

By Senator Burt

16-414-01

1                                   A bill to be entitled  
2           An act relating to the Parole Commission;  
3           amending s. 947.04, F.S.; authorizing  
4           commission staff to be located with staff of  
5           the Department of Corrections; amending s.  
6           947.12, F.S.; providing for members of the  
7           parole qualifications committee to be  
8           reimbursed for per diem and travel expenses;  
9           amending s. 947.1405, F.S.; revising procedures  
10          for the review of an inmate's record before the  
11          inmate is released on conditional release;  
12          requiring that the Department of Corrections  
13          conduct certain reviews and report to the  
14          Parole Commission; authorizing the Parole  
15          Commission rather than the court to impose  
16          curfews and require electronic monitoring;  
17          amending s. 947.24, F.S.; requiring that the  
18          Department of Corrections provide information  
19          to the Parole Commission for the purpose of  
20          reviewing the progress of persons placed on  
21          parole, control release, or conditional  
22          release; providing an effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

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26           Section 1. Subsection (4) of section 947.04, Florida  
27 Statutes, is amended to read:

28           947.04 Organization of commission; officers;  
29 offices.--

30           (4) The commission may establish and maintain offices  
31 in centrally and conveniently located places in Florida.

1 Commission staff may be located with department staff in  
2 department offices and facilities.Headquarters shall be  
3 located in Tallahassee. The business of the commission shall  
4 be transacted anywhere in the state as provided in s. 947.06.  
5 The commission shall keep its official records and papers at  
6 the headquarters, which it shall furnish and equip.

7 Section 2. Subsection (2) of section 947.12, Florida  
8 Statutes, is amended to read:

9 947.12 Members, employees, expenses.--

10 (2) The members of the parole qualifications committee  
11 ~~examining board~~ created in s. 947.02 are entitled to  
12 reimbursement for ~~shall each be paid~~ per diem and travel  
13 expenses pursuant to s. 112.061 when traveling in the  
14 performance of their duties.

15 Section 3. Section 947.1405, Florida Statutes, is  
16 amended to read:

17 947.1405 Conditional release program.--

18 (1) This section and s. 947.141 may be cited as the  
19 "Conditional Release Program Act."

20 (2) Any inmate who:

21 (a) Is convicted of a crime committed on or after  
22 October 1, 1988, and before January 1, 1994, and any inmate  
23 who is convicted of a crime committed on or after January 1,  
24 1994, which crime is or was contained in category 1, category  
25 2, category 3, or category 4 of Rule 3.701 and Rule 3.988,  
26 Florida Rules of Criminal Procedure (1993), and who has served  
27 at least one prior felony commitment at a state or federal  
28 correctional institution;

29 (b) Is sentenced as a habitual or violent habitual  
30 offender or a violent career criminal pursuant to s. 775.084;  
31 or

1           (c) Is found to be a sexual predator under s. 775.21  
2 or former s. 775.23,  
3  
4 shall, upon reaching the tentative release date or provisional  
5 release date, whichever is earlier, as established by the  
6 Department of Corrections, be released under supervision  
7 subject to specified terms and conditions, including payment  
8 of the cost of supervision pursuant to s. 948.09. Such  
9 supervision shall be applicable to all sentences within the  
10 overall term of sentences if an inmate's overall term of  
11 sentences includes one or more sentences that are eligible for  
12 conditional release supervision as provided herein. Effective  
13 July 1, 1994, and applicable for offenses committed on or  
14 after that date, the commission may require, as a condition of  
15 conditional release, that the releasee make payment of the  
16 debt due and owing to a county or municipal detention facility  
17 under s. 951.032 for medical care, treatment, hospitalization,  
18 or transportation received by the releasee while in that  
19 detention facility. The commission, in determining whether to  
20 order such repayment and the amount of such repayment, shall  
21 consider the amount of the debt, whether there was any fault  
22 of the institution for the medical expenses incurred, the  
23 financial resources of the releasee, the present and potential  
24 future financial needs and earning ability of the releasee,  
25 and dependents, and other appropriate factors. If an inmate  
26 has received a term of probation or community control  
27 supervision to be served after release from incarceration, the  
28 period of probation or community control must be substituted  
29 for the conditional release supervision. A panel of no fewer  
30 than two commissioners shall establish the terms and  
31 conditions of any such release. If the offense was a

1 controlled substance violation, the conditions shall include a  
2 requirement that the offender submit to random substance abuse  
3 testing intermittently throughout the term of conditional  
4 release supervision, upon the direction of the correctional  
5 probation officer as defined in s. 943.10(3). The commission  
6 shall also determine whether the terms and conditions of such  
7 release have been violated and whether such violation warrants  
8 revocation of the conditional release.

