

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 388

SPONSOR: Criminal Justice Committee and Senator Burt

SUBJECT: Parole Commission Reorganization

DATE: March 7, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gardner	Cannon	CJ	Favorable/CS
2.	_____	_____	GO	_____
3.	_____	_____	APJ	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 388 amends parts of ch. 947, F.S., dealing with the Florida Parole Commission (commission). This reorganization of the commission transfers most of the case management or information gathering functions now performed by the commission to the Department of Corrections (department). The commission retains all of its decision making authority to set conditions of supervision, modify those conditions upon review, conduct revocation hearings, reinstate parole and conditional release, and discharge persons from supervision.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 20.055, 944.605, 947.04, 947.12, 947.1405, 947.175, 947.177, and 947.24.

The provisions of this bill would take effect on July 1, 2001.

II. Present Situation:

A brief review of the Parole Commission history reveals that Article IV, Section 8, of the state constitution, authorized the state to create a parole and probation commission, which it did in 1941. The commission originally had control over all forms of community supervision, such as parole and probation. Management of the state's prisons was placed under the department of Health and Rehabilitative Services (HRS). The commission was given broad discretion about an inmate's eligibility for parole.

Since that time, there have been several changes made in the laws concerning the function of the commission and the department, some of which relate to this bill, such as:

- 1975 – The Division of Correction was removed from HRS and made into a separate agency named the Department of Offender Rehabilitation.
- 1975 – Parole and probation supervision field staff were moved from the commission to the new department.
- 1978 – The Mandatory Parole Guidelines Act limited the broad discretion of the commission by adding more details to the law concerning eligibility for parole.
- 1983 – The sentencing guidelines were enacted to:
 1. produce more uniform sentencing throughout the state by use of objective criteria; and
 2. establish gain time within the department as a mechanism for early release.Companion legislation abolished parole for crimes committed after October 1, 1983.
- 1988 – The Conditional Release Program was created to allow the department to supervise especially violent or repeat offenders who are granted early release through gain time. While the department supervises all persons on whatever form of probation and postprison supervision, the commission is responsible for interviewing the inmate to be put on conditional release and setting the terms of that supervision.

During this time, the Legislature created two other postprison programs placed under the commission's oversight: control release, which is no longer used, and conditional medical release, which affects about 12 prisoners at any given time. The commission also acts as the investigative arm of the Governor and Cabinet in clemency matters, sitting as the Board of Executive Clemency.

The Conditional Release Program was created by the Legislature in 1988 and placed under the administration of the commission. Unlike parole, which is granted at the discretion of the commission, conditional release is a mandatory postprison supervision program imposed on certain prisoners when gain time shortens their court imposed sentence. Inmates sentenced for crimes committed after October 1, 1995, are required to serve at least 85 percent of their court imposed sentence, while those sentenced for crimes before that date can earn considerably more gain time.

Under the current version of s. 947.1405(2), F.S., prisoners who are sentenced for certain violent offenses and have served a prior prison sentence, and those sentenced as habitual offenders or sexual predators, are subject to conditional release. Currently, parole examiners interview and review the records of these inmates and recommend the terms of supervision to the commission, which sets the terms. The released inmate reports to and is supervised by a probation officer under the department.

A Study by the Florida Parole Commission:

During the 2000 legislative session, HB 2325 was introduced as the “Mandatory Postprison Supervision Act of 2000,” which would have:

- renamed the commission as the “Parole Board” and transferred most administrative functions to the department;
- required postprison supervision for all inmates sentenced after July 1, 2000, who were granted gain time;

- authorized the circuit courts to handle the revocation process; and
- phased out traditional conditional release as administered by the commission.

House Bill 2325 was amended at one point to require the Florida Corrections Commission (FCC) to study the impact of the bill. Although neither the bill, nor any amended version, became law, they generated sufficient dialogue to warrant the Governor and the Cabinet to pass a resolution directing the FCC to study the impact of HB 2325.

The FCC made a number of suggestions in its 2000 annual report dealing with reorganization and reforms. Some of those recommendations are addressed in this bill. They are:

- amend s. 947.04, F.S., dealing with location of commission field offices to allow the commission to co-locate those offices in with department offices and facilities;
- amend s. 947.1405, F.S., dealing with the conditional release program in regards to inmates within 180 days of their tentative release date. The department would assume the commission's responsibility for evaluating the inmate and his or her record, as well as, recommending the inmate's release plan and proposed conditions of release; however, the commission may modify the department's recommendation;
- amend ss. 947.1405(7)(a) and 947.1405(7)(b), F.S., dealing with terms of conditional release supervision to transfer from the courts to the commission the authority to set curfews and order electronic monitoring; and
- amend s. 947.24, F.S., dealing with biennial reviews of persons on parole and conditional release. The department would gather the information on these persons under its supervision and provide the commission information necessary to conduct the review.

III. Effect of Proposed Changes:

The primary effects of Committee Substitute for Senate Bill 388 are transferring from the commission to the department more of the functions dealing with conditional release, notice, and co-locating commission and department staff, more specifically:

- The field offices of the commission would be relocated into existing department space;
- The department would assume full responsibility for notifying victims, law enforcement, and others of impending offender releases; and
- Regarding control release, department classification officers would assume responsibility for:
 1. reviewing the prisoner's prison and criminal record,
 2. interviewing the prisoner,
 3. developing a release plan, and
 4. recommending terms of supervision.

