

By the Committee on Criminal Justice; and Senators King and Joyner

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1 A bill to be entitled
2 An act relating to parole for adolescent offenders;
3 providing a short title; amending s. 947.16, F.S.;
4 providing definitions; providing that an adolescent
5 offender who was 15 years of age or younger at the
6 time of commission of an offense and who is sentenced
7 to life or more than 10 years in prison is eligible
8 for parole if the offender has been incarcerated for a
9 minimum period and has not previously been convicted
10 or adjudicated delinquent of or had adjudication
11 withheld for certain offenses; requiring an initial
12 eligibility interview to determine whether the
13 adolescent offender has been sufficiently
14 rehabilitated for parole; providing criteria to
15 determine sufficient rehabilitation; providing
16 eligibility for a reinterview after a specified period
17 for adolescent offenders denied parole; providing that
18 the adolescent offender be incarcerated in a facility
19 that has a GED program; providing that if the
20 adolescent offender is granted parole, the adolescent
21 offender must participate in any available reentry
22 program for 2 years; defining the term "reentry
23 program"; providing priority for certain programs;
24 providing for eligibility for an initial eligibility
25 interview for offenders in their eighth or subsequent
26 year of incarceration on the effective date of the
27 act; providing for retroactive application; providing
28 an effective date.
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30 Be It Enacted by the Legislature of the State of Florida:

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32 Section 1. This act may be cited as the "Second Chance for
33 Children in Prison Act."

34 Section 2. Section 947.16, Florida Statutes, is amended to
35 read:

36 947.16 Eligibility for parole; initial parole interviews;
37 powers and duties of commission; adolescent offender
38 eligibility.-

39 (1) Every person who has been convicted of a felony or who
40 has been convicted of one or more misdemeanors and whose
41 sentence or cumulative sentences total 12 months or more, who is
42 confined in execution of the judgment of the court, and whose
43 record during confinement or while under supervision is good,
44 shall, unless otherwise provided by law, be eligible for
45 interview for parole consideration of her or his cumulative
46 sentence structure as follows:

47 (a) An inmate who has been sentenced for an indeterminate
48 term or a term of 3 years or less shall have an initial
49 interview conducted by a hearing examiner within 8 months after
50 the initial date of confinement in execution of the judgment.

51 (b) An inmate who has been sentenced for a minimum term in
52 excess of 3 years but of less than 6 years shall have an initial
53 interview conducted by a hearing examiner within 14 months after
54 the initial date of confinement in execution of the judgment.

55 (c) An inmate who has been sentenced for a minimum term of
56 6 or more years but other than for a life term shall have an
57 initial interview conducted by a hearing examiner within 24
58 months after the initial date of confinement in execution of the

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59 judgment.

60 (d) An inmate who has been sentenced for a term of life
61 shall have an initial interview conducted by a hearing examiner
62 within 5 years after the initial date of confinement in
63 execution of the judgment.

64 (e) An inmate who has been convicted and sentenced under
65 ss. 958.011-958.15, or any other inmate who has been determined
66 by the department to be a youthful offender, shall be
67 interviewed by a parole examiner within 8 months after the
68 initial date of confinement in execution of the judgment.

69 (2) (a) As used in this subsection, the term:

70 1. "Adolescent offender" means an offender who was 15 years
71 of age or younger at the time the criminal act was committed and
72 was sentenced to life or to a single or cumulative term of
73 imprisonment of 10 years or more.

74 2. "Current offense" means the offense for which the
75 adolescent offender is being considered for parole and any other
76 crimes committed by the adolescent offender within a 1-month
77 period of that offense, or for which sentences run concurrent to
78 that offense.

79 (b) Notwithstanding the provisions of subsection (1) or of
80 any other law to the contrary, an adolescent offender may be
81 eligible for parole as provided in this subsection. An
82 adolescent offender is ineligible under this subsection if she
83 or he, before conviction of the current offense, was convicted
84 or adjudicated delinquent of or had adjudication withheld for
85 any violation of:

86 1. Section 782.04, entitled "Murder";

87 2. Section 784.041, entitled "Felony battery; domestic

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88 battery by strangulation";

89 3. Section 784.045, entitled "Aggravated battery";

90 4. Section 784.07, entitled "Assault or battery of law
91 enforcement officers, firefighters, emergency medical care
92 providers, public transit employees or agents, or other
93 specified officers; reclassification of offenses; minimum
94 sentences";

95 5. Section 784.08, entitled "Assault or battery on persons
96 65 years of age or older; reclassification of offenses; minimum
97 sentence";

98 6. Section 787.01, entitled "Kidnapping; kidnapping of
99 child under age 13, aggravating circumstances";

100 7. Section 790.07, entitled "Persons engaged in criminal
101 offense, having weapons";

102 8. Section 794.011, entitled "Sexual battery";

103 9. Section 812.133, entitled "Carjacking";

104 10. Section 812.135, entitled "Home-invasion robbery";

105 11. Section 827.03, entitled "Abuse, aggravated abuse, and
106 neglect of a child; penalties"; or

107 12. Section 828.12, entitled "Cruelty to animals."

