

By the Committee on Criminal Justice

591-1680-07

1                                   A bill to be entitled  
2           An act relating to the Parole Commission;  
3           amending s. 947.13, F.S.; clarifying the powers  
4           and duties of the commission; authorizing the  
5           commission to establish the term and conditions  
6           of persons released on addiction-recovery  
7           supervision; amending s. 947.1405, F.S.;  
8           revising certain requirements of the  
9           Conditional Release Program Act; authorizing  
10          conditional release for certain sexual  
11          predators; requiring that certain inmates  
12          placed on conditional release be subject to  
13          court-ordered community supervision; requiring  
14          that an inmate who commits certain subsequent  
15          offenses be subject again to the requirements  
16          of conditional release supervision; authorizing  
17          the commission to modify the conditions of an  
18          inmate's supervision; providing additional  
19          restrictions applicable to a releasee who is  
20          prohibited from living, loitering, or working  
21          at a place where children regularly congregate;  
22          amending s. 947.141, F.S.; specifying the  
23          authority of certain officers to execute  
24          warrants for the arrest of an offender who  
25          violates the conditions of release; providing  
26          circumstances under which an offender may be  
27          taken into custody without a warrant; providing  
28          for the period of supervision for an offender  
29          to be tolled following an arrest until the  
30          commission enters a ruling; authorizing a  
31          commissioner or a representative of the

1 commission to compel the attendance of  
2 witnesses at a hearing of the commission;  
3 requiring the commission to adopt rules;  
4 providing that the inability of a sexual  
5 offender to comply with certain residence  
6 requirements is not a defense to a violation of  
7 such requirements; amending s. 947.22, F.S.;  
8 providing conditions under which a parolee may  
9 be taken into custody without a warrant;  
10 providing for the period of supervision for the  
11 parolee to be tolled following such an arrest  
12 until the commission enters a ruling; amending  
13 s. 947.23, F.S.; clarifying circumstances under  
14 which the commission may exclude evidence or  
15 testimony in a hearing following the arrest of  
16 a parolee; providing for certain additional  
17 evidence to be admissible; amending s. 775.21,  
18 F.S., relating to the Florida Sexual Predators  
19 Act; conforming a cross-reference; providing an  
20 effective date.

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24 Section 1. Subsection (1) of section 947.13, Florida  
25 Statutes, is amended to read:

26 947.13 Powers and duties of commission.--

27 (1) The commission shall have the powers and perform  
28 the duties of:

29 (a) Determining which ~~what~~ persons shall be placed on  
30 parole, subject to the provisions of ss. 947.172 and 947.174.

31

1 (b) Establishing the term ~~Fixing the time~~ and  
2 conditions of parole, as provided in this chapter.

3 (c) Determining whether a person has violated parole  
4 and taking action with respect to such a violation.

5 (d) Making such investigations as may be necessary.

6 (e) Reporting to the Board of Executive Clemency the  
7 circumstances, the criminal records, and the social, physical,  
8 mental, and psychiatric conditions and histories of persons  
9 under consideration by the board for pardon, commutation of  
10 sentence, or remission of fine, penalty, or forfeiture.

11 (f) Determining which persons are eligible to be  
12 released on conditional release under s. 947.1405,  
13 establishing the ~~term~~ ~~terms~~ and conditions of persons released  
14 on conditional release ~~under s. 947.1405,~~ and determining  
15 whether a person has violated ~~subsequent ineligibility for~~  
16 ~~conditional release due to a violation of the ~~terms or~~~~  
17 conditions of conditional release and taking action with  
18 respect to such a violation.

19 (g) As the Control Release Authority, determining  
20 which ~~what~~ persons will be released on control release under  
21 s. 947.146, establishing the term ~~time~~ and conditions of  
22 control release, if any, and determining whether a person has  
23 violated the conditions of control release and taking action  
24 with respect to such a violation.

25 (h) Determining which ~~what~~ persons will be released on  
26 conditional medical release under s. 947.149, establishing the  
27 conditions of conditional medical release, and determining  
28 whether a person has violated the conditions of conditional  
29 medical release and taking action with respect to such a  
30 violation.

31

1           (i) Determining which person will be released on  
2 addiction-recovery supervision under s. 944.4731, establishing  
3 the term and conditions of addiction-recovery supervision, and  
4 determining whether a person has violated the conditions of  
5 addiction-recovery supervision and taking action with respect  
6 to such a violation.

7           Section 2. Section 947.1405, Florida Statutes, is  
8 amended to read:

9           947.1405 Conditional release program.--

10           (1) This section ~~and s. 947.141~~ may be cited as the  
11 "Conditional Release Program Act."

12           (2) Any inmate who:

13           (a) Is convicted of a crime committed on or after  
14 October 1, 1988, and before January 1, 1994, and any inmate  
15 who is convicted of a crime committed on or after January 1,  
16 1994, which crime is or was contained in ~~category 1, category~~  
17 ~~2, category 3, or category 4~~ of Rule 3.701 and Rule 3.988,  
18 Florida Rules of Criminal Procedure (1993), as set forth in  
19 the following offense categories:

20           1. Category 1: murder; manslaughter under chapter 782,  
21 except capital murder under s. 782.04(1)(a); DUI manslaughter  
22 involving an automobile under s. 316.193(3)(c)3.; and DUI  
23 manslaughter involving a vessel under s. 327.35(3)(c)3.

