

By the Committee on Judiciary; and Senators Bennett and Gaetz

590-05195-09

2009352c1

1                                   A bill to be entitled  
2           An act relating to illegal or undocumented aliens;  
3           requiring the Department of Corrections and the Parole  
4           Commission to establish agreements to implement a  
5           federal deportation program for state inmates;  
6           specifying the goals of the program;  
7           amending s. 947.146, F.S., relating to the Control  
8           Release Authority; requiring the authority to  
9           implement a program to execute an immediate  
10          deportation order; creating s. 947.1461, F.S.,  
11          relating to control release for removal and  
12          deportation; requiring the department to identify  
13          eligible inmates at the reception process; specifying  
14          eligibility criteria; requiring the department to  
15          coordinate with federal authorities to determine  
16          immigration status and eligibility for removal;  
17          specifying that eligible inmates waive administrative  
18          and appellate rights; requiring the Control Release  
19          Authority to establish control release dates;  
20          authorizing the control release dates to be set after  
21          the alien has served a minimum 50 percent of his or  
22          her court-imposed sentence; requiring the Control  
23          Release Authority to give notice to aliens concerning  
24          reentering the United States; prohibiting aliens from  
25          benefiting from control release awards when removal is  
26          not reasonably foreseeable; requiring the department  
27          to compile and report certain statistics; providing an  
28          effective date.  
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590-05195-09

2009352c1

30 Be It Enacted by the Legislature of the State of Florida:

31  
32 Section 1. The Department of Corrections and the Parole  
33 Commission shall immediately initiate, coordinate, and establish  
34 agreements among multiple state, local, and federal authorities  
35 to implement the United States Immigration and Customs  
36 Enforcement Rapid Removal of Eligible Parolees Accepted for  
37 Transfer (REPAT) program. The goals of this effort shall be to:

38 (1) Ensure that deportable aliens are not released from  
39 prison to the community;

40 (2) Reduce the number of criminal aliens incarcerated in  
41 the state prison system;

42 (3) Provide for the mandatory revocation of control release  
43 and the confinement of criminal aliens who reenter the United  
44 States;

45 (4) Allow eligible inmates to be released for deportation  
46 purposes before the expiration of the sentence;

47 (5) Expedite the deportation process; and

48 (6) Improve information-sharing procedures between the  
49 Immigration and Customs Enforcement Section of the United States  
50 Department of Homeland Security and the department.

51 Section 2. Subsections (2), (5), and (7) of section  
52 947.146, Florida Statutes, are amended to read:

53 947.146 Control Release Authority.—

54 (2) The authority shall implement a system for determining  
55 the number and type of inmates who must be released into the  
56 community under control release in order to maintain the state  
57 prison system between 99 and 100 percent of its total capacity  
58 as defined in s. 944.023 or to execute an immediate deportation

590-05195-09

2009352c1

59 order from federal immigration authorities. An ~~no~~ inmate does  
60 not have ~~has~~ a right to control release. Control release is an  
61 administrative function solely used to manage the state prison  
62 population within total capacity and to expedite the deportation  
63 process. An inmate may not receive an advancement of his or her  
64 control release date by an award of control release allotments  
65 for any period of time before the date the inmate becomes  
66 statutorily eligible for control release or before the  
67 subsequent date of establishment of the inmate's advanceable  
68 control release date.

69 (5) Whenever the inmate population drops below 99 percent  
70 of total capacity and remains below 99 percent for 90  
71 consecutive days without requiring the release of inmates under  
72 this section, all control release dates shall become void and an  
73 no inmate is not ~~shall be~~ eligible for release under any  
74 previously established control release date. However, control  
75 release dates for deportation purposes do not become void when  
76 the inmate population changes. An inmate does ~~shall~~ not have a  
77 right to a control release date, and ~~nor shall~~ the authority is  
78 not be required to establish or reestablish any additional  
79 control release dates except under ~~the provisions of~~ subsection  
80 (2).