108 (c) Before an adolescent offender may be granted parole
109 under this subsection, she or he must have an initial
110 eligibility interview to determine whether she or he has been
111 sufficiently rehabilitated while in the custody of the
112 department to justify granting parole. The initial eligibility
113 interview will occur in the eighth year of incarceration. In
114 order to determine if the adolescent offender has been
115 sufficiently rehabilitated, she or he must have successfully
116 completed the General Educational Development (GED) program

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117 unless waived based on disability and have received no approved
118 disciplinary reports for a period of at least 2 years
119 immediately prior to the current eligibility interview. The
120 hearing examiner must also take into serious consideration the
121 wishes of the victim or the opinions of the victim's next of kin
122 and must also consider whether:

123 1. The adolescent offender was a principal to the criminal
124 offense or an accomplice to the offense, a relatively minor
125 participant in the criminal offense, or acted under extreme
126 duress or domination of another person.

127 2. The adolescent offender has shown remorse for the
128 criminal offense.

129 3. The adolescent offender's age, maturity, and
130 psychological development at the time of the offense affected
131 her or his behavior.

132 4. The adolescent offender, while in the custody of the
133 department, has aided inmates suffering from catastrophic or
134 terminal medical, mental, or physical conditions or has
135 prevented risk or injury to staff, citizens, or other inmates.

136 5. The adolescent offender has successfully completed
137 educational and self-rehabilitation programs.

138 6. The adolescent offender was a victim of sexual,
139 physical, or emotional abuse.

140 (d) An adolescent offender who is not granted parole under
141 this subsection after an initial eligibility interview shall be
142 eligible for a reinterview 2 years after the date of the denial
143 of the grant of parole and every 2 years thereafter.

144 (e) An adolescent offender must serve her or his sentence
145 in a facility that has a General Educational Development (GED)

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146 program unless the adolescent offender has already successfully
147 completed a GED program.

148 (f) If the adolescent offender is granted parole, the
149 adolescent offender must participate in any available reentry
150 program for 2 years. As used in this paragraph, the term
151 "reentry program" means a program that promotes effective
152 reintegration of offenders back into communities upon release
153 and provides one or more of the following: vocational training,
154 placement services, transitional housing, mentoring, or drug
155 rehabilitation. Priority shall be given to those reentry
156 programs that are residential, highly structured, self-reliant,
157 and therapeutic communities.

158 (3)~~(2)~~ The following special types of cases shall have
159 their initial parole interview as follows:

160 (a) An initial interview may be postponed for a period not
161 to exceed 90 days. Such postponement shall be for good cause,
162 which shall include, but need not be limited to, the need for
163 the department to obtain a presentence or postsentence
164 investigation report or a probation or parole or mandatory
165 conditional release violation report. The reason for
166 postponement shall be noted in writing and included in the
167 official record. No postponement for good cause shall result in
168 an initial interview being conducted later than 90 days after
169 the inmate's initially scheduled initial interview.

170 (b) An initial interview may be deferred for any inmate who
171 is out to court. Such deferral shall not result in an initial
172 interview being conducted later than 90 days after the
173 department provides written notice to the commission that the
174 inmate has been returned from court.

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175 (c) An initial interview may be deferred for any inmate
176 confined in any appropriate treatment facility within the state,
177 public or private, by virtue of transfer from the department
178 under any applicable law. Such deferral shall not result in an
179 initial interview being conducted later than 90 days after the
180 department provides written notice to the commission that the
181 inmate has been returned to the department.

182 (d) An inmate designated a mentally disordered sex offender
183 shall have an initial interview conducted within 90 days of
184 receiving written notification by the department to the
185 commission of the need for such interview and that the inmate's
186 file contains all investigative reports deemed necessary by the
187 commission to conduct such interview.

188 (e) Any inmate who has been determined to be an
189 incapacitated person pursuant to s. 744.331 shall have an
190 initial interview conducted within 90 days after the date the
191 commission is provided with written notice that the inmate has
192 been restored to capacity by the court.

