

By the Committee on Criminal Justice and Senator Burt

307-1464-01

1 A bill to be entitled
2 An act relating to the Parole Commission;
3 creating the "Parole Commission Reform Act";
4 amending s. 20.055, F.S.; deleting the
5 requirement that the Parole Commission have an
6 inspector general; amending s. 944.605, F.S.;
7 requiring the Department of Corrections, rather
8 than the Parole Commission or the Control
9 Release Authority, to notify certain entities
10 prior to inmate release; amending s. 947.04,
11 F.S.; permitting Parole Commission staff to
12 establish and maintain field offices within
13 existing department facilities; amending s.
14 947.1405, F.S.; providing for deferral of
15 conditional release supervision to probation or
16 community control; providing for automatic
17 revocation of conditional release supervision
18 and forfeiture of gain-time under certain
19 circumstances; providing for reversion to
20 conditional release supervision under certain
21 conditions; requiring the Department of
22 Corrections to review an inmate's program
23 participation and other records prior to
24 conditional release, to conduct a personal
25 interview with the inmate, to forward the
26 inmate's release plan to the Parole Commission,
27 and to make recommendations to the commission;
28 authorizing the commission to impose
29 requirements relating to curfews; conforming
30 references; clarifying the requirement that the
31 commission impose restrictions relating to

1 contact with children; authorizing the
2 commission to require electronic monitoring for
3 certain releasees; authorizing the Parole
4 Commission to adopt rules necessary to
5 implement the Conditional Release Program Act;
6 amending s. 947.24, F.S.; requiring the
7 department to provide to the commission
8 information for parole or release reviews;
9 amending s. 947.12, F.S.; providing for members
10 of the parole qualifications committee to be
11 reimbursed for per diem and travel expenses;
12 repealing s. 947.175, F.S., relating to notice
13 to local agencies by the Parole Commission;
14 repealing s. 947.177, F.S., relating to inmate
15 release, notice by Department of Corrections,
16 Control Release Authority, or Parole
17 Commission; providing an effective date.

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19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. This act may be cited as the "Parole
22 Commission Reform Act."

23 Section 2. Paragraph (a) of subsection (1) of section
24 20.055, Florida Statutes, is amended to read:

25 20.055 Agency inspectors general.--

26 (1) For the purposes of this section:

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

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

6 944.605 Inmate release; notification.--

7 (1) Within 6 months before the release of an inmate
8 from the custody of the Department of Corrections or a private
9 correctional facility by expiration of sentence under s.
10 944.275, any release program provided by law, or parole under
11 chapter 947, or as soon as possible if the offender is
12 released earlier than anticipated, notification of such
13 anticipated release date shall be made known by the Department
14 of Corrections ~~appropriate agency~~ to the chief judge of the
15 circuit in which the offender was sentenced, the appropriate
16 state attorney, the original arresting law enforcement agency,
17 the Department of Law Enforcement, and the sheriff as chief
18 law enforcement officer of the county in which the inmate
19 plans to reside. In addition, unless otherwise requested by
20 the victim or the personal representative of the victim, the
21 state attorney or, the Department of Corrections, ~~the Control~~
22 ~~Release Authority, or the Parole Commission,~~ whichever is
23 appropriate, shall notify such person within 6 months before
24 the inmate's release, or as soon as possible if the offender
25 is released earlier than anticipated, when the name and
26 address of such victim or representative of the victim has
27 been furnished to the agency. The state attorney shall
28 provide the latest address documented for the victim to the
29 sheriff with the other documents required by law for the
30 delivery of inmates to those agencies for service of sentence.
31 ~~For the purposes of this section, the Parole Commission or the~~

1 ~~Control Release Authority is the appropriate agency for any~~
2 ~~type of release it grants, and the Department of Corrections~~
3 ~~is the appropriate agency for any type of release it~~
4 ~~authorizes.~~ This section does not imply any repeal or
5 modification of any provision of law relating to notification
6 of victims.

