

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;

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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 resentences 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.)