

STORAGE NAME: h2325a.cj

DATE: April 26, 2000

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
CRIMINAL JUSTICE APPROPRIATIONS
ANALYSIS**

BILL #: HB 2325

RELATING TO: Postprison Supervision

SPONSOR(S): Representatives Brummer, Feeney and others

TIED BILL(S):

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

- (1) GOVERNMENTAL OPERATIONS YEAS 5 NAYS 2
 - (2) CORRECTIONS (W/D)
 - (3) CRIMINAL JUSTICE APPROPRIATIONS YEAS 6 NAYS 4
 - (4)
 - (5)
-

I. SUMMARY:

This bill provides for mandatory post-prison probation supervision for all offenders released from prison for offenses committed on or after July 1, 2000. This supervision is imposed by the court at the time of sentencing.

The remaining pre-release workload for conditional release is assumed by the Department of Corrections (or Department), and the workload associated with conditional release revocations is transferred to the circuit courts. The Parole Commission maintains functions relating to clemency, parole, and the setting of terms and conditions of conditional release for the remaining eligible population.

The administrative functions of the Parole Commission are transferred to the Department of Corrections, and the Commission is re-named as the Parole Board, effective July 1, 2000. The bill allows for regional Parole Board staff to co-locate with Department staff. Overall, Parole Board staff is expected to be reduced to approximately 59 persons.

Some key components of this bill are as follows:

- For any offense committed on or after July 1, 2000, offenders serve postprison probation for remaining portion of sentence not served in prison
- Revocations of conditional release hearings which occur on or after July 1, 2000, shall be heard in the circuit court where the offender committed their offenses
- Conditional release supervision repealed for offenses committed on or after July 1, 2000
- Pre-release workload for conditional release assumed by the Department of Corrections on July 1, 2000
- Administrative functions of the Parole Commission are transferred to the Department of Corrections, and the Commission is re-named as the Parole Board, effective July 1, 2000

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 type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" 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:

Parole was abolished in this state in 1983. There are approximately 5,500 remaining inmates who are parole eligible, but over 3,100 of those are serving 25 years mandatory minimum terms of prison. This means that as far as parole workload is concerned, there are approximately 2,400 inmates eligible for parole release.

The bulk of the Parole Commission's current workload is in supervision of offenders on conditional release, revocations of post-prison release due to technical violations, and clemency investigations. Conditional release is community supervision imposed after the completion of the prison sentence for up to the amount of gain time accrued while the inmate was in prison. Only offenders who commit certain serious offenses, and had one prior prison commitment, or are classified as habitual, or sexual predator offenders receive such supervision. Conditional release is not the same as early release.

Florida prisons released 23,025 inmates in FY 98-99 with 4,512 having to serve a period of post-prison supervision. This is less than 20% of all releases. The majority of these felons were released under conditional release provisions.

There are approximately 144,000 Florida offenders under community supervision. The majority of these cases, approximately 96%, were placed under supervision by Florida circuit courts. The courts have the ability to order post-prison supervision with or without incarceration. The remaining 4% were placed under supervision by the Florida Parole Commission. The actual supervision is provided by the Florida Department of Corrections. The Florida Parole Commission handles revocation of post-prison supervision for several types of offenders.

There are approximately 156 felony circuit court judges. There are 184 authorized FTE in the Parole Commission.

Though orders of supervision are similar, the processing of placements and violations differ within the two systems. There is generally more workload associated with the placement and revocation of offenders for each commission generated supervision than court supervision.

Commission placement of offenders under supervision involves the re-evaluation of the felon prior to release. This involves another review of the nature and circumstances of the crime, as well as a review of the inmate's release plan and collecting victim information. Much of this work is performed by the courts prior to sentencing. Also there is a review of the inmate's eligibility for release, which can only include factors that were available and reviewed at the original sentencing.

There is also a review of the inmate's adjustment while in prison. Some may argue that this review is of limited value because under conditional release such release is not discretionary. It will occur regardless of the prisoner's perceived adjustment.

Commission revocations involve multiple hearings which may, or may not, occur at the local level. Court revocations occur in local courts and may be resolved in a more timely manner than Commission hearings.

C. EFFECT OF PROPOSED CHANGES:

This bill provides for mandatory post-prison probation supervision for all offenders released from prison for offenses committed on or after July 1, 2000. This supervision is imposed by the court at the time of sentencing. Supervision conditions are to focus on the protection of victims and the safety of the public.

Conditional release supervision is repealed for offenses committed on or after July 1, 2000. It is replaced with the court-imposed mandatory post-prison probation, and applied to the entire released population, as opposed to the limited group under current law.

The pre-release workload for conditional release is assumed by the Department of Corrections (or Department) on July 1, 2000. The conditions of conditional release will continue to be set by the Parole Board (formerly the Parole Commission).