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

- 20 (a) Name;
- 21 (b) Social security number;
- 22 (c) Date of birth;
- 23 (d) Race;
- 24 (e) Sex;
- 25 (f) Height;
- 26 (g) Weight;
- 27 (h) Hair and eye color;
- 28 (i) Tattoos or other identifying marks;
- 29 (j) Fingerprints; and
- 30 (k) A digitized photograph as provided in subsection
- 31 (2).

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2 The department, ~~the Parole Commission, or the Control Release~~
3 ~~Authority~~ shall release the information specified in this
4 subsection within 6 months prior to the discharge of the
5 inmate from the custody of the department.

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

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

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

18 947.04 Organization of commission; officers;
19 offices.--

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

28 Section 5. Subsections (2), (3), (5), (6), and (7) of
29 section 947.1405, Florida Statutes, are amended, and
30 subsection (9) is added to that section, to read:

31 947.1405 Conditional release program.--

1 (2) Any inmate who:

2 (a) Is convicted of a crime committed on or after
3 October 1, 1988, and before January 1, 1994, and any inmate
4 who is convicted of a crime committed on or after January 1,
5 1994, which crime is or was contained in category 1, category
6 2, category 3, or category 4 of Rule 3.701 and Rule 3.988,
7 Florida Rules of Criminal Procedure (1993), and who has served
8 at least one prior felony commitment at a state or federal
9 correctional institution;

10 (b) Is sentenced as a habitual or violent habitual
11 offender or a violent career criminal pursuant to s. 775.084;
12 or

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

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

1 order such repayment and the amount of such repayment, shall
2 consider the amount of the debt, whether there was any fault
3 of the institution for the medical expenses incurred, the
4 financial resources of the releasee, the present and potential
5 future financial needs and earning ability of the releasee,
6 and dependents, and other appropriate factors. If any inmate
7 placed on conditional release supervision is also subject to
8 probation or community control resulting from a probationary
9 or community control split sentence within the overall term of
10 sentences, the Department of Corrections shall supervise such
11 person according to the conditions imposed by the court and
12 the commission shall defer to such supervision. If the court
13 revokes probation or community control and resentences the
14 offender to a term of incarceration, such revocation also
15 constitutes a sufficient basis for the revocation of the
16 conditional release supervision on any nonprobationary or
17 noncommunity control sentence without further hearing by the
18 commission. If any such supervision on any nonprobationary or
19 noncommunity control sentence is revoked, such revocation may
20 result in a forfeiture of all gain-time, and the commission
21 may revoke the resulting deferred conditional release
22 supervision or take other action it considers appropriate. If
23 the term of conditional release supervision exceeds that of
24 the probation or community control then, upon expiration of
25 the probation or community control, authority for the
26 supervision shall revert to the commission and the supervision
27 shall be subject to the conditions imposed by the commission.
28 ~~If an inmate has received a term of probation or community~~
29 ~~control supervision to be served after release from~~
30 ~~incarceration, the period of probation or community control~~
31 ~~must be substituted for the conditional release supervision.~~A

1 panel of no fewer than two commissioners shall establish the
2 terms and conditions of any such release. If the offense was a
3 controlled substance violation, the conditions shall include a
4 requirement that the offender submit to random substance abuse
5 testing intermittently throughout the term of conditional
6 release supervision, upon the direction of the correctional
7 probation officer as defined in s. 943.10(3). The commission
8 shall also determine whether the terms and conditions of such
9 release have been violated and whether such violation warrants
10 revocation of the conditional release.

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

14 (a) The amount of reparation or restitution.

15 (b) The consequences of the offense as reported by the
16 aggrieved party.

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

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

1 department representative shall forward the inmate's release
2 plan to the commission and recommend to the commission the
3 terms and conditions of the conditional release.~~The results~~
4 ~~of the interview must be forwarded to the commission in~~
5 ~~writing.~~

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

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

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

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

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

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

22 5. If the victim was under the age of 18, a
23 prohibition against direct contact or association with
24 children under the age of 18 until all of the following
25 conditions are met:

26 a. Successful completion of a sex offender treatment
27 program.

