

Bill No. CS for SB 388

Amendment No. Barcode 091008

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Senator Burt moved the following amendment:

Senate Amendment (with title amendment)
Delete everything after the enacting clause

and insert:

Section 1. This act may be cited as the "Parole Commission Reform Act of 2001."

Section 2. Paragraph (a) of subsection (1) of section 20.055, Florida Statutes, is amended to read:

20.055 Agency inspectors general.--

(1) For the purposes of this section:

(a) "State agency" means each department created pursuant to this chapter, and also includes the Executive Office of the Governor, the Department of Military Affairs, ~~the Parole Commission,~~ the Board of Regents, the Fish and Wildlife Conservation Commission, the Public Service Commission, and the state courts system.

Section 3. Subsections (1) and (3) of section 944.605, Florida Statutes, are amended, and subsections (5) and (6) are added to said section, to read:

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1 944.605 Inmate release; notification.--
2 (1) Within 6 months before the release of an inmate
3 from the custody of the Department of Corrections or a private
4 correctional facility by expiration of sentence under s.
5 944.275, any release program provided by law, or parole under
6 chapter 947, or as soon as possible if the offender is
7 released earlier than anticipated, notification of such
8 anticipated release date shall be made known by the Department
9 of Corrections ~~appropriate agency~~ to the chief judge of the
10 circuit in which the offender was sentenced, the appropriate
11 state attorney, the original arresting law enforcement agency,
12 the Department of Law Enforcement, and the sheriff as chief
13 law enforcement officer of the county in which the inmate
14 plans to reside. In addition, unless otherwise requested by
15 the victim or the personal representative of the victim, the
16 state attorney or ~~the Department of Corrections, the Control~~
17 ~~Release Authority, or the Parole Commission,~~ whichever is
18 appropriate, shall notify such person within 6 months before
19 the inmate's release, or as soon as possible if the offender
20 is released earlier than anticipated, when the name and
21 address of such victim or representative of the victim has
22 been furnished to the agency. The state attorney shall
23 provide the latest address documented for the victim to the
24 sheriff with the other documents required by law for the
25 delivery of inmates to those agencies for service of sentence.
26 ~~For the purposes of this section, the Parole Commission or the~~
27 ~~Control Release Authority is the appropriate agency for any~~
28 ~~type of release it grants, and the Department of Corrections~~
29 ~~is the appropriate agency for any type of release it~~
30 ~~authorizes.~~ This section does not imply any repeal or
31 modification of any provision of law relating to notification

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1 of victims.

2 (3) If an inmate is to be released after having served
3 one or more sentences for a conviction of robbery, sexual
4 battery, home-invasion robbery, or carjacking, or an inmate to
5 be released has a prior conviction for robbery, sexual
6 battery, home-invasion robbery, or carjacking or similar
7 offense, in this state or in another jurisdiction, and if such
8 prior conviction information is contained in department
9 records, the department ~~appropriate releasing agency~~ shall
10 release to the sheriff of the county in which the inmate plans
11 to reside, and, if the inmate plans to reside within a
12 municipality, to the chief of police of that municipality, the
13 following information, which must include, but need not be
14 limited to:

- 15 (a) Name;
16 (b) Social security number;
17 (c) Date of birth;
18 (d) Race;
19 (e) Sex;
20 (f) Height;
21 (g) Weight;
22 (h) Hair and eye color;
23 (i) Tattoos or other identifying marks;
24 (j) Fingerprints; and
25 (k) A digitized photograph as provided in subsection
26 (2).

27
28 ~~The department, the Parole Commission, or the Control Release~~
29 ~~Authority~~ shall release the information specified in this
30 subsection within 6 months prior to the discharge of the
31 inmate from the custody of the department.

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1 (5) The department shall, at least 10 days before the
2 anticipated date of release on work release of an inmate,
3 notify in writing the county law enforcement agency in the
4 county in this state in which the inmate is scheduled to be
5 released.

6 (6) Upon request of the victim, the personal
7 representative of the victim, or the state attorney, the
8 department shall notify the requesting person when an inmate
9 has been approved for community work release within 30 days
10 after the date of approval.