193 (f) An initial interview may be held at the discretion of
194 the commission after the entry of a commission order to revoke
195 parole or mandatory conditional release.

196 (g) For purposes of determining eligibility for parole
197 interview and release, the mandatory minimum portion of a
198 concurrent sentence will begin on the date the sentence begins
199 to run as provided in s. 921.161. The mandatory minimum portions
200 of consecutive sentences shall be served at the beginning of the
201 maximum sentence as established by the Department of
202 Corrections. Each mandatory minimum portion of consecutive
203 sentences shall be served consecutively; provided, that in no

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204 case shall a sentence begin to run before the date of
205 imposition. The commission shall conduct an initial interview
206 for an inmate serving a mandatory minimum sentence according to
207 the following schedule:

208 1. An inmate serving a mandatory term of 7 years or less
209 shall have an initial interview no sooner than 6 months prior to
210 the expiration of the mandatory minimum portion of the sentence.

211 2. An inmate serving a mandatory term in excess of 7 years
212 but of less than 15 years shall have an initial interview no
213 sooner than 12 months prior to the expiration of the mandatory
214 minimum portion of the sentence.

215 3. An inmate serving a mandatory term of 15 years or more
216 shall have an initial interview no sooner than 18 months prior
217 to the expiration of the mandatory minimum portion of the
218 sentence.

219 (h) If an inmate is serving a sentence imposed by a county
220 or circuit court of this state concurrently with a sentence
221 imposed by a court of another state or of the United States, and
222 if the department has designated the correctional institution of
223 the other jurisdiction as the place for reception and
224 confinement of such person, the inmate so released to another
225 jurisdiction shall be eligible for consideration for parole,
226 except that the commission shall determine the presumptive
227 parole release date and the effective parole release date by
228 requesting such person's record file from the receiving
229 jurisdiction. Upon receiving such records, the commission panel
230 assigned by the chair shall determine such release dates based
231 on the relevant information in that file. The commission may
232 concur with the parole release decision of the jurisdiction

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233 granting parole and accepting supervision. The provisions of s.
234 947.174 do not apply to an inmate serving a concurrent sentence
235 in another jurisdiction pursuant to s. 921.16(2).

236 (4)~~(3)~~ Notwithstanding the provisions of ss. 775.021 and
237 921.16, if an inmate has received a consecutive sentence or
238 sentences imposed by a court or courts of this state, the inmate
239 shall be eligible for consideration for parole, unless otherwise
240 expressly prohibited by law.

241 (5)~~(4)~~ A person who has become eligible for an initial
242 parole interview and who may, according to the objective parole
243 guidelines of the commission, be granted parole shall be placed
244 on parole in accordance with the provisions of this law; except
245 that, in any case of a person convicted of murder, robbery,
246 burglary of a dwelling or burglary of a structure or conveyance
247 in which a human being is present, aggravated assault,
248 aggravated battery, kidnapping, sexual battery or attempted
249 sexual battery, incest or attempted incest, an unnatural and
250 lascivious act or an attempted unnatural and lascivious act,
251 lewd and lascivious behavior, assault or aggravated assault when
252 a sexual act is completed or attempted, battery or aggravated
253 battery when a sexual act is completed or attempted, arson, or
254 any felony involving the use of a firearm or other deadly weapon
255 or the use of intentional violence, at the time of sentencing
256 the judge may enter an order retaining jurisdiction over the
257 offender for review of a commission release order. This
258 jurisdiction of the trial court judge is limited to the first
259 one-third of the maximum sentence imposed. When any person is
260 convicted of two or more felonies and concurrent sentences are
261 imposed, then the jurisdiction of the trial court judge as

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262 provided herein applies to the first one-third of the maximum
263 sentence imposed for the highest felony of which the person was
264 convicted. When any person is convicted of two or more felonies
265 and consecutive sentences are imposed, then the jurisdiction of
266 the trial court judge as provided herein applies to one-third of
267 the total consecutive sentences imposed.

268 (a) In retaining jurisdiction for the purposes of this act,
269 the trial court judge shall state the justification with
270 individual particularity, and such justification shall be made a
271 part of the court record. A copy of such justification shall be
272 delivered to the department together with the commitment issued
273 by the court pursuant to s. 944.16.

274 (b) Gain-time as provided for by law shall accrue, except
275 that an offender over whom the trial court has retained
276 jurisdiction as provided herein shall not be released during the
277 first one-third of her or his sentence by reason of gain-time.