28 b. The adult person who is legally responsible for the
29 welfare of the child has been advised of the nature of the
30 crime.

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1 c. Such adult person is present during all contact or
2 association with the child.

3 d. Such adult person has been, until successful
4 completion of a sex offender treatment program, on
5 unsupervised contact with a child under the age of 18, unless
6 authorized by the commission without another adult present who
7 is responsible for the child's welfare, has been advised of
8 the crime, and is approved by the commission.

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

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

20 8. A requirement that the releasee must submit two
21 specimens of blood to the Florida Department of Law
22 Enforcement to be registered with the DNA database.

23 9. A requirement that the releasee make restitution to
24 the victim, as determined by the sentencing court or the
25 commission, for all necessary medical and related professional
26 services relating to physical, psychiatric, and psychological
27 care.

28 10. Submission to a warrantless search by the
29 community control or probation officer of the probationer's or
30 community controllee's person, residence, or vehicle.

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

7 1. As part of a treatment program, participation in a
8 minimum of one annual polygraph examination to obtain
9 information necessary for risk management and treatment and to
10 reduce the sex offender's denial mechanisms. The polygraph
11 examination must be conducted by a polygrapher trained
12 specifically in the use of the polygraph for the monitoring of
13 sex offenders, where available, and at the expense of the sex
14 offender. The results of the polygraph examination shall not
15 be used as evidence in a hearing to prove that a violation of
16 supervision has occurred.

17 2. Maintenance of a driving log and a prohibition
18 against driving a motor vehicle alone without the prior
19 approval of the supervising officer.

20 3. A prohibition against obtaining or using a post
21 office box without the prior approval of the supervising
22 officer.

23 4. If there was sexual contact, a submission to, at
24 the probationer's or community controllee's expense, an HIV
25 test with the results to be released to the victim or the
26 victim's parent or guardian.

27 5. Electronic monitoring of any form when ~~deemed~~
28 ~~necessary by the community control or probation officer and~~
29 ~~his or her supervisor, and ordered by the commission court at~~
30 ~~the recommendation of the Department of Corrections.~~

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1 (9) The commission shall adopt rules pursuant to ss.
2 120.536(1) and 120.54 necessary to implement the provisions of
3 the Conditional Release Program Act.

4 Section 6. 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 the information necessary to conduct
13 such a review.Such review must include consideration of
14 whether to modify the reporting schedule, thereby authorizing
15 the person under parole supervision or release supervision to
16 submit reports quarterly, semiannually, or annually. The
17 commission, after having retained jurisdiction of a person for
18 a 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 7. Subsection (2) of section 947.12, Florida
27 Statutes, is amended to read:

28 947.12 Members, employees, expenses.--

29 (2) The members of the parole qualifications committee
30 ~~examining board~~ created in s. 947.02 are entitled to
31 reimbursement for ~~shall each be paid~~ per diem and travel

1 expenses pursuant to s. 112.061 when traveling in the
2 performance of their duties.

3 Section 8. Sections 947.175 and 947.177, Florida
4 Statutes, are repealed.

5 Section 9. This act shall take effect July 1, 2001.

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7 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
8 COMMITTEE SUBSTITUTE FOR
9 Senate Bill 388

- 10 - Provides that the Florida Parole Commission will be
11 removed from the list of state agencies required to
employ an inspector general.
- 12 - Provides that the Florida Parole Commission will no
13 longer be responsible for notifying victims, law
14 enforcement, prosecution, and courts of the impending
15 release of offenders going to post-prison supervision.
Rather, the Department of Corrections will assume full
responsibility for notifying those interested parties.
- 16 - Establishes a protocol for priority of community
17 supervision for those released from prison. Under this
18 protocol, court-ordered supervision shall take
19 precedence over post-prison supervision, they will run
20 concurrently, but if the court-ordered supervision
expires before the post-prison supervision, then the
conditions of post-prison supervision under the
commission shall become effective. Furthermore, a
violation of court-ordered supervision is sufficient to
revoke the concurrent post-prison supervision.