11 Section 4. Subsection (4) of section 947.04, Florida
12 Statutes, is amended to read:

13 947.04 Organization of commission; officers;
14 offices.--

15 (4) The commission may establish and maintain field
16 offices within existing administration buildings at facilities
17 and institutions operated by the department in centrally and
18 conveniently located places in Florida. Headquarters shall be
19 located in Tallahassee. The business of the commission shall
20 be transacted anywhere in the state as provided in s. 947.06.
21 The commission shall keep its official records and papers at
22 the headquarters, which it shall furnish and equip.

23 Section 5. Subsections (2), (3), (5), (6), and (7) of
24 section 947.1405, Florida Statutes, are amended, and
25 subsection (9) is added to said section, to read:

26 947.1405 Conditional release program.--

27 (2) Any inmate who:

28 (a) Is convicted of a crime committed on or after
29 October 1, 1988, and before January 1, 1994, and any inmate
30 who is convicted of a crime committed on or after January 1,
31 1994, which crime is or was contained in category 1, category

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1 2, category 3, or category 4 of Rule 3.701 and Rule 3.988,
2 Florida Rules of Criminal Procedure (1993), and who has served
3 at least one prior felony commitment at a state or federal
4 correctional institution;

5 (b) Is sentenced as a habitual or violent habitual
6 offender or a violent career criminal pursuant to s. 775.084;
7 or

8 (c) Is found to be a sexual predator under s. 775.21
9 or former s. 775.23,

10

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

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1 and dependents, and other appropriate factors. If any inmate
2 placed on conditional release supervision is also subject to
3 probation or community control, resulting from a probationary
4 or community control split sentence within the overall term of
5 sentences, the Department of Corrections shall supervise such
6 person according to the conditions imposed by the court and
7 the commission shall defer to such supervision. If the court
8 revokes probation or community control and resentsences the
9 offender to a term of incarceration, such revocation also
10 constitutes a sufficient basis for the revocation of the
11 conditional release supervision on any nonprobationary or
12 noncommunity control sentence without further hearing by the
13 commission. If any such supervision on any nonprobationary or
14 noncommunity control sentence is revoked, such revocation may
15 result in a forfeiture of all gain-time, and the commission
16 may revoke the resulting deferred conditional release
17 supervision or take other action it considers appropriate. If
18 the term of conditional release supervision exceeds that of
19 the probation or community control then, upon expiration of
20 the probation or community control, authority for the
21 supervision shall revert to the commission and the supervision
22 shall be subject to the conditions imposed by the commission.
23 ~~If an inmate has received a term of probation or community~~
24 ~~control supervision to be served after release from~~
25 ~~incarceration, the period of probation or community control~~
26 ~~must be substituted for the conditional release supervision.~~A
27 panel of no fewer than two commissioners shall establish the
28 terms and conditions of any such release. If the offense was a
29 controlled substance violation, the conditions shall include a
30 requirement that the offender submit to random substance abuse
31 testing intermittently throughout the term of conditional

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1 release supervision, upon the direction of the correctional
2 probation officer as defined in s. 943.10(3). The commission
3 shall also determine whether the terms and conditions of such
4 release have been violated and whether such violation warrants
5 revocation of the conditional release.

6 (3) As part of the conditional release process, the
7 commission, through review and consideration of information
8 provided by the department, shall determine:

9 (a) The amount of reparation or restitution.

10 (b) The consequences of the offense as reported by the
11 aggrieved party.

