



841572

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/1/2008	.	
	.	
	.	

1 The Committee on Criminal Justice (Bennett) recommended the
 2 following **amendment**:

Senate Amendment (with title amendment)

5 Delete everything after the enacting clause
6 and insert:

7 Section 1. The Department of Corrections and the Parole
 8 Commission shall immediately initiate, coordinate and establish
 9 agreements with multiple state, local, and federal authorities to
 10 implement the United States Immigration and Customs Enforcement
 11 Rapid Removal of Eligible Parolees Accepted for Transfer (REPAT)
 12 program. The goals of this effort shall be to:

13 (a) Ensure deportable aliens are not released from prison
 14 to the community;

15 (b) Reduce the number of criminal aliens incarcerated in
 16 the state prison system;



841572

17 (c) Provide for the mandatory revocation of control release
18 and confinement of criminal aliens who re-enter the United States
19 and who are re-arrested in Florida;

20 (d) Allow eligible inmates to be released for deportation
21 purposes prior to the expiration of the sentence;

22 (e) Expedite the deportation process, and

23 (f) Improve information sharing procedures between the
24 Immigration and Customs Enforcement Section of the United States
25 Department of Homeland Security and the department.

26 Section 2. Section 947.1461, Florida Statutes, is created
27 to read:

28 947.1461 Control release for removal and deportation
29 only.--

30 (1) The Department of Corrections shall begin at the inmate
31 reception process a procedure to identify eligible aliens to
32 determine if deportation is feasible and in the best interests of
33 the State of Florida. Aliens who are ineligible for the federal
34 deportation process pursuant to this section are inmates who are
35 ineligible for control release pursuant to s. 947.146(3)(a)-(m).

36 (2) The Department of Corrections shall coordinate with the
37 federal authorities to determine immigration status and
38 removability and to obtain the final removal order.

39 (3) The Department of Corrections shall only identify
40 aliens for removal who have voluntarily waived all administrative
41 and judicial appellate rights in writing, and if the alien agrees
42 in writing to fully cooperate with federal authorities to obtain
43 valid travel documentation and facilitate removal.

44 (4) Upon acceptance into the federal deportation program,
45 the Control Release Authority shall establish a control release
46 date for the alien to be transferred into federal custody.



841572

47 Notwithstanding the provisions of s. 944.275(4)(b)3., the Control
48 Release Authority may establish a control release date after the
49 alien has served a minimum of 50 percent of his or her court
50 imposed sentence.

51 (5) The Department of Corrections shall maintain exclusive
52 control and responsibility for the custody and transportation of
53 aliens to and from federal facilities.

54 (6) The Control Release Authority shall provide notice and
55 obtain acknowledgement in writing that notice was given to aliens
56 eligible for deportation that illegal re-entry into the United
57 States requires the return of such aliens to the custody of the
58 State of Florida to complete the remainder of their court imposed
59 sentence. The alien must also waive in writing any and all rights
60 of extradition which would challenge the alien's return to the
61 Department of Corrections and Control Release Authority to
62 complete the remainder of their sentence.

63 (7) Under no circumstances shall an alien receive the
64 benefits of control release awards when the federal authorities
65 determine that the alien's removal is not reasonably foreseeable.

66 (8) The Department of Corrections shall compile statistics
67 on this program including: the number of aliens who are
68 transferred to federal custody; the number of aliens who are
69 actually removed from the United States; the number of aliens who
70 re-enter the United States; and the annualized cost avoidance
71 achieved.

72 Section 3. Subsections (2), (5), and (7) of section
73 947.146, Florida Statutes, are amended to read:

74 947.146 Control Release Authority.--

75 (2) The authority shall implement a system for determining
76 the number and type of inmates who must be released into the



841572

77 | community under control release in order to maintain the state
78 | prison system between 99 and 100 percent of its total capacity as
79 | defined in s. 944.023 or to execute an immediate deportation
80 | order from federal immigration authorities. No inmate has a right
81 | to control release. Control release is an administrative function
82 | solely used to manage the state prison population within total
83 | capacity and to expedite the deportation process. An inmate may
84 | not receive an advancement of his or her control release date by
85 | an award of control release allotments for any period of time
86 | before the date the inmate becomes statutorily eligible for
87 | control release or before the subsequent date of establishment of
88 | the inmate's advanceable control release date.