24           2. Category 2: sexual offenses under chapter 794,  
25 including s. 794.05; lewdness, indecent exposure under chapter  
26 800; incest under s. 826.04; sexual misconduct by a  
27 psychotherapist under s. 491.0112; and registration  
28 requirements for sexual predators under s. 775.21.

29           3. Category 3: robbery under s. 812.13; carjacking  
30 under s. 812.133(2)(a); and home-invasion robbery under s.  
31 812.135;

1           4. Category 4: violent personal crimes, including  
2 assault or battery upon a district school board employee under  
3 s. 784.081; assault and battery under chapter 784; carjacking  
4 under s. 812.133(2)(b); threats or extortion under s. 836.05;  
5 written threats to kill or do bodily injury under s. 836.10;  
6 resisting an officer with violence under s. 843.01; and  
7 battery on a specified employee under s. 784.081;

8           (b) Is convicted of any offense committed on or after  
9 October 1, 2006, under the following statutory sections:

10           1. Section 784.048, relating to aggravated stalking;

11           2. Section 787.01, relating to kidnapping;

12           3. Section 787.02, relating to false imprisonment;

13           4. Section 787.025, relating to luring or enticing a  
14 child;

15           5. Section 787.06, relating to human trafficking;

16           6. Section 796.03, relating to procuring a person  
17 under age 18 for prostitution;

18           7. Section 827.071, relating to sexual performance by  
19 a child;

20           8. Section 847.0135, relating to computer pornography;

21           9. Section 847.0137, relating to the transmission of  
22 pornography by electronic device or equipment;

23           10. Section 847.0138, relating to the transmission of  
24 material harmful to minors to a minor by electronic device or  
25 equipment; or

26           11. Section 847.0145, relating to the selling or  
27 buying of minors.

28  
29 and who has served at least one prior felony commitment at a  
30 state or federal correctional institution;  
31

1           ~~(c)(b)~~ Is sentenced as a habitual or violent habitual  
2 offender or a violent career criminal pursuant to s. 775.084;  
3 or  
4           ~~(d)(e)~~ Is found to be a sexual predator under s.  
5 775.21 or former s. 775.23,  
6  
7 shall, upon reaching the tentative release date or provisional  
8 release date, whichever is earlier, as established by the  
9 Department of Corrections, be released under supervision  
10 subject to specified terms and conditions, including payment  
11 of the cost of supervision pursuant to s. 948.09. Such  
12 supervision shall be applicable to all sentences within the  
13 overall term of sentences if an inmate's overall term of  
14 sentences includes one or more sentences that are eligible for  
15 conditional release supervision as provided herein. If the  
16 inmate is found to be a sexual predator, he or she is eligible  
17 for conditional release until such designation is removed by a  
18 court of competent jurisdiction regardless of the inmate's  
19 current sentence. Effective July 1, 1994, and applicable for  
20 offenses committed on or after that date, the commission may  
21 require, as a condition of conditional release, that the  
22 releasee make payment of the debt due and owing to a county or  
23 municipal detention facility under s. 951.032 for medical  
24 care, treatment, hospitalization, or transportation received  
25 by the releasee while in that detention facility. The  
26 commission, in determining whether to order such repayment and  
27 the amount of such repayment, shall consider the amount of the  
28 debt, whether there was any fault of the institution for the  
29 medical expenses incurred, the financial resources of the  
30 releasee, the present and potential future financial needs and  
31 earning ability of the releasee, and dependents, and other

1 appropriate factors. If any inmate placed on conditional  
2 release supervision is also subject to court-ordered community  
3 supervision, the period of court-ordered community supervision  
4 may not be substituted for conditional release supervision and  
5 shall follow the term of conditional release supervision.  
6 ~~probation or community control, resulting from a probationary~~  
7 ~~or community control split sentence within the overall term of~~  
8 ~~sentences, the Department of Corrections shall supervise such~~  
9 ~~person according to the conditions imposed by the court and~~  
10 ~~the commission shall defer to such supervision. If the court~~  
11 ~~revokes probation or community control and resentsences the~~  
12 ~~offender to a term of incarceration, such revocation also~~  
13 ~~constitutes a sufficient basis for the revocation of the~~  
14 ~~conditional release supervision on any nonprobationary or~~  
15 ~~noncommunity control sentence without further hearing by the~~  
16 ~~commission. If any such supervision on any nonprobationary or~~  
17 ~~noncommunity control sentence is revoked, such revocation may~~  
18 ~~result in a forfeiture of all gain time, and the commission~~  
19 ~~may revoke the resulting deferred conditional release~~  
20 ~~supervision or take other action it considers appropriate. If~~  
21 ~~the term of conditional release supervision exceeds that of~~  
22 ~~the probation or community control, then, upon expiration of~~  
23 ~~the probation or community control, authority for the~~  
24 ~~supervision shall revert to the commission and the supervision~~  
25 ~~shall be subject to the conditions imposed by the commission.~~  
26 A panel of no fewer than two commissioners shall establish the  
27 terms and conditions of any such release. If the offense was a  
28 controlled substance violation, the conditions shall include a  
29 requirement that the offender submit to random substance abuse  
30 testing intermittently throughout the term of conditional  
31 release supervision, upon the direction of the correctional