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

14 (5) Within 180 days prior to the tentative release
15 date or provisional release date, whichever is earlier, a
16 representative of the department ~~commission shall interview~~
17 ~~the inmate. The commission representative~~ shall review the
18 inmate's program participation, disciplinary record,
19 psychological and medical records, criminal records, and any
20 other information pertinent to the impending release. The
21 department shall gather and compile information necessary for
22 the commission to make the determinations set forth in
23 subsection (3). A department ~~commission~~ representative shall
24 conduct a personal interview with the inmate for the purpose
25 of determining the details of the inmate's release plan,
26 including the inmate's planned residence and employment. The
27 department representative shall forward the inmate's release
28 plan to the commission and recommend to the commission the
29 terms and conditions of the conditional release. ~~The results~~
30 ~~of the interview must be forwarded to the commission in~~
31 ~~writing.~~

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1 (6) ~~Upon receipt of notice as required under s.~~
2 ~~947.175,~~The commission shall review the recommendations of
3 the department, and such other information as it deems
4 relevant, and may conduct a review of the inmate's record for
5 the purpose of establishing the terms and conditions of the
6 conditional release. The commission may impose any special
7 conditions it considers warranted from its review of the
8 release plan and recommendation record. If the commission
9 determines that the inmate is eligible for release under this
10 section, the commission shall enter an order establishing the
11 length of supervision and the conditions attendant thereto.
12 However, an inmate who has been convicted of a violation of
13 chapter 794 or found by the court to be a sexual predator is
14 subject to the maximum level of supervision provided, with the
15 mandatory conditions as required in subsection (7), and that
16 supervision shall continue through the end of the releasee's
17 original court-imposed sentence. The length of supervision
18 must not exceed the maximum penalty imposed by the court.

19 (7)(a) Any inmate who is convicted of a crime
20 committed on or after October 1, 1995, or who has been
21 previously convicted of a crime committed on or after October
22 1, 1995, in violation of chapter 794, s. 800.04, s. 827.071,
23 or s. 847.0145, and is subject to conditional release
24 supervision, shall have, in addition to any other conditions
25 imposed, the following special conditions imposed by the
26 commission:

27 1. A mandatory curfew from 10 p.m. to 6 a.m. The
28 commission court may designate another 8-hour period if the
29 offender's employment precludes the above specified time, and
30 such alternative is recommended by the Department of
31 Corrections. If the commission court determines that imposing

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1 a curfew would endanger the victim, the commission ~~court~~ may
2 consider alternative sanctions.

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

7 3. Active participation in and successful completion
8 of a sex offender treatment program with therapists
9 specifically trained to treat sex offenders, at the releasee's
10 own expense. If a specially trained therapist is not available
11 within a 50-mile radius of the releasee's residence, the
12 offender shall participate in other appropriate therapy.

13 4. A prohibition on any contact with the victim,
14 directly or indirectly, including through a third person,
15 unless approved by the victim, the offender's therapist, and
16 the sentencing court.

17 5. If the victim was under the age of 18, a
18 prohibition against direct contact or association with
19 children under the age of 18 until all of the following
20 conditions are met:

21 a. Successful completion of a sex offender treatment
22 program.

23 b. The adult person who is legally responsible for the
24 welfare of the child has been advised of the nature of the
25 crime.

26 c. Such adult person is present during all contact or
27 association with the child.

28 d. Such adult person has been, ~~until successful~~
29 ~~completion of a sex offender treatment program, on~~
30 ~~unsupervised contact with a child under the age of 18, unless~~
31 ~~authorized by the commission without another adult present who~~

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1 ~~is responsible for the child's welfare, has been advised of~~
2 ~~the crime, and is~~ approved by the commission.

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

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

14 8. A requirement that the releasee must submit two
15 specimens of blood to the Florida Department of Law
16 Enforcement to be registered with the DNA database.

17 9. A requirement that the releasee make restitution to
18 the victim, as determined by the sentencing court or the
19 commission, for all necessary medical and related professional
20 services relating to physical, psychiatric, and psychological
21 care.

22 10. Submission to a warrantless search by the
23 community control or probation officer of the probationer's or
24 community controllee's person, residence, or vehicle.

25 (b) For a releasee whose crime was committed on or
26 after October 1, 1997, in violation of chapter 794, s. 800.04,
27 s. 827.071, or s. 847.0145, and who is subject to conditional
28 release supervision, in addition to any other provision of
29 this subsection, the commission shall impose the following
30 additional conditions of conditional release supervision:

31 1. As part of a treatment program, participation in a

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

10 2. Maintenance of a driving log and a prohibition
11 against driving a motor vehicle alone without the prior
12 approval of the supervising officer.