278 (c) In such a case of retained jurisdiction, the
279 commission, within 30 days after the entry of its release order,
280 shall send notice of its release order to the original
281 sentencing judge and to the appropriate state attorney. The
282 release order shall be made contingent upon entry of an order by
283 the appropriate circuit judge relinquishing jurisdiction as
284 provided for in paragraphs (d) and (f). If the original
285 sentencing judge is no longer in service, such notice shall be
286 sent to the chief judge of the circuit in which the offender was
287 sentenced. The chief judge may designate any circuit judge
288 within the circuit to act in the place of the original
289 sentencing judge. Such notice shall stay the time requirements
290 of s. 947.1745.

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291 (d) Within 10 days after receipt of the notice provided for
292 in paragraph (c), the original sentencing judge or her or his
293 replacement shall notify the commission as to whether or not the
294 court further desires to retain jurisdiction. If the original
295 sentencing judge or her or his replacement does not so notify
296 the commission within the 10-day period or notifies the
297 commission that the court does not desire to retain
298 jurisdiction, then the commission may dispose of the matter as
299 it sees fit.

300 (e) Upon receipt of notice of intent to retain jurisdiction
301 from the original sentencing judge or her or his replacement,
302 the commission shall, within 10 days, forward to the court its
303 release order, the findings of fact, the parole hearing
304 examiner's report and recommendation, and all supporting
305 information upon which its release order was based.

306 (f) Within 30 days of receipt of the items listed in
307 paragraph (e), the original sentencing judge or her or his
308 replacement shall review the order, findings, and evidence; and,
309 if the judge finds that the order of the commission is not based
310 on competent substantial evidence or that the parole is not in
311 the best interest of the community or the inmate, the court may
312 vacate the release order. The judge or her or his replacement
313 shall notify the commission of the decision of the court, and,
314 if the release order is vacated, such notification shall contain
315 the evidence relied on and the reasons for denial. A copy of
316 such notice shall be sent to the inmate.

317 (g) The decision of the original sentencing judge or, in
318 her or his absence, the chief judge of the circuit to vacate any
319 parole release order as provided in this section is not

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320 appealable. Each inmate whose parole release order has been
321 vacated by the court shall be reinterviewed within 2 years after
322 the date of receipt of the vacated release order and every 2
323 years thereafter, or earlier by order of the court retaining
324 jurisdiction. However, each inmate whose parole release order
325 has been vacated by the court and who has been:

- 326 1. Convicted of murder or attempted murder;
327 2. Convicted of sexual battery or attempted sexual battery;
328 or
329 3. Sentenced to a 25-year minimum mandatory sentence
330 previously provided in s. 775.082,

331
332 shall be reinterviewed once within 5 years after the date of
333 receipt of the vacated release order and once every 5 years
334 thereafter, if the commission finds that it is not reasonable to
335 expect that parole would be granted during the following years
336 and states the bases for the finding in writing. For any inmate
337 who is within 7 years of his or her tentative release date, the
338 commission may establish a reinterview date prior to the 5-year
339 schedule.

340 (h) An inmate whose parole release order has been vacated
341 by the court may not be given a presumptive parole release date
342 during the period of retention of jurisdiction by the court.
343 During such period, a new effective parole release date may be
344 authorized at the discretion of the commission without further
345 interview unless an interview is requested by no fewer than two
346 commissioners. Any such new effective parole release date must
347 be reviewed in accordance with the provisions of paragraphs (c),
348 (d), (e), (f), and (g).

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349 ~~(6)~~~~(5)~~ Within 90 days after any interview for parole, the
350 inmate shall be advised of the presumptive parole release date.
351 Subsequent to the establishment of the presumptive parole
352 release date, the commission may, at its discretion, review the
353 official record or conduct additional interviews with the
354 inmate. However, the presumptive parole release date may not be
355 changed except for reasons of institutional conduct or the
356 acquisition of new information not available at the time of the
357 initial interview.

358 ~~(7)~~~~(6)~~ This section as amended by chapter 82-171, Laws of
359 Florida, shall apply only to those persons convicted on or after
360 the effective date of chapter 82-171; and this section as in
361 effect before being amended by chapter 82-171 shall apply to any
362 person convicted before the effective date of chapter 82-171.

363 Section 3. An adolescent offender, as defined in s.
364 947.16(2)(a), Florida Statutes, as created by this act, who is
365 in his or her eighth or subsequent year of incarceration on the
366 effective date of this act must receive an initial eligibility
367 interview as provided in s. 947.16(2)(c), Florida Statutes, as
368 created by this act, if he or she is otherwise eligible.

369 Section 4. This act shall take effect upon becoming a law,
370 and applies with respect to offenses committed before, on, or
371 after that date.