

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: CS/SB 1392

INTRODUCER: Criminal and Civil Justice Appropriations Committee and Senator Crist

SUBJECT: Parole Commission

DATE: April 8, 2010

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Butler	Sadberry	JA	Fav/CS
2.	Clodfelter	Cannon	CJ	Favorable
3.			WPSC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|-----------------------------------------|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill changes the name of the Parole Commission to the Florida Offender Review and Transition Commission to more accurately reflect the roles of the commission.

This bill substantially amends section 20.32, Florida Statutes.

II. Present Situation:

The Parole Commission (Commission) is a constitutionally authorized decision-making body. Article IV, section 8 of the Florida Constitution, provides that there may be created by law a parole and probation commission with the power to supervise persons on probation and grant paroles of conditional releases to persons under sentences for crime (s. 20.32, F.S.). In 1941, the Commission was created by law to administer parole. Since that time, the administration of conditional release, conditional medical release, control release, and addiction recovery has been placed under the Commission. The Commission also acts as the investigative arm of the Governor and Cabinet, sitting as the Board of Executive Clemency (Clemency Board), in clemency matters.

Parole

Parole is the release of an inmate, prior to the expiration of the inmate's court-imposed sentence, with a period of supervision to be successfully completed by compliance with the conditions and terms of the release agreement ordered by the Commission. The decision of the Commission to parole an inmate shall represent an act of grace of the State and should not be considered a right.

The Parole Commission administers parole (see Chapters 947, 948, and 949, F.S.). It allows an inmate who has been granted parole to serve the remainder of his or her prison sentence outside the confines of the institution. Once released, the parolee is subject to conditions of supervision, and if those conditions are violated, the Commission may return the parolee to prison. Parole has experienced a number of changes over the years. In 1978, the Florida Legislature enacted "Objective Parole Guidelines," which required the Commission to develop and implement rules and criteria upon which parole decisions were to be made. These criteria were based on risk assessment and combined historical Commission decision-making experience with individual case elements. The most significant change, however, came in 1983. In that year, sentencing guidelines were enacted, thereby effectively abolishing parole for those offenders who were sentenced for crimes committed on or after October 1, 1983.

Currently, all inmates who committed a capital felony murder prior to May 25, 1994, and all inmates who committed all other capital felonies, including sexual battery prior to October 1, 1995, are also parole eligible. There are approximately 5,900 inmates who are still eligible for parole consideration and numerous offenders who are still under parole supervision.

Post Prison Release

Conditional Release

In 1988, the Florida Legislature created the Conditional Release Program and placed it under the administration of the Commission (see Chapters 947, 948, and 960, F.S.). Conditional Release requires mandatory post-prison supervision for inmates who are sentenced for certain violent crimes and who have served a prior felony commitment, or who are sentenced as a habitual offender, violent habitual offender, violent career criminal, or sexual predator. Unlike parole, conditional release is not discretionary release. Upon release from prison, inmates who are subject to conditional release are supervised for a period of time equal to the gain-time that they received in prison. These offenders are subject to strict conditions of supervision set by the Commission and this supervision can be revoked and the releasee returned to prison if the Commission determines that a violation of supervision has occurred.

Control Release

In 1989, the Florida Legislature created the Control Release Authority (see Chapters 947 and 948, F.S.). This program was a prison population management system administered by the Commission to keep the prison population at its lawful capacity. The Commission does not currently review the inmate population for discretionary release under this authority as there are sufficient prison beds for the current prison population. There are, however, a small number of control releasees who are still under supervision. The Commission is responsible for monitoring the progress of these releasees and conducting revocation hearings when alleged violations are reported.

Conditional Medical Release

In 1992, the Florida Legislature created Conditional Medical Release (see Chapters 947, 948, and 960, F.S.). This is a discretionary release that allows the Commission to release inmates on supervision who are “terminally ill” or “permanently incapacitated” and who are not a danger to others.

Addiction Recovery Supervision Program

In 2001, the Legislature created the Addiction Recovery Supervision Program and placed it under the Commission’s administration. This program requires mandatory post prison supervision for offenders who are released from a state correctional facility, were convicted of a crime committed on or after July 1, 2001, have a history of substance abuse or addiction or have participated in any drug treatment, and have not been convicted of a disqualifying offense. The law requires the Commission to set the terms and conditions of supervision and to revoke that supervision if the offender fails to comply with them. The first offender eligible for the program was released from prison in June 2002. In FY 2008-09, 2,057 offenders were placed in the program.