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

5 |       (3) If an inmate who has previously been determined to  
6 | be eligible for conditional release subsequently commits  
7 | another criminal offense resulting in incarceration in a state  
8 | correctional facility, the inmate shall be subject again to  
9 | all the requirements of conditional release supervision,  
10 | regardless of whether the new commitment meets the eligibility  
11 | requirements set forth in subsection (2). Upon reaching the  
12 | tentative release date or provisional release date, whichever  
13 | occurs earlier, as established by the Department of  
14 | Corrections, the inmate shall be released under supervision  
15 | subject to specified terms and conditions, including payment  
16 | of the costs of supervision pursuant to s. 948.09. The  
17 | commission shall establish the terms and conditions of  
18 | conditional release pursuant to the requirements of this  
19 | section and may impose any special conditions it considers  
20 | warranted, including any special provisions previously  
21 | required as a result of the specific offenses that originally  
22 | rendered the inmate subject to conditional release  
23 | supervision.

24 |       ~~(4)(3)~~ As part of the conditional release process, the  
25 | commission, through review and consideration of information  
26 | provided by the department, shall determine:

- 27 |           (a) The amount of reparation or restitution.  
28 |           (b) The consequences of the offense as reported by the  
29 | aggrieved party.  
30 |           (c) The aggrieved party's fear of the inmate or  
31 | concerns about the release of the inmate.



1       ~~(5)~~(4) The commission shall provide to the aggrieved  
2 party information regarding the manner in which notice of any  
3 developments concerning the status of the inmate during the  
4 term of conditional release may be requested.

5       ~~(6)~~(5) Within 180 days prior to the tentative release  
6 date or provisional release date, whichever is earlier, a  
7 representative of the department shall review the inmate's  
8 program participation, disciplinary record, psychological and  
9 medical records, criminal records, and any other information  
10 pertinent to the impending release. The department shall  
11 gather and compile information necessary for the commission to  
12 make the determinations set forth in subsection (3). A  
13 department representative shall conduct a personal interview  
14 with the inmate for the purpose of determining the details of  
15 the inmate's release plan, including the inmate's planned  
16 residence and employment. The department representative shall  
17 forward the inmate's release plan to the commission and  
18 recommend to the commission the terms and conditions of the  
19 conditional release.

20       ~~(7)~~(6) The commission shall review the recommendations  
21 of the department, and such other information as it deems  
22 relevant, and may conduct a review of the inmate's record for  
23 the purpose of establishing the terms and conditions of the  
24 conditional release. The commission may impose any special  
25 conditions it considers warranted from its review of the  
26 release plan and recommendation. If the commission determines  
27 that the inmate is eligible for release under this section,  
28 the commission shall enter an order establishing the length of  
29 supervision and the conditions attendant thereto. However, an  
30 inmate who has been convicted of a violation of chapter 794 or  
31 found by the court to be a sexual predator is subject to the

1 maximum level of supervision provided, with the mandatory  
2 conditions as required in subsection (7), and that supervision  
3 shall continue through the end of the releasee's original  
4 court-imposed sentence. The length of supervision must not  
5 exceed the maximum penalty imposed by the court. The  
6 commission may, at any time, modify the conditions of  
7 supervision to ensure the safety of the community.

8 ~~(8)(7)~~(a) Any inmate who is convicted of a crime  
9 committed on or after October 1, 1995, or who has been  
10 previously convicted of a crime committed on or after October  
11 1, 1995, in violation of chapter 794, s. 800.04, s. 827.071,  
12 or s. 847.0145, and is subject to conditional release  
13 supervision, shall have, in addition to any other conditions  
14 imposed, the following special conditions imposed by the  
15 commission:

16 1. A mandatory curfew from 10 p.m. to 6 a.m. The  
17 commission may designate another 8-hour period if the  
18 offender's employment precludes the above specified time, and  
19 such alternative is recommended by the Department of  
20 Corrections. If the commission determines that imposing a  
21 curfew would endanger the victim, the commission may consider  
22 alternative sanctions.

23 2. If the victim was under the age of 18, a  
24 prohibition on living or loitering within 1,000 feet of, or  
25 working for pay or as a volunteer at, a school, day care  
26 center, park, playground, designated public school bus stop,  
27 restaurant having an attached playground, amusement park,  
28 business establishment whose primary clients are children, or  
29 other place where children regularly congregate. A releasee  
30 who is subject to this subparagraph may not relocate to a  
31 residence that is within 1,000 feet of a public school bus

1 stop. Beginning October 1, 2004, the commission or the  
2 department may not approve a residence that is located within  
3 1,000 feet of a school, day care center, park, playground,  
4 designated school bus stop, or other place where children  
5 regularly congregate for any releasee who is subject to this  
6 subparagraph. On October 1, 2004, the department shall notify  
7 each affected school district of the location of the residence  
8 of a releasee 30 days prior to release and thereafter, if the  
9 releasee relocates to a new residence, shall notify any  
10 affected school district of the residence of the releasee  
11 within 30 days after relocation. If, on October 1, 2004, any  
12 public school bus stop is located within 1,000 feet of the  
13 existing residence of such releasee, the district school board  
14 shall relocate that school bus stop. Beginning October 1,  
15 2004, a district school board may not establish or relocate a  
16 public school bus stop within 1,000 feet of the residence of a  
17 releasee who is subject to this subparagraph. The failure of  
18 the district school board to comply with this subparagraph  
19 shall not result in a violation of conditional release  
20 supervision.

