

1 A bill to be entitled
2 An act relating to illegal aliens in the correctional
3 system; requiring the Department of Corrections and the
4 Parole Commission to establish agreements to implement a
5 federal deportation program for certain state inmates;
6 specifying the goals of the program; creating s. 947.1461,
7 F.S.; requiring the department to identify during the
8 reception process inmates eligible for deportation;
9 specifying eligibility criteria; requiring the department
10 to coordinate with federal authorities to determine
11 immigration status and eligibility for removal and obtain
12 a removal order; specifying that eligible inmates waive
13 administrative and appellate rights and cooperate with
14 authorities; requiring the Control Release Authority to
15 establish control release dates; authorizing control
16 release dates to occur after the alien has served a
17 minimum 50 percent of his or her court-imposed sentence;
18 providing for control and responsibility for the custody
19 and transportation of aliens; requiring the authority to
20 give notice to aliens concerning illegally reentering the
21 United States; requiring aliens to waive in writing all
22 rights of extradition which would challenge the alien's
23 return to complete the remainder of his or her sentence
24 upon illegal reentry; prohibiting aliens from benefiting
25 from control release awards when removal is not reasonably
26 foreseeable; requiring the department to compile certain
27 statistics; amending s. 947.146, F.S.; requiring the
28 authority to implement a program to execute an immediate

29 | deportation order; providing that control release dates
 30 | for deportation do not become void when the inmate
 31 | population changes; authorizing extension or advancement
 32 | of a control release date based upon arrangements for the
 33 | transfer of custody pending deportation; providing an
 34 | effective date.

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 36 | Be It Enacted by the Legislature of the State of Florida:
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38 | Section 1. The Department of Corrections and the Parole
 39 | Commission shall immediately initiate, coordinate, and establish
 40 | agreements among multiple state, local, and federal authorities
 41 | to implement the United States Immigration and Customs
 42 | Enforcement Rapid Removal of Eligible Parolees Accepted for
 43 | Transfer (REPAT) program. The goals of this effort shall be to:

44 | (1) Ensure that deportable aliens are not released from
 45 | prison into the community.

46 | (2) Reduce the number of criminal aliens incarcerated in
 47 | the state prison system.

48 | (3) Provide for the mandatory revocation of control
 49 | release and confinement of criminal aliens who reenter the
 50 | United States and who are rearrested in this state.

51 | (4) Allow eligible inmates to be released for deportation
 52 | purposes prior to the expiration of the sentence.

53 | (5) Expedite the deportation process.

54 | (6) Improve information-sharing procedures between the
 55 | Immigration and Customs Enforcement Section of the United States
 56 | Department of Homeland Security and the department.

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57 Section 2. Section 947.1461, Florida Statutes, is created
58 to read:

59 947.1461 Control release for removal and deportation
60 only.--

61 (1) The department shall, during the inmate reception
62 process, identify aliens eligible for deportation to determine
63 whether deportation is feasible and in the best interest of the
64 state. Aliens who are ineligible for the federal deportation
65 process pursuant to this section are inmates who are ineligible
66 for control release pursuant to s. 947.146(3).

67 (2) The department shall coordinate with federal
68 authorities to determine the alien's immigration status and
69 eligibility for removal and to obtain the final removal order.

70 (3) The department shall identify for removal any alien
71 who, in writing, has:

72 (a) Voluntarily waived all administrative and judicial
73 appellate rights; and

74 (b) Agreed to fully cooperate with federal authorities to
75 obtain valid travel documentation and facilitate removal.

76 (4) Upon the alien's acceptance into the federal
77 deportation process, the Control Release Authority shall
78 establish a control release date for the alien to be transferred
79 into federal custody, which date, notwithstanding s.
80 944.275(4)(b)3., may fall after the alien has served a minimum
81 of 50 percent of his or her court-imposed sentence.

82 (5) The department shall maintain exclusive control and
83 responsibility for the custody and transportation of aliens to
84 and from federal facilities.

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85 (6) The authority shall provide notice and obtain
86 acknowledgement in writing that notice was given to each alien
87 eligible for deportation that illegal reentry into the United
88 States requires the return of such alien to the custody of the
89 department to complete the remainder of his or her court-imposed
90 sentence. The alien must also waive in writing any and all
91 rights of extradition which would challenge the alien's return
92 to the department and the authority following illegal reentry
93 into the United States to complete the remainder of his or her
94 sentence.

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

99 (8) The department shall compile statistics relating to
100 actions under this section, including the number of aliens who
101 are transferred to federal custody, the number of aliens who are
102 actually removed from the United States, the number of aliens
103 who reenter the United States, and the annualized cost avoidance
104 achieved.

105 Section 3. Subsections (2) and (5) and paragraph (a) of
106 subsection (7) of section 947.146, Florida Statutes, are amended
107 to read:

108 947.146 Control Release Authority.--

109 (2) The authority shall implement a system for determining
110 the number and type of inmates who must be released into the
111 community under control release in order to maintain the state
112 prison system between 99 and 100 percent of its total capacity

113 as defined in s. 944.023 or to execute an immediate deportation
114 order from federal immigration authorities. No inmate has a
115 right to control release. Control release is an administrative
116 function solely used to manage the state prison population
117 within total capacity and to expedite the deportation process.
118 An inmate may not receive an advancement of his or her control
119 release date by an award of control release allotments for any
120 period of time before the date the inmate becomes statutorily
121 eligible for control release or before the subsequent date of
122 establishment of the inmate's advanceable control release date.

123 (5) Whenever the inmate population drops below 99 percent
124 of total capacity and remains below 99 percent for 90
125 consecutive days without requiring the release of inmates under
126 this section, all control release dates shall become void and no
127 inmate shall be eligible for release under any previously
128 established control release date. However, control release dates
129 for deportation purposes shall not become void when the inmate
130 population changes. An inmate shall not have a right to a
131 control release date, nor shall the authority be required to
132 establish or reestablish any additional control release dates
133 except under the provisions of subsection (2).

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

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

- 138 1. Recently discovered information of:
139 a. Past criminal conduct;
140 b. Verified threats by inmates provided by victims, law

141 enforcement, or the department;

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

143 d. Psychological or physical trauma to the victim due to

144 the criminal offense;

145 e. Court-ordered restitution;

146 f. History of abuse or addiction to a chemical substance

147 verified by a presentence or postsentence investigation report;

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

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

150 i. Cooperation with law enforcement;

151 j. Strong community support; and

152 k. A documented mental condition as a factor for future

153 criminal behavior.

154 2. The recommendation of the department regarding:

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

156 b. Institutional adjustment of the inmate, which may

157 include refusal by the inmate to sign the agreement to the

158 conditions of the release plan.

159 3. Total capacity of the state prison system.

160 4. Arrangements for the transfer of custody pending

161 deportation.

162 Section 4. This act shall take effect July 1, 2009.