

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

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

Prepared By: Judiciary Committee

BILL: CS/SB 474

INTRODUCER: Criminal Justice Committee and Senator Hill

SUBJECT: Rosa Parks Act

DATE: April 16, 2007

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ	<b>Fav/CS</b>
2.	Merlin	Maclure	JU	<b>Favorable</b>
3.			JA	
4.				
5.				
6.				

**I. Summary:**

This bill creates the Rosa Parks Act, which recommends that the Board of Executive Clemency (the Board) grant pardons to persons who were convicted of violating a state law or local government ordinance that had the purpose of maintaining racial segregation or racial discrimination. The bill also creates a simplified pardon application process for these individuals. To apply for a pardon, a person may submit an affidavit stating that he or she was convicted for protesting or challenging discriminatory laws. However, the bill permits the Board to void the pardon if the information in the affidavit is later found to be false.

This bill creates section 940.035, Florida Statutes. The bill amends section 940.05, Florida Statutes.

**II. Present Situation:**

During the century following the Civil War, many states passed laws designed to enforce segregation. In addition, numerous local ordinances criminalized activities such as riding on a bus, eating in a restaurant, or going swimming when the activities involved persons of different races. These “Jim Crow” laws were made unlawful by the 1964 Civil Rights Act. Even so, as late as 1967, a large Florida city passed an ordinance banning integration on its public beaches.<sup>1</sup>

<sup>1</sup> In 1967, Sarasota passed a city ordinance that stated:

Whenever members of two or more...races shall...be upon any public...bathing beach within the corporate limits of the City of Sarasota, it shall be the duty of the Chief of police or other officer ...in charge of the public forces of the City...with the assistance of such police forces, to clear the area involved of all members of all races present.

Throughout the 1950s and 1960s, black Americans engaged in acts of civil disobedience to protest these discriminatory laws and ordinances. Others violated the laws in the course of their everyday activities. The most well-known example was Rosa Parks' decision to refuse to move to the back of a Montgomery, Alabama, city bus on December 1, 1955. At that time, the Montgomery City Code required black riders to sit in designated areas of the bus and to move further back if the section designated for white riders was full. While returning from work, Mrs. Parks sat in the first row of the "colored section" and would not move when told to do so. She was arrested and subsequently convicted for violation of the City Code. Her act of civil disobedience sparked a 380-day boycott of the bus system by the black community in Montgomery. The Montgomery Bus Boycott was led by Reverend Martin Luther King, Jr., and brought his message of non-violent civil disobedience to national attention.

Mrs. Parks passed away at the age of 92 in October 2005. Although she had received many honors throughout her lifetime, her conviction was still on the record at the time of her passing.

In 2006, the Alabama Legislature passed the Rosa Parks Act to provide a process to grant pardons to persons who were convicted of violating a law or ordinance that had the purpose of maintaining or enforcing racial segregation or discrimination.<sup>2</sup>

Article IV, Section 8 of the Florida Constitution gives the Governor authority to grant pardons with the approval of two Cabinet members. This authority is codified in s. 940.01, F.S. The Governor and the Cabinet sit as the Board of Executive Clemency. Application for a pardon is made in accordance with the Rules of Executive Clemency. A full pardon for a felony conviction unconditionally releases a person from punishment, forgives guilt, and restores all rights of citizenship possessed by the person before his or her conviction. Since no civil rights are lost as a result of a misdemeanor conviction, a pardon for a misdemeanor releases a person from punishment and forgives guilt.

The Rules of Executive Clemency require that applications for pardon include a certified copy of documents relating to the charge and the conviction. The application may also include character references, letters of support, and any other relevant documents. The coordinator of Executive Clemency attempts to notify victims and notifies the appropriate State Attorney and the Attorney General of the application. Pardon applications that meet the rules can be referred to the Parole Commission for an investigation, report, and recommendation.

### **III. Effect of Proposed Changes:**

This bill is designated the "Rosa Parks Act." It creates s. 940.035, F.S., expressing legislative intent for the Board of Executive Clemency (the Board) to strongly consider granting a full pardon to persons who were convicted of protesting or challenging a state law or local government ordinance that had the purpose of maintaining racial segregation or racial discrimination. A posthumous application may be submitted by someone with legal authority to represent the deceased.

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NEW YORK LIFE, THE HISTORY OF JIM CROW, <http://www.jimcrowhistory.org/scripts/jimcrow/insidesouth.cgi?state=Florida>.

<sup>2</sup> 2006 ALA. LAWS 544, § 2.

The bill requires the Parole Commission (the Commission) to notify the state attorney where the violation occurred of the filing of an application for pardon. The Rules of Executive Clemency currently require the Commission's Clemency Coordinator to make reasonable attempts to notify the state attorney.

The bill encourages the Board to strongly consider granting the pardon if the state attorney does not assert that the conviction was not the result of violating a discriminatory law or ordinance. If an objection is filed, a hearing must be held at the next scheduled meeting of the Board, with the Commission responsible for giving notice to all parties.

The bill also provides an alternative to the current pardon application process. It strongly encourages the Board to grant a pardon upon filing of an affidavit by a convicted person stating that the conviction was the result of protesting or challenging a state law or municipal ordinance the purpose of which was to maintain racial segregation or discrimination. The bill permits the Board to void the pardon if the information in the affidavit is later found to be false, or if the violation had no direct relationship to or no purpose whatsoever of protesting or challenging such a law.

The bill requires that the applicant for a pardon have been convicted of "protesting or challenging" a racially discriminatory law or ordinance. The bill does not address convictions for violating laws that were discriminatory in application but that did not have a primary purpose of maintaining segregation. For instance, persons arrested for seeking to eat at a segregated lunch counter were often charged with trespassing. Trespassing is not in itself a racially discriminatory law, but it could be applied to support discrimination. Of course, a person convicted of such a law that was applied in a discriminatory manner may be eligible to obtain a pardon through the existing clemency process.

If a person receives a full pardon under the new section, he or she would not have to disclose the fact of the conviction or any record or matter relating to the conviction. The purpose of this provision is to allow the information to be omitted from employment applications or other questionnaires.

The bill also amends s. 940.05, F.S., to provide that a person convicted of protesting or challenging a state law or municipal ordinance that had the purpose of maintaining racial segregation or racial discrimination is entitled to restoration of civil rights if he or she has received a full pardon. This differs from existing law in that it does not require the convicted person to have served the maximum term of the sentence imposed upon him or her.

The bill takes effect upon becoming a law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:**

The bill strongly recommends that the Board of Executive Clemency grant pardons for particular types of cases, but does not require the granting of a pardon. Therefore, it does not appear to infringe upon the Governor's exclusive pardon authority under Article IV, Section 8 of the Florida Constitution.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None, except for the cost of any additional hearings that might be held as a result of this act.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

## **VIII. Summary of Amendments:**

None.

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This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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