

# 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.	<u>Gardner</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable/CS</u>
2.	<u>Wilson</u>	<u>Wilson</u>	<u>GO</u>	<u>Favorable</u>
3.	_____	_____	<u>APJ</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____

## I. Summary:

Committee Substitute for Senate Bill 388 transfers most of the case management or information gathering functions now performed by the Parole Commission (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 amends sections 20.055, 944.605, 947.04, 947.12, 947.1405, and 947.24, Florida Statutes; and repeals sections 947.175 and 947.177, Florida Statutes.

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

## II. Present Situation:

In 1941 the Legislature created by statute a parole and probation commission, authorized by the voters in Article IV, s. 8, State Constitution. 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 Division of Corrections in the Department of Health and Rehabilitative Services (HRS) following governmental reorganization in 1969. The commission was given broad discretion on 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 Corrections 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 produce more uniform sentencing throughout the state by use of objective criteria; and to establish that gain time would be the sole means of release from confinement. 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 in its capacity 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 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. 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.

During the 2000 legislative session, HB 2325 was introduced as the "Mandatory Postprison Supervision Act of 2000," which:

- 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 to study the impact of the bill. Although the bill did not pass, the issues generated sufficient dialogue to warrant the Governor and the Cabinet to pass a resolution directing the Corrections

Commission to study the impact of HB 2325. In its 2000 annual report, that commission addressed the reorganization and reforms by proposing statutory changes, as follows:

- amending s. 947.04, F.S., to allow the commission to co-locate those offices with department offices and facilities;
- amending s. 947.1405, F.S., dealing with the conditional release program. The department would assume the commission's responsibility for evaluating the inmates within 180 days of release, the review of 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;
- amending ss. 947.1405(7)(a) and 947.1405(7)(b), F.S., transferring from the courts to the commission the authority to set curfews and order electronic monitoring for conditional release supervision; and
- amending s. 947.24, F.S., directing the department to gather the information on these persons under its supervision subject to biennial reviews and provide the commission information necessary to conduct the review.

### III. Effect of Proposed Changes:

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

**Section 1.** Names this act the "Parole Commission Reform Act."

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

**Section 3.** Amends s. 944.605, F.S., to designate the department as the agency responsible for notifying all the interested parties - victims or their representatives, local law enforcement, the prosecuting attorney and the sentencing court - of an impending release of an offender from prison or other form of custody. Section 8 of this bill repeals sections of ch. 947, F.S., authorizing the commission to give notice.

**Section 4.** Amends s. 947.04(4), F.S., to allow the commission to co-locate its field offices with department staff in department facilities.

**Section 5.** Amends s. 947.1405, F.S., to transfer conditional release 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. delineate the protocol for supervising an offender subject to both conditional release and court-ordered supervision such as probation or community control.

This committee substitute authorizes the department to take over the inmate evaluation and release plan function from the commission 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 the department to 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.** Amends 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. The commission is empowered to modify the terms and conditions of supervision, or release from supervision, if appropriate.

**Section 7.** Amends s. 947.12(2), F.S., dealing with per diem and travel expenses. This provision changes some of the terminology in s. 947.12(2), F.S., to be consistent with language elsewhere in ch. 947, F.S. 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.** Repeals 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.** Provides an effective date of 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:**

There are circumstances in which an agency of the State of Florida may abrogate an existing lease agreement prior to its expiration. Two paragraphs of the standard state lease agreement published by the Department of Management Services provide for such abrogation in the absence of appropriated funds or in the event the state agency tenant finds lease space in a state building. In the latter circumstance a six-month notification of termination suffices.

**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.

The Proposed Senate Appropriations Act for FY 2002 recognizes the savings contemplated in this bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.