The workload associated with conditional release revocations is transferred to the circuit courts. This would allow for a reduced workload for the Parole Board (formerly the Parole Commission). A full workload of such revocations during the 1998-1999 fiscal year was 1,693 cases (the total number of revocations, including Control Releases, Conditional Medical Releases and Paroles was 1929). That would amount to an average of 11-12 additional cases, per court, for the year.

The administrative functions of the Parole Commission are transferred to the Department of Corrections, and the Commission is re-named as the Parole Board, effective July 1, 2000. The Department will make a provision for regional Parole Board staff to co-locate with Department staff. Overall, staff is expected to be reduced to approximately 59 persons.

The Parole Mutual Participation Program is repealed as it is obsolete.

Proponents believe the key benefits of this bill may be summarized as following:

- Increased public safety, because all offenders released from prison will be monitored.
- Enhanced truth in sentencing in that all offenders will be subject to oversight for 100% of the period of their sentences.
- Increased accountability to victims and victim protection as cornerstones of the Mandatory Post-Prison Probation program.

- Less duplication of functions over time as the conditional release population diminishes. There will essentially be only one entity, the circuit courts, imposing and revoking any type of community supervision (excluding the few remaining parole releases).
- Increased accountability to the community because local courts, where the crimes are committed, exercise control from the beginning of the process, until the completion of the sentence.
- Increased efficiency since the offender will be sentenced to prison and to Mandatory Post-Prison probation at the same time, rather than being sentenced, then later having the case circumstances re-evaluated for supervision decisions.
- Reduced number of staff to perform post-prison release supervision.

Opponents of this bill are concerned about the reduction in staff after enactment, and the anticipated additional workload, which they believe will significantly impact the court system, the Public Defender's Office, and Probation Officers.

Another, important objection of opponents is that the bill language places the Board under the control, supervision, and direction of the Department. The sponsor indicates it was never the intent of the bill that the Board be under the control of the Department, and that a typographical error resulted in the word "not" being left out of the language.

An amendment was received with the bill specifically inserting the word "not" after the word "is". This will reverse the meaning of this section.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 - Provides the short title of "Mandatory Postprison Supervision Act of 2000".

Section 2 - Removes the reference to Parole Commission as a state agency.

Section 3 - Removes references to the "Parole Commission", and replaces such references with "Parole Board".

Sections 4-15 - Conform terminology related to the Parole Board.

Section 16 - Changes a reference to s. 947.1405(7), F.S., to 947.1405(8). This change places sexual offenders in a "greatest risk" level of supervision.

Sections 17-24 - Conform terminology related to the Parole Board.

Section 25 - Provides that offenders must serve non-prison portions of their terms on mandatory postprison probation.

Sections 26-37 - Conform terminology related to the Parole Board.

Section 38 - Provides that escapees will have any form of probation or other monitoring revoked.

Section 39 - Provides that prisoners released with gain-time or provisional release prior to July 1, 2000 will be subject to the conditions of their release, but for those who is convicted

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of an offense committed on, or after July 1, 2000 (sentenced to a state prison), must be placed on mandatory postprison probation.

Sections 40-45 - Conform terminology related to the Parole Board.

Section 46 - Provides that ch. 947, F.S., is renamed "Parole Board".

Section 47 - Conforms terminology, and that the chair of the Parole Board shall be held accountable for policy decisions relating to the Board's responsibilities and activities, which will be operational, rather than administrative.

Sections 48-54 - Conform terminology; provides that Board staff may be colocated with the department staff in department offices and facilities; provides that the department will provide administrative support and services to the Board; and that the Board is subject to control, supervision, and direction by the department.

Section 55 - Conforms terminology.

Section 56 - Conforms terminology, and renames prisoner in s. 947.06, F.S., to inmate.

Sections 57-60 - Conform terminology.

Section 61 - Conforms terminology, and provides that the examining board is renamed as the parole qualifications committee.

Section 62 - Conforms terminology, and adds the Department of Juvenile Justice to the units of government which must cooperate with the Board and Department pursuant to s. 945.25, F.S.

Section 63 - Provides that all inmates specified in s. 947.1405, F.S., related to conditional release, makes conditional release a terminal provision on July 1, 2000; provides that the department will interview inmates prior to their tentative release from prison, and will add criminal records to those reviewed; provides the department will advise the Board of the inmate's release plan, recommending terms and conditions of release; provides that the Board will review such recommendations, and impose any additional special conditions it considers warranted; provides that the Board may consider any curfews in the light of safety of victims, or potential victims; provides that inmates eligible for conditional release shall be supervised pursuant to the order imposed by the court, and if such conditional release is revoked, the result may be the forfeiture of gain time, along with other possible action by the Board; provides offenders will not be placed on conditional release for any convictions with offense dates on, or after July 1, 2000; and conforms terminology.

