview process will only apply to those who are eligible for parole and who have been convicted of murder, attempted murder, sexual battery, attempted sexual battery, or sentenced to a 25 year minimum mandatory sentence. All other offenders are still required to be reinterviewed every two years.

The bill retains the requirement that specific offenders be reinterviewed once every five years.

The bill will grant discretion to the Parole Commission to schedule an additional reinterview date prior to the five year schedule for any inmate who is within seven years of his or her tentative release date or presumptive parole release date.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Section 947.16(4), F. S.

Grants discretion to the Parole Commission to reinterview specific offenders for parole no more than once every 30 months rather than the current limitation of once every five years. Grants discretion to the Parole Commission to schedule an additional reinterview date prior to the five year schedule for any offender who is within seven years of his or her tentative release date.

Section 2. Section 947.174(1), F. S.

Grants discretion to the Parole Commission to reinterview specific offenders for a presumptive parole release date no more than once every 30 months rather than the current limitation of once every five years. Grants discretion to the Parole Commission to schedule an additional reinterview date prior to the five year schedule for any offender who is within seven years of his or her tentative release date.

Section 3. Section 947.1745(6), F. S.

Grants discretion to the Parole Commission to reinterview specific offenders for an effective parole release date no more than once every 30 months rather than the current limitation of once every five years. Grants discretion to the Parole Commission to schedule an additional reinterview date prior to the five year schedule for any offender who is within seven years of his or her release date.

Section. 4

This act shall take effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

No revenues will be generated because of the passage of this legislation.

2. Expenditures:

No expenditures will be required because of the passage of this legislation.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

No local government revenues will be generated because of the passage of this legislation.

2. Expenditures:

No expenditures will be required on behalf of local governments because of the passage of this legislation.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON CORRECTIONS:

Prepared by:

Staff Director:

Melinda A. Smith

Jo Ann Levin