21 3. Active participation in and successful completion  
22 of a sex offender treatment program with qualified  
23 practitioners specifically trained to treat sex offenders, at  
24 the releasee's own expense. If a qualified practitioner is not  
25 available within a 50-mile radius of the releasee's residence,  
26 the offender shall participate in other appropriate therapy.

27 4. A prohibition on any contact with the victim,  
28 directly or indirectly, including through a third person,  
29 unless approved by the victim, the offender's therapist, and  
30 the sentencing court.

31

1           5. If the victim was under the age of 18, a  
2 prohibition against contact with children under the age of 18  
3 without review and approval by the commission. The commission  
4 may approve supervised contact with a child under the age of  
5 18 if the approval is based upon a recommendation for contact  
6 issued by a qualified practitioner who is basing the  
7 recommendation on a risk assessment. Further, the sex offender  
8 must be currently enrolled in or have successfully completed a  
9 sex offender therapy program. The commission may not grant  
10 supervised contact with a child if the contact is not  
11 recommended by a qualified practitioner and may deny  
12 supervised contact with a child at any time. When considering  
13 whether to approve supervised contact with a child, the  
14 commission must review and consider the following:

15           a. A risk assessment completed by a qualified  
16 practitioner. The qualified practitioner must prepare a  
17 written report that must include the findings of the  
18 assessment and address each of the following components:

- 19           (I) The sex offender's current legal status;  
20           (II) The sex offender's history of adult charges with  
21 apparent sexual motivation;  
22           (III) The sex offender's history of adult charges  
23 without apparent sexual motivation;  
24           (IV) The sex offender's history of juvenile charges,  
25 whenever available;  
26           (V) The sex offender's offender treatment history,  
27 including a consultation from the sex offender's treating, or  
28 most recent treating, therapist;  
29           (VI) The sex offender's current mental status;  
30           (VII) The sex offender's mental health and substance  
31 abuse history as provided by the Department of Corrections;

1 (VIII) The sex offender's personal, social,  
2 educational, and work history;

3 (IX) The results of current psychological testing of  
4 the sex offender if determined necessary by the qualified  
5 practitioner;

6 (X) A description of the proposed contact, including  
7 the location, frequency, duration, and supervisory  
8 arrangement;

9 (XI) The child's preference and relative comfort level  
10 with the proposed contact, when age-appropriate;

11 (XII) The parent's or legal guardian's preference  
12 regarding the proposed contact; and

13 (XIII) The qualified practitioner's opinion, along  
14 with the basis for that opinion, as to whether the proposed  
15 contact would likely pose significant risk of emotional or  
16 physical harm to the child.

17  
18 The written report of the assessment must be given to the  
19 commission.

20 b. A recommendation made as a part of the  
21 risk-assessment report as to whether supervised contact with  
22 the child should be approved;

23 c. A written consent signed by the child's parent or  
24 legal guardian, if the parent or legal guardian is not the sex  
25 offender, agreeing to the sex offender having supervised  
26 contact with the child after receiving full disclosure of the  
27 sex offender's present legal status, past criminal history,  
28 and the results of the risk assessment. The commission may not  
29 approve contact with the child if the parent or legal guardian  
30 refuses to give written consent for supervised contact;

31

1           d. A safety plan prepared by the qualified  
2 practitioner, who provides treatment to the offender, in  
3 collaboration with the sex offender, the child's parent or  
4 legal guardian, and the child, when age appropriate, which  
5 details the acceptable conditions of contact between the sex  
6 offender and the child. The safety plan must be reviewed and  
7 approved by the Department of Corrections before being  
8 submitted to the commission; and

9           e. Evidence that the child's parent or legal guardian,  
10 if the parent or legal guardian is not the sex offender,  
11 understands the need for and agrees to the safety plan and has  
12 agreed to provide, or to designate another adult to provide,  
13 constant supervision any time the child is in contact with the  
14 offender.

15  
16 The commission may not appoint a person to conduct a risk  
17 assessment and may not accept a risk assessment from a person  
18 who has not demonstrated to the commission that he or she has  
19 met the requirements of a qualified practitioner as defined in  
20 this section.

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

25           6.7. Unless otherwise indicated in the treatment plan  
26 provided by the sexual offender treatment program, a  
27 prohibition on viewing, owning, or possessing any obscene,  
28 pornographic, or sexually stimulating visual or auditory  
29 material, including telephone, electronic media, computer  
30 programs, or computer services that are relevant to the  
31 offender's deviant behavior pattern.