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

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

- 85 1. Recently discovered information of:  
86 a. Past criminal conduct;  
87 b. Verified threats by inmates provided by victims, law

590-05195-09

2009352c1

88 enforcement, or the department;

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

90 d. Psychological or physical trauma to the victim due to  
91 the criminal offense;

92 e. Court-ordered restitution;

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

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

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

97 i. Cooperation with law enforcement;

98 j. Strong community support; and

99 k. A documented mental condition as a factor for future  
100 criminal behavior.

101 2. The recommendation of the department regarding:

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

103 b. Institutional adjustment of the inmate, which may  
104 include refusal by the inmate to sign the agreement to the  
105 conditions of the release plan.

106 3. Total capacity of the state prison system.

107 4. Arrangements for the transfer of custody pending  
108 deportation.

109 (b) Authorize an individual commissioner to postpone a  
110 control release date for not more than 60 days without a hearing  
111 for any inmate who has become the subject of a disciplinary  
112 proceeding, a criminal arrest, an information, or an indictment;  
113 who has been terminated from work release; or about whom there  
114 is any recently discovered information as specified in paragraph  
115 (a).

116 (c) Determine the terms, conditions, and period of time of

590-05195-09

2009352c1

117 control release for persons released under ~~pursuant to~~ this  
118 section.

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

121 (e) Provide for victim input into the decisionmaking  
122 process which may be used by the authority as aggravation or  
123 mitigation in determining which persons shall be released on  
124 control release.

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

128 (g) Contract with a public defender or private counsel for  
129 representation of indigent persons charged with violating the  
130 terms of control release.

131 (h) Adopt such rules as the authority deems necessary for  
132 implementation of ~~the provisions of~~ this section.

133 Section 3. Section 947.1461, Florida Statutes, is created  
134 to read:

135 947.1461 Control release for removal and deportation only.-

136 (1) The Department of Corrections shall begin during the  
137 inmate reception process a procedure to identify eligible aliens  
138 and determine if deportation is feasible and in the best  
139 interests of the state. Aliens who are ineligible for the  
140 federal deportation process under this section are inmates who  
141 are ineligible for control release under s. 947.146(3)(a)-(m).

142 (2) The Department of Corrections shall coordinate with the  
143 federal authorities to determine immigration status and  
144 eligibility for removal and to obtain the final removal order.

145 (3) The Department of Corrections shall identify aliens for

590-05195-09

2009352c1

146 removal who have voluntarily waived all administrative and  
147 judicial appellate rights in writing and who have agreed in  
148 writing to fully cooperate with federal authorities to obtain  
149 valid travel documentation and facilitate removal.

150 (4) Upon acceptance into the federal deportation program,  
151 the Control Release Authority shall establish a control release  
152 date for the alien to be transferred into federal custody.  
153 Notwithstanding s. 944.275(4)(b)3., the Control Release  
154 Authority may establish a control release date after the alien  
155 has served a minimum of 50 percent of his or her court-imposed  
156 sentence.

157 (5) The Department of Corrections shall maintain exclusive  
158 control and responsibility for the custody and transportation of  
159 an alien who is accepted into the federal deportation program  
160 until the alien is physically transferred to federal custody.

161 (6) The Control Release Authority shall provide notice and  
162 obtain acknowledgement in writing that notice was given to each  
163 alien who is eligible for deportation that reentry into the  
164 United States requires the return of such alien to the custody  
165 of the Department of Corrections to complete the remainder of  
166 his or her court-imposed sentence. The alien must also waive in  
167 writing all rights of extradition which would challenge the  
168 alien's return to the Department of Corrections and Control  
169 Release Authority to complete the remainder of his or her  
170 sentence.

171 (7) An alien may not under any circumstances receive the  
172 benefits of control release awards when the federal authorities  
173 determine that the alien's removal is not reasonably  
174 foreseeable.

590-05195-09

2009352c1

175       (8) The Department of Corrections shall compile statistics  
176 on this program, including the number of aliens who are  
177 transferred to federal custody, the number of aliens who are  
178 actually removed from the United States, the number of aliens  
179 who reenter the United States, and the annualized cost-avoidance  
180 achieved.

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