89 | (5) Whenever the inmate population drops below 99 percent
90 | of total capacity and remains below 99 percent for 90 consecutive
91 | days without requiring the release of inmates under this section,
92 | all control release dates shall become void and no inmate shall
93 | be eligible for release under any previously established control
94 | release date. However, control release dates for deportation
95 | purposes shall not become void when the inmate population
96 | changes. An inmate shall not have a right to a control release
97 | date, nor shall the authority be required to establish or
98 | reestablish any additional control release dates except under the
99 | provisions of subsection (2).

100 | (7) The authority has the power and duty to:

101 | (a) Extend or advance the control release date of any
102 | inmate for whom a date has been established pursuant to
103 | subsection (2), based upon one or more of the following:

104 | 1. Recently discovered information of:

105 | a. Past criminal conduct;



841572

106 b. Verified threats by inmates provided by victims, law
107 enforcement, or the department;

108 c. Potential risk to or vulnerability of a victim;

109 d. Psychological or physical trauma to the victim due to
110 the criminal offense;

111 e. Court-ordered restitution;

112 f. History of abuse or addiction to a chemical substance
113 verified by a presentence or postsentence investigation report;

114 g. The inmate's ties to organized crime;

115 h. A change in the inmate's sentence structure;

116 i. Cooperation with law enforcement;

117 j. Strong community support; and

118 k. A documented mental condition as a factor for future
119 criminal behavior.

120 2. The recommendation of the department regarding:

121 a. A medical or mental health-related condition; or

122 b. Institutional adjustment of the inmate, which may
123 include refusal by the inmate to sign the agreement to the
124 conditions of the release plan.

125 3. Total capacity of the state prison system.

126 4. Arrangements for the transfer of custody pending
127 deportation.

128 (b) Authorize an individual commissioner to postpone a
129 control release date for not more than 60 days without a hearing
130 for any inmate who has become the subject of a disciplinary
131 proceeding, a criminal arrest, an information, or an indictment;
132 who has been terminated from work release; or about whom there is
133 any recently discovered information as specified in paragraph
134 (a).



841572

135 (c) Determine the terms, conditions, and period of time of
136 control release for persons released pursuant to this section.

137 (d) Determine violations of control release and what
138 actions shall be taken with reference thereto.

139 (e) Provide for victim input into the decisionmaking
140 process which may be used by the authority as aggravation or
141 mitigation in determining which persons shall be released on
142 control release.

143 (f) Make such investigations as may be necessary for the
144 purposes of establishing, modifying, or revoking a control
145 release date.

146 (g) Contract with a public defender or private counsel for
147 representation of indigent persons charged with violating the
148 terms of control release.

149 (h) Adopt such rules as the authority deems necessary for
150 implementation of the provisions of this section.

151 Section 4. This act shall take effect July 1, 2008.

152
153 ===== T I T L E A M E N D M E N T =====

154 And the title is amended as follows:

155 Delete everything before the enacting clause
156 and insert:

157 A bill to be entitled
158 An act relating to illegal or undocumented aliens;
159 requiring the Department of Corrections and the Parole
160 Commission to establish agreements to implement a federal
161 deportation program for state inmates; specifying the
162 goals of the program; creating s. 947.1461, F.S. relating
163 to the control release for removal and deportation;
164 requiring the department to identify eligible inmates at



841572

165 the reception process; specifying eligibility criteria;
166 requiring the department to coordinate with federal
167 authorities to determine immigration status and
168 removability; specifying that eligible inmates waive
169 administrative and appellate rights and to cooperate in
170 obtaining travel documentation; requiring the Control
171 Release Authority to establish control release dates;
172 allowing for the control release dates to be set after the
173 alien has served a minimum 50% of his or her court imposed
174 sentence; requiring the Control Release Authority to give
175 notice to aliens concerning re-entering the United States;
176 prohibiting aliens from benefiting from control release
177 awards when removal is not reasonably foreseeable;
178 requiring the department to compile and report certain
179 statistics; amending s. 947.146, F.S. relating to the
180 Control Release Authority; requiring the Authority to
181 implement a program to execute an immediate deportation
182 order; providing an effective date.