1           ~~7.8.~~ Effective for a releasee whose crime is committed  
2 on or after July 1, 2005, a prohibition on accessing the  
3 Internet or other computer services until the offender's sex  
4 offender treatment program, after a risk assessment is  
5 completed, approves and implements a safety plan for the  
6 offender's accessing or using the Internet or other computer  
7 services.

8           ~~8.9.~~ A requirement that the releasee must submit two  
9 specimens of blood to the Florida Department of Law  
10 Enforcement to be registered with the DNA database.

11           ~~9.10.~~ A requirement that the releasee make restitution  
12 to the victim, as determined by the sentencing court or the  
13 commission, for all necessary medical and related professional  
14 services relating to physical, psychiatric, and psychological  
15 care.

16           ~~10.11.~~ Submission to a warrantless search by the  
17 community control or probation officer of the probationer's or  
18 community controllee's person, residence, or vehicle.

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

25           1. As part of a treatment program, participation in a  
26 minimum of one annual polygraph examination to obtain  
27 information necessary for risk management and treatment and to  
28 reduce the sex offender's denial mechanisms. The polygraph  
29 examination must be conducted by a polygrapher trained  
30 specifically in the use of the polygraph for the monitoring of  
31 sex offenders, where available, and at the expense of the sex

1 offender. The results of the polygraph examination shall not  
2 be used as evidence in a hearing to prove that a violation of  
3 supervision has occurred.

4 2. Maintenance of a driving log and a prohibition  
5 against driving a motor vehicle alone without the prior  
6 approval of the supervising officer.

7 3. A prohibition against obtaining or using a post  
8 office box without the prior approval of the supervising  
9 officer.

10 4. If there was sexual contact, a submission to, at  
11 the probationer's or community controllee's expense, an HIV  
12 test with the results to be released to the victim or the  
13 victim's parent or guardian.

14 5. Electronic monitoring of any form ~~when ordered by~~  
15 ~~the commission.~~

16 (9)~~(8)~~ It is the finding of the Legislature that the  
17 population of offenders released from state prison into the  
18 community who meet the conditional release criteria poses the  
19 greatest threat to the public safety of the groups of  
20 offenders under community supervision. Therefore, the  
21 Department of Corrections is to provide intensive supervision  
22 by experienced correctional probation officers to conditional  
23 release offenders. Subject to specific appropriation by the  
24 Legislature, caseloads may be restricted to a maximum of 40  
25 conditional release offenders per officer to provide for  
26 enhanced public safety and to effectively monitor conditions  
27 of electronic monitoring or curfews, if so ordered by the  
28 commission.

29 (10)~~(9)~~ The commission shall adopt rules pursuant to  
30 ss. 120.536(1) and 120.54 necessary to implement the  
31 provisions of the Conditional Release Program Act.



1           ~~(11)(10)~~ Effective for a releasee whose crime was  
2 committed on or after September 1, 2005, in violation of  
3 chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s.  
4 847.0145, and the unlawful activity involved a victim who was  
5 15 years of age or younger and the offender is 18 years of age  
6 or older or for a releasee who is designated as a sexual  
7 predator pursuant to s. 775.21, in addition to any other  
8 provision of this section, the commission must order  
9 electronic monitoring for the duration of the releasee's  
10 supervision.

11           Section 3. Section 947.141, Florida Statutes, is  
12 amended to read:

13           947.141 Violations of conditional release, control  
14 release, or conditional medical release or addiction-recovery  
15 supervision.--

16           (1) If a member of the commission or a duly authorized  
17 representative of the commission has reasonable grounds to  
18 believe that an offender who is on release supervision under  
19 s. 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has  
20 violated the ~~terms and~~ conditions of the release in a material  
21 respect, such member or representative may cause a warrant to  
22 be issued for the arrest of the releasee; if the offender was  
23 found to be a sexual predator, the warrant must be issued. Any  
24 parole and probation officer, any officer authorized to serve  
25 criminal process, or any peace officer of this state is  
26 authorized to execute the warrant. The commission, a  
27 commissioner, or a parole examiner upon the approval of the  
28 parole examiner's supervisor may release the releasee on his  
29 or her own recognizance, conditioned upon the releasee's  
30 appearance at any hearing noticed by the commission. If not  
31

1 released on his or her own recognizance, the releasee shall be  
2 committed to jail pending a hearing pursuant to this section.

3 (2) Any parole and probation officer, when she or he  
4 has reasonable grounds to believe that a control releasee,  
5 conditional releasee, conditional medical releasee, or  
6 offender under addiction-recovery supervision has violated the  
7 conditions of his or her control release, conditional release,  
8 conditional medical release, or addiction-recovery release in  
9 a material respect, has the right to arrest and cause the  
10 offender to be taken into custody without a warrant for a  
11 period not to exceed 72 hours, excluding weekends and  
12 holidays, pending a decision by the commission whether to  
13 issue a warrant charging the offender with a violation of the  
14 conditions of release. If the commission issues a warrant, the  
15 offender must continue to be held in custody pending a  
16 revocation hearing held in accordance with this section.

