

By the Committee on Criminal Justice; and Senators Baker and Thrasher

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1 A bill to be entitled

2 An act relating to parole interview dates for certain  
3 inmates; amending ss. 947.16, 947.174, and 947.1745,  
4 F.S.; extending from 5 to 7 years the period between  
5 parole interview dates for inmates convicted of  
6 violating specified provisions or serving a mandatory  
7 minimum sentence under a specified provision;  
8 providing an effective date.

9  
10 Be It Enacted by the Legislature of the State of Florida:

11  
12 Section 1. Paragraph (g) of subsection (4) of section  
13 947.16, Florida Statutes, is amended to read:

14 947.16 Eligibility for parole; initial parole interviews;  
15 powers and duties of commission.-

16 (4) A person who has become eligible for an initial parole  
17 interview and who may, according to the objective parole  
18 guidelines of the commission, be granted parole shall be placed  
19 on parole in accordance with the provisions of this law; except  
20 that, in any case of a person convicted of murder, robbery,  
21 burglary of a dwelling or burglary of a structure or conveyance  
22 in which a human being is present, aggravated assault,  
23 aggravated battery, kidnapping, sexual battery or attempted  
24 sexual battery, incest or attempted incest, an unnatural and  
25 lascivious act or an attempted unnatural and lascivious act,  
26 lewd and lascivious behavior, assault or aggravated assault when  
27 a sexual act is completed or attempted, battery or aggravated  
28 battery when a sexual act is completed or attempted, arson, or  
29 any felony involving the use of a firearm or other deadly weapon

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30 or the use of intentional violence, at the time of sentencing  
31 the judge may enter an order retaining jurisdiction over the  
32 offender for review of a commission release order. This  
33 jurisdiction of the trial court judge is limited to the first  
34 one-third of the maximum sentence imposed. When any person is  
35 convicted of two or more felonies and concurrent sentences are  
36 imposed, then the jurisdiction of the trial court judge as  
37 provided herein applies to the first one-third of the maximum  
38 sentence imposed for the highest felony of which the person was  
39 convicted. When any person is convicted of two or more felonies  
40 and consecutive sentences are imposed, then the jurisdiction of  
41 the trial court judge as provided herein applies to one-third of  
42 the total consecutive sentences imposed.

43 (g) The decision of the original sentencing judge or, in  
44 her or his absence, the chief judge of the circuit to vacate any  
45 parole release order as provided in this section is not  
46 appealable. Each inmate whose parole release order has been  
47 vacated by the court shall be reinterviewed within 2 years after  
48 the date of receipt of the vacated release order and every 2  
49 years thereafter, or earlier by order of the court retaining  
50 jurisdiction. However, each inmate whose parole release order  
51 has been vacated by the court and who has been:

- 52 1. Convicted of murder or attempted murder;
- 53 2. Convicted of sexual battery or attempted sexual battery;

54 or

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

57  
58 shall be reinterviewed once within 7 ~~5~~ years after the date of

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59 receipt of the vacated release order and once every 7 ~~5~~ years  
60 thereafter, if the commission finds that it is not reasonable to  
61 expect that parole would be granted during the following years  
62 and states the bases for the finding in writing. For any inmate  
63 who is within 7 years of his or her tentative release date, the  
64 commission may establish a reinterview date prior to the 7-year  
65 ~~5-year~~ schedule.

66 Section 2. Paragraph (b) of subsection (1) of section  
67 947.174, Florida Statutes, is amended to read:

68 947.174 Subsequent interviews.—

69 (1)

70 (b) For any inmate convicted of murder, attempted murder,  
71 sexual battery, or attempted sexual battery, or any inmate who  
72 has been sentenced to a 25-year minimum mandatory sentence  
73 previously provided in s. 775.082, and whose presumptive parole  
74 release date is more than 7 ~~5~~ years after the date of the  
75 initial interview, a hearing examiner shall schedule an  
76 interview for review of the presumptive parole release date. The  
77 ~~such~~ interview shall take place once within 7 ~~5~~ years after the  
78 initial interview and once every 7 ~~5~~ years thereafter if the  
79 commission finds that it is not reasonable to expect that parole  
80 will be granted at a hearing during the following years and  
81 states the bases for the finding in writing. For any inmate who  
82 is within 7 years of his or her tentative release date, the  
83 commission may establish an interview date before ~~prior to~~ the  
84 7-year ~~5-year~~ schedule.

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

87 947.1745 Establishment of effective parole release date.—If

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88 the inmate's institutional conduct has been satisfactory, the  
89 presumptive parole release date shall become the effective  
90 parole release date as follows:

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

107 (a) Convicted of murder or attempted murder;

108 (b) Convicted of sexual battery or attempted sexual  
109 battery; or

110 (c) Sentenced to a 25-year minimum mandatory sentence  
111 previously provided in s. 775.082,

112

113 the commission may schedule a subsequent review under this  
114 subsection once every 7 ~~5~~ years, extending the presumptive  
115 parole release date beyond that time if the commission finds  
116 that it is not reasonable to expect that parole would be granted

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117 at a review during the following years and states the bases for  
118 the finding in writing. For any inmate who is within 7 years of  
119 his or her release date, the commission may schedule a  
120 subsequent review prior to the 7-year ~~5-year~~ schedule. With any  
121 subsequent review the same procedure outlined above will be  
122 followed. If the judge remains silent with respect to parole  
123 release, the commission may authorize an effective parole  
124 release date. This subsection applies if the commission desires  
125 to consider the establishment of an effective release date  
126 without delivery of the effective parole release date interview.  
127 Notice of the effective release date must be sent to the  
128 sentencing judge, and either the judge's response to the notice  
129 must be received or the time period allowed for such response  
130 must elapse before the commission may authorize an effective  
131 release date.

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