13 3. A prohibition against obtaining or using a post
14 office box without the prior approval of the supervising
15 officer.

16 4. If there was sexual contact, a submission to, at
17 the probationer's or community controllee's expense, an HIV
18 test with the results to be released to the victim or the
19 victim's parent or guardian.

20 5. Electronic monitoring of any form when ~~deemed~~
21 ~~necessary by the community control or probation officer and~~
22 ~~his or her supervisor, and ordered by the commission court at~~
23 ~~the recommendation of the Department of Corrections.~~

24 (9) The commission shall adopt rules pursuant to ss.
25 120.536(1) and 120.54 necessary to implement the provisions of
26 the Conditional Release Program Act.

27 Section 6. Subsection (2) of section 947.24, Florida
28 Statutes, is amended to read:

29 947.24 Discharge from parole supervision or release
30 supervision.--

31 (2) The commission shall review the progress of each

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1 person who has been placed on parole, control release, or
 2 conditional release after 2 years of supervision in the
 3 community and biennially thereafter. The department shall
 4 provide to the commission the information necessary to conduct
 5 such a review.Such review must include consideration of
 6 whether to modify the reporting schedule, thereby authorizing
 7 the person under parole supervision or release supervision to
 8 submit reports quarterly, semiannually, or annually. The
 9 commission, after having retained jurisdiction of a person for
 10 a sufficient length of time to evidence satisfactory
 11 rehabilitation and cooperation, may further modify the terms
 12 and conditions of the person's parole, control release, or
 13 conditional release, may discharge the person from parole
 14 supervision or release supervision, may relieve the person
 15 from making further reports, or may permit the person to leave
 16 the state or country, upon finding that such action is in the
 17 best interests of the person and society.

18 Section 7. Sections 947.175 and 947.177, Florida
 19 Statutes, are repealed.

20 Section 8. This act shall take effect July 1, 2001.

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 22

23 ===== T I T L E A M E N D M E N T =====

24 And the title is amended as follows:

25 Delete everything before the enacting clause

26

27 and insert:

28

A bill to be entitled

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An act relating to the Parole Commission;

30

creating the "Parole Commission Reform Act of

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2001"; amending s. 20.055, F.S.; deleting the

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1 requirement that the Parole Commission have an
2 inspector general; amending s. 944.605, F.S.;
3 requiring the Department of Corrections, rather
4 than the Parole Commission or the Control
5 Release Authority, to notify certain entities
6 prior to inmate release; amending s. 947.04,
7 F.S.; permitting Parole Commission staff to
8 establish and maintain field offices within
9 existing department facilities; amending s.
10 947.1405, F.S.; providing for deferral of
11 conditional release supervision to probation or
12 community control; providing for automatic
13 revocation of conditional release supervision
14 and forfeiture of gain-time under certain
15 circumstances; providing for reversion to
16 conditional release supervision under certain
17 conditions; requiring the Department of
18 Corrections to review an inmate's program
19 participation and other records prior to
20 conditional release, to conduct a personal
21 interview with the inmate, to forward the
22 inmate's release plan to the Parole Commission,
23 and to make recommendations to the commission;
24 authorizing the commission to impose
25 requirements relating to curfews; correcting
26 references; clarifying the requirement that the
27 commission impose restrictions relating to
28 contact with children; authorizing the
29 commission to require electronic monitoring for
30 certain releasees; authorizing the Parole
31 Commission to adopt rules necessary to

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1 implement the Conditional Release Program Act;
2 amending s. 947.24, F.S.; requiring the
3 department to provide to the commission
4 information for parole or release reviews;
5 repealing s. 947.175, F.S., relating to notice
6 to local agencies by the Parole Commission;
7 repealing s. 947.177, F.S., relating to inmate
8 release, notice by Department of Corrections,
9 Control Release Authority, or Parole
10 Commission; providing an effective date.

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