17 (3) If a law enforcement officer has probable cause to  
18 believe that an offender who is on release supervision under  
19 s. 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has  
20 violated the terms and conditions of his or her release by  
21 committing a felony offense, the officer shall arrest the  
22 offender without a warrant, and a warrant need not be issued  
23 in the case.

24 (4)(2) Upon the arrest on a felony charge of an  
25 offender who is on release supervision under s. 947.1405, s.  
26 947.146, s. 947.149, or s. 944.4731, the offender must be  
27 detained without bond until the initial appearance of the  
28 offender at which a judicial determination of probable cause  
29 is made. If the trial court judge determines that there was no  
30 probable cause for the arrest, the offender may be released.  
31 If the trial court judge determines that there was probable

1 | cause for the arrest, such determination also constitutes  
2 | reasonable grounds to believe that the offender violated the  
3 | conditions of the release. Within 24 hours after the trial  
4 | court judge's finding of probable cause, the detention  
5 | facility administrator or designee shall notify the commission  
6 | and the department of the finding and transmit to each a  
7 | facsimile copy of the probable cause affidavit or the sworn  
8 | offense report upon which the trial court judge's probable  
9 | cause determination is based. The offender must continue to be  
10 | detained without bond for a period not exceeding 72 hours  
11 | excluding weekends and holidays after the date of the probable  
12 | cause determination, pending a decision by the commission  
13 | whether to issue a warrant charging the offender with  
14 | violation of the conditions of release. Upon the issuance of  
15 | the commission's warrant, the offender must continue to be  
16 | held in custody pending a revocation hearing held in  
17 | accordance with this section.

18 |       (5) Following issuance of a warrant or upon a  
19 | warrantless arrest, the supervision period is tolled until the  
20 | commission enters a ruling on the violation. Notwithstanding  
21 | the tolling of supervision provided in this subsection, the  
22 | commission retains jurisdiction over the offender for any  
23 | violation of the conditions of supervision which is alleged to  
24 | have occurred during the supervision period. The probation  
25 | officer may continue to supervise the offender who remains  
26 | available to the officer for supervision until the supervision  
27 | term expires or is revoked or terminated by the commission.

28 |       ~~(6)(3)~~ Within 45 days after notice to the Parole  
29 | Commission of the arrest of a releasee charged with a  
30 | violation of the terms and conditions of conditional release,  
31 | control release, conditional medical release, or

1 addiction-recovery supervision, the releasee must be afforded  
2 a hearing conducted by a commissioner or a duly authorized  
3 representative thereof. If the releasee elects to proceed with  
4 a hearing, the releasee must be informed orally and in writing  
5 of the following:

6 (a) The alleged violation with which the releasee is  
7 charged.

8 (b) The releasee's right to be represented by counsel.

9 (c) The releasee's right to be heard in person.

10 (d) The releasee's right to secure, present, and  
11 compel the attendance of witnesses relevant to the proceeding.

12 (e) The releasee's right to produce documents on the  
13 releasee's own behalf.

14 (f) The releasee's right of access to all evidence  
15 used against the releasee and to confront and cross-examine  
16 adverse witnesses.

17 (g) The releasee's right to waive the hearing.

18  
19 Any one or more commissioners or a duly authorized  
20 representative of the commission may administer oaths and  
21 compel the attendance of witnesses at the hearing by the  
22 issuance of summonses, subpoenas, and subpoenas duces tecum.  
23 Subpoenas and subpoenas duces tecum are enforceable by  
24 appropriate proceedings in circuit court, and the willful  
25 failure to comply with a court order enforcing a subpoena or  
26 subpoena duces tecum constitutes contempt of court. Any one or  
27 more commissioners or a duly authorized representative of the  
28 commission may issue subpoenas on behalf of the state or the  
29 releasee. The commissioners or a duly authorized  
30 representative of the commission may decline to issue a  
31 subpoena if he or she finds the evidence or testimony to be

1 cumulative, irrelevant, or nonprobative. Evidence of a type  
2 commonly relied upon by reasonably prudent persons in the  
3 conduct of their affairs is admissible, whether or not such  
4 evidence would be admissible in a trial in the courts of this  
5 state. The party requesting the subpoenas shall furnish to the  
6 commission the names and addresses of his or her proposed  
7 witnesses at least 10 days before the hearing date.

8       ~~(7)~~(4) Within a reasonable time following the hearing,  
9 the commissioner or the commissioner's duly authorized  
10 representative who conducted the hearing shall make findings  
11 of fact in regard to the alleged violation. A panel of no  
12 fewer than two commissioners shall enter an order determining  
13 whether the charge of violation of conditional release,  
14 control release, conditional medical release, or  
15 addiction-recovery supervision has been sustained based upon  
16 the findings of fact presented by the hearing commissioner or  
17 authorized representative. By such order, the panel may revoke  
18 conditional release, control release, conditional medical  
19 release, or addiction-recovery supervision and thereby return  
20 the releasee to prison to serve the sentence imposed,  
21 reinstate the original order granting the release, or enter  
22 such other order as it considers proper. Effective for inmates  
23 whose offenses were committed on or after July 1, 1995, the  
24 panel may order the placement of a releasee, upon a finding of  
25 violation pursuant to this subsection, into a local detention  
26 facility as a condition of supervision.