Section 64 - Provides that alleged violations of conditional release which occur on or after July 1, 2000, shall be heard in the circuit court where the offender committed their offenses; and conforms terminology.

Sections 65-88 - Conform terminology.

Section 89 - Provides definitions for the terms "Department", and "Mandatory postprison probation".

Section 90 - Provides that if the court sentences any defendant to be incarcerated for an offense committed on or after July 1, 2000, the court shall also require the defendant to serve mandatory postprison probation upon the release of the defendant from prison.

Section 91 - Provides that the court will determine terms of probation or community control, and such terms may be considered standard conditions of any form of probation, except administrative probation; and reiterates that the court will prescribe mandatory postprison probation, including special conditions; provides that the Department will establish the onset date and calculate the termination date of postprison release probation; specifies that none of the forgoing provisions shall prevent the court from imposing split sentences; conforms terminology.

Section 92 - Conforms references.

Section 93 - Provides that probation officers may serve criminal process; provides that offenders shall be returned to prison if conditional release is revoked, and gain-time will be forfeited; provides for split sentences; provides that offender may earn new gain-time after returning to prison; conforms terminology.

Sections 94-102 - Conform terminology.

Section 103 - Repeals ss. 947.135 and 958.15, F.S.

Section 104 - Provides an effective date of July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Department of Corrections prepared a 10 year forecast of additional post prison supervision admissions and populations, assuming all inmates with crimes committed on or after July 1, 2000, as follows:

<u>Fiscal Year</u>	<u>Additional Admissions to Post Prison Supervision</u>
FY 2000-01	175
FY 2001-02	2,751
FY 2002-03	6,634
FY 2003-04	9,708
FY 2004-05	12,413
FY 2005-06	13,827
FY 2006-07	14,388
FY 2007-08	14,629
FY 2008-09	14,685
FY 2009-10	14,694

The Department of Corrections estimates that its costs for FY 2000-01 will be \$57,623 increasing to \$1,325,190 by FY 2004-05.

The Office of the State Courts Administrator reports a twofold impact on the state court system. First, all offenders being sentenced to prison must be sentenced to a period of postprison supervision. Second, the bill requires a hearing of violation proceeding both for existing conditional release cases, as well as the newly created terms of mandatory postprison probation. According the Office of State Courts Administrator, these two factors will "substantially increase the workload of circuit judges." The courts, however, did not provide a cost estimate for the increased workload they anticipate.

The Florida Public Defenders Association anticipates an increased workload as a result of HB 2325 for both the Public Defenders and Appellate Public Defenders. Using data from the March 2000 Criminal Justice Estimating Conference on prison releases and inmate sentence length data from the Department of Corrections, the Association estimates a recurring impact of \$562,808 increasing to \$3,448,345 by FY 2004-05.

With regard to the appellate workload, the Office of the Attorney General reports their workload impact will be twice that of the Public Defender Appellate workload impact. The appellate portion of the Public Defender workload estimate is \$121,982 for FY 2000-01 increasing to \$328,193 by FY 2004-05. If the Attorney General's assumption is correct, this would result in costs of \$243,964 for FY 2000-01 and \$656,386 by FY 2004-05. The Attorney General's office offered no explanation regarding why its workload would be twice that of the Public Defender.

The Florida Prosecuting Attorneys Association verbally reported that the workload on their offices would be the same as that reported by the Public Defenders with the exception of the portion of the workload related to appeals. This would equate to \$440,826 for FY 2000-0, increasing to \$2,653,184 by FY 2004-05.

The Governor's proposed budget for FY 2000-01 recommends reducing the Parole Commission by 125 positions and \$4,263,051 by transferring certain functions to the Department of Corrections similar to the provisions of this bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

See above.

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 to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

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:

At its meeting on April 17, 2000, the Committee on Governmental Operations adopted two amendments.

Representative Brummer offers an amendment to correct the statement that "the Board is subject to control, supervision, and direction by the Department", to "is not..."

Representative Posey offers an amendment to clarify that the Parole Commissioners will become Parole Board members, and that the Department of Corrections will give preference to qualified Parole Commission staff, if their positions are affected by this act.

The bill was reported favorably with the amendments traveling with the bill.

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The Committee on Criminal Justice Appropriations heard HB 2325 on April 26, 2000. The Committee adopted one amendment offered by Representative Brummer. The amendment changes the effective date of the bill to July 1, 2000 and directs the Florida Corrections Commission to research the impact of the provisions of the act and report on findings to the Governor, President of the Senate, and Speaker of the House no later than November 1, 2000.

The bill was reported favorably with the amendment traveling with the bill.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Staff Director:

Russell J. Cyphers, Jr.

Russell J. Cyphers Jr.

AS FURTHER REVISED BY THE COMMITTEE ON CRIMINAL JUSTICE
APPROPRIATIONS:

Prepared by:

Staff Director:

Susan M. Mosychuk

James P. DeBeaugrine