Clemency

Clemency is a constitutionally authorized process that provides the means through which convicted felons may seek restoration of their civil rights and may be considered for relief from punishment. The Office of Executive Clemency was created in 1975 to process applications for executive clemency requiring approval of the Governor and Cabinet who sit collectively as the Executive Clemency Board.

In addition to processing requests for restoration of civil rights, applications for alien status, full pardons, remission of fines, waiver requests, commutations of sentence and specific authority to own, possess or use firearms, the office also provides verification and/or certification of restoration of civil rights and other forms of clemency granted, to law enforcement agencies, state attorneys, public defenders, licensing agencies, and supervisors of elections.

The Parole Commission primarily processes clemency applications and reviews certain inmates under their purview. There is confusion over the role of the Parole Commission because its name does not depict the duties actually prescribed by law.

Victim Services

The Victim Services’ section provides direct, personal service to crime victims and their families. Staff attempts to locate all victims of parole eligible inmates and persons seeking clemency to inform them of their right to be heard and participate in the clemency or parole process. Victims are also informed of their right to be notified by the Department of Corrections of an inmate’s movement within the prison system or escape.

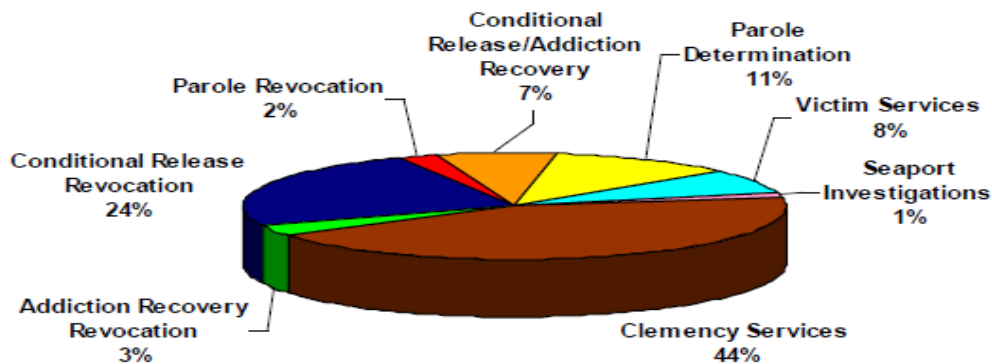
Revocations

The Revocations Section reviews all violation reports, prepares arrest warrants, updates the National Crime Information Center/Florida Crime Information Center databases (NCIC/FCIC), responds to requests from law enforcement agencies, coordinates the extradition of violators, and performs functions relating to the docketing and processing of cases for Commission action involving review of supervision and violations of supervision.

The violation process begins when law enforcement or the Department of Corrections notifies the Commission that a releasee has violated one or more conditions of his/her supervision. The Revocations Section is responsible for reviewing these reported violations and preparing a warrant for a Commissioner’s signature. The Commission may issue a warrant for the arrest of any offender when reasonable grounds exist to believe the releasee has violated any of the conditions of supervision.¹

The graph below shows the Commission’s workload by activity in FY 2008-09

**FY 2008-2009 Commission Workload:
Hours by Activity**



III. Effect of Proposed Changes:

Section 1 of the bill changes the name of the Parole Commission to the “Florida Offender Review and Transition Commission.”

Section 2 of the bill directs the Division of Statutory Revision to provide relevant substantive committees of the Senate and the House of Representatives with assistance, upon request, to enable such committees to prepare draft legislation to conform the Florida Statutes and any legislation enacted during 2010 to the provisions of this act.

¹ Information obtained from the Florida Parole Commission website:
<https://fpc.state.fl.us>

Section 3 of the bill provides the bill's effective date of July 1, 2010.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None, except administrative costs to change the name.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal and Civil Justice Appropriations Committee on March 19, 2010:
The bill amends s. 20.32, F.S., to change the name of the Parole Commission to the Florida Offender Review and Transition Commission to more accurately reflect the roles of the commission.

The bill directs the Division of Statutory Revision, in the interim, to provide the Senate and House of Representatives with assistance to enable committees to prepare draft legislation to conform the Florida Statutes as applicable.

The bill provides an effective date of July 1, 2010.

B. Amendments:

None.