27       ~~(8)~~(5) Effective for inmates whose offenses were  
28 committed on or after July 1, 1995, notwithstanding the  
29 provisions of ss. 775.08, former 921.001, 921.002, 921.187,  
30 921.188, 944.02, and 951.23, or any other law to the contrary,  
31 by such order as provided in subsection (4), the panel, upon a

1 finding of guilt, may, as a condition of continued  
2 supervision, place the releasee in a local detention facility  
3 for a period of incarceration not to exceed 22 months. Prior  
4 to the expiration of the term of incarceration, or upon  
5 recommendation of the chief correctional officer of that  
6 county, the commission shall cause inquiry into the inmate's  
7 release plan and custody status in the detention facility and  
8 consider whether to restore the inmate to supervision, modify  
9 the conditions of supervision, or enter an order of  
10 revocation, thereby causing the return of the inmate to prison  
11 to serve the sentence imposed. The provisions of this section  
12 do not prohibit the panel from entering such other order or  
13 conducting any investigation that it deems proper. The  
14 commission may only place a person in a local detention  
15 facility pursuant to this section if there is a contractual  
16 agreement between the chief correctional officer of that  
17 county and the Department of Corrections. The agreement must  
18 provide for a per diem reimbursement for each person placed  
19 under this section, which is payable by the Department of  
20 Corrections for the duration of the offender's placement in  
21 the facility. This section does not limit the commission's  
22 ability to place a person in a local detention facility for  
23 less than 1 year.

24 (9)~~(6)~~ Whenever a conditional release, control  
25 release, conditional medical release, or addiction-recovery  
26 supervision is revoked by a panel of no fewer than two  
27 commissioners and the releasee is ordered to be returned to  
28 prison, the releasee, by reason of the misconduct, shall be  
29 deemed to have forfeited all gain-time or commutation of time  
30 for good conduct, as provided for by law, earned up to the  
31 date of release. However, if a conditional medical release is

1 | revoked due to the improved medical or physical condition of  
2 | the releasee, the releasee shall not forfeit gain-time accrued  
3 | before the date of conditional medical release. This  
4 | subsection does not deprive the prisoner of the right to  
5 | gain-time or commutation of time for good conduct, as provided  
6 | by law, from the date of return to prison.

7 |       (10) The commission shall adopt rules pursuant to ss.  
8 | 120.536(1) and 120.54 necessary to administer this section.

9 |       (11) Because of the compelling state interest in  
10 | protecting the public from sexual offenders or sexual  
11 | predators, in any hearing alleging a violation of conditional  
12 | release supervision for failure to comply with the residency  
13 | condition in s. 947.1405, the inability of the offender to  
14 | locate a residence in compliance with s. 947.1405 is not a  
15 | defense to the finding of a violation under this section.

16 |       ~~(7) If a law enforcement officer has probable cause to~~  
17 | ~~believe that an offender who is on release supervision under~~  
18 | ~~s. 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has~~  
19 | ~~violated the terms and conditions of his or her release by~~  
20 | ~~committing a felony offense, the officer shall arrest the~~  
21 | ~~offender without a warrant, and a warrant need not be issued~~  
22 | ~~in the case.~~

23 |       Section 4. Section 947.22, Florida Statutes, is  
24 | amended to read:

25 |       947.22 Authority to arrest parole violators with or  
26 | without warrant.--

27 |       (1) If a member of the commission or a duly authorized  
28 | representative of the commission has reasonable grounds to  
29 | believe that a parolee has violated the terms and conditions  
30 | of her or his parole in a material respect, such member or  
31 | representative may issue a warrant for the arrest of such

1 | parolee. The warrant shall be returnable before a member of  
2 | the commission or a duly authorized representative of the  
3 | commission. The commission, a commissioner, or a parole  
4 | examiner with approval of the parole examiner supervisor, may  
5 | release the parolee on bail or her or his own recognizance,  
6 | conditioned upon her or his appearance at any hearings noticed  
7 | by the commission. If not released on bail or her or his own  
8 | recognizance, the parolee shall be committed to jail pending  
9 | hearings pursuant to s. 947.23. The commission, at its  
10 | election, may have the hearing conducted by one or more  
11 | commissioners or by a duly authorized representative of the  
12 | commission. Any parole and probation officer, any officer  
13 | authorized to serve criminal process, or any peace officer of  
14 | this state is authorized to execute the warrant.

15 |         (2) Any parole and probation officer, when she or he  
16 | has reasonable ground to believe that a parolee, ~~control~~  
17 | ~~releasee, or conditional releasee~~ has violated the terms and  
18 | conditions of her or his parole, ~~control release, or~~  
19 | ~~conditional release~~ in a material respect, has the right to  
20 | arrest and cause to be taken into custody the releasee or  
21 | parolee without a warrant for a period not to exceed 72 hours,  
22 | excluding weekends and holidays, pending a decision by the  
23 | commission whether to issue a warrant charging the offender  
24 | with violation of his or her parole. If the commission issues  
25 | a warrant, the parolee must continue to be held in custody  
26 | pending a revocation hearing held in accordance with this  
27 | section. and bring her or him forthwith before one or more  
28 | commissioners or a duly authorized representative of the  
29 | Parole Commission or Control Release Authority; and  
30 | proceedings shall thereupon be had as provided herein when a  
31 | warrant has been issued by a member of the commission or



1 ~~authority or a duly authorized representative of the~~  
2 ~~commission or authority.~~

3 (3) If a law enforcement officer has probable cause to  
4 believe that a parolee has violated the terms and conditions  
5 of his or her parole, the officer shall arrest and take into  
6 custody the parolee without a warrant, and a warrant need not  
7 be issued in the case.

