

STORAGE NAME: h2325a.go
DATE: April 17, 2000

HOUSE OF REPRESENTATIVES
COMMITTEE ON
GOVERNMENTAL OPERATIONS
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
 - (3) CRIMINAL JUSTICE APPROPRIATIONS
 - (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 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.
- Duplication of functions will be eliminated. As the conditional release population diminishes, there will essentially be only one entity, the circuit courts, imposing and revoking any type of community supervision.
- Offenders 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.
- Maintaining only necessary elements of the Parole Commission in a Parole Board significantly reduces the number of staff to perform the same functions. Most of the Commission staff perform duties already performed by Department staff, or could be performed as efficiently by Department staff, and the courts already perform 95%, or more, of the revocations functions. All three of the Commissioners holding office at the time of enactment will become Board members.

This bill provides an effective date of July 1, 2000.

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This bill will have no fiscal impact on local governments, and should have a net positive fiscal impact on state government.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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:

Post prison release supervision imposed by the Florida Parole Commission (or Commission) occurs in a limited number of cases, by law. Though Florida prisons released 23,025 inmates in FY 98-99, only 4,512 felons had to serve a period of post-prison supervision. This is less than 20% of all releases. The majority of these felons were released under a law called "conditional release" which is a mandatory term of supervision for up to the full amount of the court-imposed sentence. Conditional release is not early release.

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

Since parole was abolished, most of the Commission's workload involves the population of those on conditional release and clemency. 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.

There are approximately 144,000 Florida offenders under community supervision. *Over 96% of these cases were placed under supervision by Florida circuit courts, in twenty judicial circuits by approximately 156 felony circuit court judges. The remaining 4% were placed under supervision by the Florida Parole Commission.*

The courts have the ability to impose supervision of offenders with, or without incarceration. The Florida Parole Commission has the ability to impose post-prison supervision to a very limited population. Supervision for all of these offenders is provided by the Department of Corrections.

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The Florida Parole Commission is an agency that imposes and revokes several types of post-prison supervision, as well as handles clemency investigations. There are 184 authorized Parole Commission employees (FTE).

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 was performed by the courts prior to sentencing. Also there is a review of the inmate's eligibility for release, which includes *only factors that were available, and reviewed, at the original sentencing.*

There is also a review of the inmate's adjustment while in prison. This review is of limited value because under conditional release, such release is not discretionary, and 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 are frequently resolved using less time consuming pleas than the Commission hearings process.

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 diminishing 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 diminishing workload associated with conditional release *revocations* is transferred to the circuit courts. Due to the wide distribution of revocation hearings throughout the 20 judicial circuit court system (156 courts), this impact should be negligible to the courts but allows 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.
- Accountability to victims and victim protection are cornerstones of the Mandatory Post-Prison Probation program.
- Duplication of functions will be eliminated. 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).
- Accountability to the community is enhanced because local courts, where the crimes are committed, exercise control from the beginning of the process, until the completion of the sentence.
- 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. It is more efficient, and less costly to have only one process for imposing and revoking supervision.
- Maintaining only necessary elements of the Parole Commission in a Parole Board significantly reduces the number of staff to perform the same functions. Most of the Commission staff perform duties already performed by Department staff, or could be performed as efficiently by Department staff, and the courts already perform 95%, or more, of the revocations functions. All three of the Commissioners holding office at the time of enactment will become Board members.

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 intention 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".

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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 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 - Confirms 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 - Confirms terminology.

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

Sections 57-60 - Conform terminology.

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

Section 62 - Confirms 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

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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 believes it will be able to absorb the diminishing pre-release workload at no cost. There would be some additional costs to the court system, but it would be small.

After the effective date of the bill, the Department believes there would be a significant positive fiscal impact, due to the reduction in staff necessary to accomplish the functions now tasked to the Parole Commission staff.

Additional savings related to leases would be realized by co-locating Board staff with Department staff.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

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 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.

VII. SIGNATURES:

COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Staff Director:

Russell J. Cyphers, Jr.

Russell J. Cyphers Jr.