9 (3) As part of the conditional release process, the  
10 commission shall, through review and consideration of  
11 information provided by the department, determine:

12 (a) The amount of reparation or restitution.

13 (b) The consequences of the offense as reported by the  
14 aggrieved party.

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

17 (4) The commission shall provide to the aggrieved  
18 party information regarding the manner in which notice of any  
19 developments concerning the status of the inmate during the  
20 term of conditional release may be requested.

21 (5) Within 180 days prior to the tentative release  
22 date or provisional release date, whichever is earlier, a  
23 representative of the department ~~commission shall interview~~  
24 ~~the inmate. The commission representative~~ shall review the  
25 inmate's program participation, disciplinary record,  
26 psychological and medical records, criminal records, and any  
27 other information pertinent to the impending release. A  
28 department ~~commission~~ representative shall conduct a personal  
29 interview with the inmate for the purpose of determining the  
30 details of the inmate's release plan, including the inmate's  
31

1 planned residence and employment. ~~The results of the~~  
2 ~~interview must be forwarded to the commission in writing.~~

3 (6) Based upon a review of the inmate's records and  
4 the interview, the department shall advise the commission in  
5 writing of the inmate's release plan and recommend to the  
6 commission the terms and conditions of the inmate's  
7 conditional release.

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

26 (8)(7)(a) Any inmate who is convicted of a crime  
27 committed on or after October 1, 1995, or who has been  
28 previously convicted of a crime committed on or after October  
29 1, 1995, in violation of chapter 794, s. 800.04, s. 827.071,  
30 or s. 847.0145, and is subject to conditional release  
31 supervision, shall have, in addition to any other conditions

1 imposed, the following special conditions imposed by the  
2 commission:

3           1. A mandatory curfew from 10 p.m. to 6 a.m. The  
4 commission ~~court~~ may designate another 8-hour period if the  
5 offender's employment precludes the above specified time, and  
6 such alternative is recommended by the Department of  
7 Corrections. If the commission ~~court~~ determines that imposing  
8 a curfew would endanger the victim, the commission ~~court~~ may  
9 consider alternative sanctions.

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

14           3. Active participation in and successful completion  
15 of a sex offender treatment program with therapists  
16 specifically trained to treat sex offenders, at the releasee's  
17 own expense. If a specially trained therapist is not available  
18 within a 50-mile radius of the releasee's residence, the  
19 offender shall participate in other appropriate therapy.

20           4. A prohibition on any contact with the victim,  
21 directly or indirectly, including through a third person,  
22 unless approved by the victim, the offender's therapist, and  
23 the sentencing court.

24           5. If the victim was under the age of 18, a  
25 prohibition, until successful completion of a sex offender  
26 treatment program, on unsupervised contact with a child under  
27 the age of 18, unless authorized by the commission without  
28 another adult present who is responsible for the child's  
29 welfare, has been advised of the crime, and is approved by the  
30 commission.

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

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

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

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

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

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

29           1. As part of a treatment program, participation in a  
30 minimum of one annual polygraph examination to obtain  
31 information necessary for risk management and treatment and to

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

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

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

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

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

22           (9)~~(8)~~ It is the finding of the Legislature that the  
23 population of offenders released from state prison into the  
24 community who meet the conditional release criteria poses the  
25 greatest threat to the public safety of the groups of  
26 offenders under community supervision. Therefore, the  
27 Department of Corrections is to provide intensive supervision  
28 by experienced correctional probation officers to conditional  
29 release offenders. Subject to specific appropriation by the  
30 Legislature, caseloads may be restricted to a maximum of 40  
31 conditional release offenders per officer to provide for

1 enhanced public safety and to effectively monitor conditions  
2 of electronic monitoring or curfews, if so ordered by the  
3 commission.

4 Section 4. Subsection (2) of section 947.24, Florida  
5 Statutes, is amended to read:

6 947.24 Discharge from parole supervision or release  
7 supervision.--

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

26 Section 5. This act shall take effect July 1, 2001.  
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SENATE SUMMARY

Provides for staff members of the Parole Commission to be located with staff members of the Department of Corrections. Revises procedures under which an inmate's record is reviewed before the inmate is released on conditional release. Requires that the Department of Corrections rather than the Parole Commission conduct certain reviews before an inmate is released and report to the Parole Commission. Provides for the Parole Commission rather than the court to impose curfews and require electronic monitoring of certain inmates released on conditional release. Requires that the Department of Corrections provide information to the Parole Commission for the purpose of reviewing the progress of former inmates placed on parole, control release, or conditional release.