The commission would retain the authority to set the conditions of control release supervision as required by law and to impose any special conditions on a case by case basis. Passage of this bill moves most of the case management and information gathering functions to the department, while retaining the final decision making process with the commission. The commission would still have the authority to decide who is paroled, set the conditions of supervision for parole and

conditional release, and the quasi-judicial duty to revoke, reinstate, or modify the conditions of those supervised.

Section 1 of the bill names this act the “Parole Commission Reform Act.”

Section 2 of the bill would amend s. 20.055, F.S., to remove the commission from the list of state agencies required to employ an inspector general.

Section 3 of the bill would amend s. 944.605, F.S., to designate the department as the agency responsible for notifying all the interested parties of an impending offender released from prison or other form of custody. Currently, the commission and the department share that responsibility, and there is some duplication of services. The interested parties are victims or their representatives, local law enforcement, the prosecuting attorney and the sentencing court. Section 8 of this bill repeals sections of ch. 947, F.S., authorizing the commission to give notice.

Section 4 of the bill would amend s. 947.04(4), F.S., dealing with the locations of commission offices. This provision would allow the commission to co-locate its field offices with department staff in department facilities. The commission indicates it is prepared to do this as soon as possible. The department indicates it has space available to absorb the commission’s field offices. The current language in s. 947.04, F.S., provides that the commission’s headquarters will be located in Tallahassee and that field offices be centrally and conveniently located.

Section 5 of the bill would amend s. 947.1405, F.S., pertaining to conditional release. The primary thrust of Section 5 is the transfer of casework from commission staff to department classification officers. There are also two technical changes to the statutorily mandated terms of conditional release supervision under s. 947.1405(7), F.S. The current language of s. 947.1405, F.S., requires a representative of the commission to interview the inmate about to be placed on conditional release, and review the inmate’s record and other pertinent information. The representative prepares a report to the commission based on that information. The commission reviews the information provided to it to establish the terms and conditions of control release. This section adds language delineating the protocol for supervising an offender subject to both conditional release and court-ordered supervision such as probation or community control.

This amendment would authorize the department to take over the inmate evaluation function and release plan function from the commission, resulting in an overall reduction in the commission’s FTEs. The department’s classification office already gathers the same information by monitoring the progress of the inmate while incarcerated. This is achieved by:

- authorizing a representative of the department (classification officer supervising the inmate), rather than representative of the commission (parole examiner), to review the inmate’s program participation, disciplinary report, psychological and medical reports, criminal records, and any other information pertinent to the impending release;
- authorizing a representative of the department, rather than representative of the commission, to personally interview the inmate to determine the inmate’s release plan, especially where the inmate will live and work;
- requiring that the department would evaluate this information and submit a written report to the commission recommending terms and conditions of the inmate’s supervision;

- allowing the commission to review and consider the department's recommendations; and
- permitting the commission to adopt the recommendations of the department, but the commission may impose different terms of supervision.

The two changes to the statutorily mandated terms of conditional release supervision are:

1. The mandatory curfew from 10 p.m. to 6 a.m. can now be altered by the court. This authority would be transferred to the commission.
2. Electronic monitoring can now be ordered by the court when the community supervision officer deems that necessary. The bill removed judicial authority and would authorize the commission to order electronic monitoring "of any form" as the commission sees fit.

Section 6 of the bill would amend s. 947.24(2), F.S., to require the department to provide the commission with all the information it needs to conduct its progress reviews of persons placed on parole and conditional release. The current version of s. 947.24(2), F.S., requires the commission to review the releasee's progress on supervision two years after release and biennially thereafter. This is done to reconsider the terms of supervision for possible modification or discharge from supervision, upon finding that such action is in the best interests of the person and society. The commission staff has traditionally gathered this information. The department, as the agency supervising the releasee, has access to that information. The commission is empowered to modify the terms and conditions of supervision, or release from supervision, if appropriate.

Section 7 of the bill would amend s. 947.12(2), F.S., dealing with per diem and travel expenses. This provision would change some of the terminology in s. 947.12(2), F.S., to be consistent with language elsewhere in ch. 947, F.S. It does not appear that this technical change would alter the substance of the commission's function. The current language of s. 947.12(2), F.S., provides that members of the "examining board" will be reimbursed for their expenses. Some of the language in this section is a holdover from the 1970s and is inconsistent with current terminology.

Section 8 of the bill would repeal ss. 947.175 and 947.177, F.S., which authorized the commission to provide notice to victims or their representatives, local law enforcement, the prosecuting attorney, and the sentencing court of an offenders impending release from custody. Those functions would be assumed in full by the department as provided in section 3 of the bill, amending s. 944.605, F.S.

Section 9 of the bill would require the provisions of this bill to take effect on July 1, 2001.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Reports and documentation by the Governor's office and the Corrections Commission indicate that transferring functions from the commission to the department could result in the elimination of between 30 and 44 full time positions and an annual savings of approximately \$2 million. The department indicates it can absorb these functions without hiring additional staff. The state could save an additional \$300,000 in rental fees by using existing department space for commission field offices.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.