8 (4) Following issuance of a warrant or upon a  
9 warrantless arrest, the supervision period is tolled until the  
10 commission enters a ruling on the violation. Notwithstanding  
11 the tolling of supervision provided in this subsection, the  
12 commission retains jurisdiction over the parolee for any  
13 violation of the conditions of supervision which is alleged to  
14 have occurred during the supervision period. The probation  
15 officer may continue to supervise the parolee who remains  
16 available to the officer for supervision until the supervision  
17 term expires or is revoked or terminated by the commission.

18 Section 5. Subsection (3) of section 947.23, Florida  
19 Statutes, is amended to read:

20 947.23 Action of commission upon arrest of parolee.--

21 (3) Any one or more commissioners or a duly authorized  
22 representative of the commission may administer oaths and  
23 compel the attendance of witnesses at such hearing by the  
24 issuance of summons, subpoenas, and subpoenas duces tecum.  
25 Subpoenas and subpoenas duces tecum shall be enforceable by  
26 appropriate proceedings in circuit court, and the failure to  
27 comply with a court order enforcing a subpoena or subpoena  
28 duces tecum shall constitute contempt of court. Any one or  
29 more commissioners or a duly authorized representative of the  
30 commission may issue subpoenas on behalf of the state or the  
31 parolee. The commission may decline ~~a request~~ to issue a

1 subpoena if a witness whose testimony it finds that the  
2 evidence or testimony would be cumulative, irrelevant, or  
3 nonprobative, and such evidence or testimony shall be  
4 excluded. All other evidence of a type commonly relied upon by  
5 reasonably prudent persons in the conduct of their affairs is  
6 admissible, whether or not such evidence would be admissible  
7 in a trial in the courts of this state. The party requesting  
8 the subpoenas shall furnish to ~~the commissioner,~~  
9 ~~commissioners, or duly authorized representative of the~~  
10 commission the names and addresses of her or his proposed  
11 witnesses at least 10 days prior to the hearing date.

12 Section 6. Paragraph (b) of subsection (3) of section  
13 775.21, Florida Statutes, is amended to read:

14 775.21 The Florida Sexual Predators Act.--

15 (3) LEGISLATIVE FINDINGS AND PURPOSE; LEGISLATIVE  
16 INTENT.--

17 (b) The high level of threat that a sexual predator  
18 presents to the public safety, and the long-term effects  
19 suffered by victims of sex offenses, provide the state with  
20 sufficient justification to implement a strategy that  
21 includes:

22 1. Incarcerating sexual predators and maintaining  
23 adequate facilities to ensure that decisions to release sexual  
24 predators into the community are not made on the basis of  
25 inadequate space.

26 2. Providing for specialized supervision of sexual  
27 predators who are in the community by specially trained  
28 probation officers with low caseloads, as described in ss.  
29 947.1405(8) ~~947.1405(7)~~ and 948.30. The sexual predator is  
30 subject to specified terms and conditions implemented at  
31 sentencing or at the time of release from incarceration, with

1 a requirement that those who are financially able must pay all  
2 or part of the costs of supervision.

3 3. Requiring the registration of sexual predators,  
4 with a requirement that complete and accurate information be  
5 maintained and accessible for use by law enforcement  
6 authorities, communities, and the public.

7 4. Providing for community and public notification  
8 concerning the presence of sexual predators.

9 5. Prohibiting sexual predators from working with  
10 children, either for compensation or as a volunteer.

11 Section 7. This act shall take effect July 1, 2007.

12  
13 \*\*\*\*\*

14 SENATE SUMMARY

15 Revises and clarifies the powers and duties of the Parole  
16 Commission. Authorizes the commission to establish the  
17 term and conditions of persons released on  
18 addiction-recovery supervision. Requires that certain  
19 inmates placed on conditional release be subject to  
20 court-ordered community supervision. Provides for an  
21 inmate who commits certain subsequent offenses to be  
22 subject again to the requirements of conditional release  
23 supervision. Authorizes the commission to modify the  
24 conditions of an offender's supervision. Provides  
25 additional restrictions applicable to a releasee who is  
26 prohibited from living, loitering, or working at a place  
27 where children regularly congregate. Provides for certain  
28 officers to execute warrants for the arrest of an  
29 offender who violates the conditions of release.  
30 Clarifies circumstances under which an offender may be  
31 taken into custody without a warrant. Authorizes a  
commissioner or a representative of the commission to  
compel the attendance of witnesses at a hearing of the  
commission. Provides that the inability of a sexual  
offender to comply with certain residence requirements is  
not a defense to a violation of such requirements. (See  
bill for details.)