



216202

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/13/2010	.	
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The Committee on Criminal Justice (Thrasher) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Paragraph (g) of subsection (4) of section 947.16, Florida Statutes, is amended to read:

947.16 Eligibility for parole; initial parole interviews; powers and duties of commission.—

(4) A person who has become eligible for an initial parole interview and who may, according to the objective parole guidelines of the commission, be granted parole shall be placed



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13 on parole in accordance with the provisions of this law; except  
14 that, in any case of a person convicted of murder, robbery,  
15 burglary of a dwelling or burglary of a structure or conveyance  
16 in which a human being is present, aggravated assault,  
17 aggravated battery, kidnapping, sexual battery or attempted  
18 sexual battery, incest or attempted incest, an unnatural and  
19 lascivious act or an attempted unnatural and lascivious act,  
20 lewd and lascivious behavior, assault or aggravated assault when  
21 a sexual act is completed or attempted, battery or aggravated  
22 battery when a sexual act is completed or attempted, arson, or  
23 any felony involving the use of a firearm or other deadly weapon  
24 or the use of intentional violence, at the time of sentencing  
25 the judge may enter an order retaining jurisdiction over the  
26 offender for review of a commission release order. This  
27 jurisdiction of the trial court judge is limited to the first  
28 one-third of the maximum sentence imposed. When any person is  
29 convicted of two or more felonies and concurrent sentences are  
30 imposed, then the jurisdiction of the trial court judge as  
31 provided herein applies to the first one-third of the maximum  
32 sentence imposed for the highest felony of which the person was  
33 convicted. When any person is convicted of two or more felonies  
34 and consecutive sentences are imposed, then the jurisdiction of  
35 the trial court judge as provided herein applies to one-third of  
36 the total consecutive sentences imposed.

37 (g) The decision of the original sentencing judge or, in  
38 her or his absence, the chief judge of the circuit to vacate any  
39 parole release order as provided in this section is not  
40 appealable. Each inmate whose parole release order has been  
41 vacated by the court shall be reinterviewed within 2 years after



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42 the date of receipt of the vacated release order and every 2  
43 years thereafter, or earlier by order of the court retaining  
44 jurisdiction. However, each inmate whose parole release order  
45 has been vacated by the court and who has been:

- 46 1. Convicted of murder or attempted murder;  
47 2. Convicted of sexual battery or attempted sexual battery;

48 or

- 49 3. Sentenced to a 25-year minimum mandatory sentence  
50 previously provided in s. 775.082,

51  
52 shall be reinterviewed once within 7 ~~5~~ years after the date of  
53 receipt of the vacated release order and once every 7 ~~5~~ years  
54 thereafter, if the commission finds that it is not reasonable to  
55 expect that parole would be granted during the following years  
56 and states the bases for the finding in writing. For any inmate  
57 who is within 7 years of his or her tentative release date, the  
58 commission may establish a reinterview date prior to the 7-year  
59 ~~5-year~~ schedule.

60 Section 2. Paragraph (b) of subsection (1) of section  
61 947.174, Florida Statutes, is amended to read:

62 947.174 Subsequent interviews.—

63 (1)

64 (b) For any inmate convicted of murder, attempted murder,  
65 sexual battery, or attempted sexual battery, or any inmate who  
66 has been sentenced to a 25-year minimum mandatory sentence  
67 previously provided in s. 775.082, and whose presumptive parole  
68 release date is more than 7 ~~5~~ years after the date of the  
69 initial interview, a hearing examiner shall schedule an  
70 interview for review of the presumptive parole release date. The



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71 ~~such~~ interview shall take place once within 7 ~~5~~ years after the  
72 initial interview and once every 7 ~~5~~ years thereafter if the  
73 commission finds that it is not reasonable to expect that parole  
74 will be granted at a hearing during the following years and  
75 states the bases for the finding in writing. For any inmate who  
76 is within 7 years of his or her tentative release date, the  
77 commission may establish an interview date before ~~prior to~~ the  
78 7-year ~~5-year~~ schedule.

79 Section 3. Subsection (6) of section 947.1745, Florida  
80 Statutes, is amended to read:

81 947.1745 Establishment of effective parole release date.—If  
82 the inmate's institutional conduct has been satisfactory, the  
83 presumptive parole release date shall become the effective  
84 parole release date as follows:

85 (6) Within 90 days before the effective parole release date  
86 interview, the commission shall send written notice to the  
87 sentencing judge of any inmate who has been scheduled for an  
88 effective parole release date interview. If the sentencing judge  
89 is no longer serving, the notice must be sent to the chief judge  
90 of the circuit in which the offender was sentenced. The chief  
91 judge may designate any circuit judge within the circuit to act  
92 in the place of the sentencing judge. Within 30 days after  
93 receipt of the commission's notice, the sentencing judge, or the  
94 designee, shall send to the commission notice of objection to  
95 parole release, if the judge objects to such release. If there  
96 is objection by the judge, such objection may constitute good  
97 cause in exceptional circumstances as described in s. 947.173,  
98 and the commission may schedule a subsequent review within 2  
99 years, extending the presumptive parole release date beyond that



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100 time. However, for an inmate who has been:  
101 (a) Convicted of murder or attempted murder;  
102 (b) Convicted of sexual battery or attempted sexual  
103 battery; or  
104 (c) Sentenced to a 25-year minimum mandatory sentence  
105 previously provided in s. 775.082,  
106  
107 the commission may schedule a subsequent review under this  
108 subsection once every 7 ~~5~~ years, extending the presumptive  
109 parole release date beyond that time if the commission finds  
110 that it is not reasonable to expect that parole would be granted  
111 at a review during the following years and states the bases for  
112 the finding in writing. For any inmate who is within 7 years of  
113 his or her release date, the commission may schedule a  
114 subsequent review prior to the 7-year ~~5-year~~ schedule. With any  
115 subsequent review the same procedure outlined above will be  
116 followed. If the judge remains silent with respect to parole  
117 release, the commission may authorize an effective parole  
118 release date. This subsection applies if the commission desires  
119 to consider the establishment of an effective release date  
120 without delivery of the effective parole release date interview.  
121 Notice of the effective release date must be sent to the  
122 sentencing judge, and either the judge's response to the notice  
123 must be received or the time period allowed for such response  
124 must elapse before the commission may authorize an effective  
125 release date.

126 Section 4. This act shall take effect July 1, 2010.

127  
128 ===== T I T L E A M E N D M E N T =====



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129 And the title is amended as follows:

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131 Delete everything before the enacting clause

132 and insert:

133

A bill to be entitled

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An act relating to parole interview dates for certain

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inmates; amending ss. 947.16, 947.174, and 947.1745,

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F.S.; extending from 5 to 7 years the period between

137

parole interview dates for inmates convicted of

138

violating specified provisions or serving a mandatory

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minimum sentence under a specified provision;

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providing an effective date.