

HB 919

2010

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

26
27 Be It Enacted by the Legislature of the State of Florida:
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29 Section 1. The Department of Corrections and the Parole
30 Commission shall immediately initiate, coordinate, and establish
31 agreements among multiple state, local, and federal authorities
32 to implement the United States Immigration and Customs
33 Enforcement Rapid Removal of Eligible Parolees Accepted for
34 Transfer (REPAT) program. The goals of this effort shall be to:

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

37 (2) Reduce the number of criminal aliens incarcerated in
38 the state prison system;

39 (3) Provide for the mandatory revocation of control
40 release and the confinement of criminal aliens who reenter the
41 United States;

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

44 (5) Expedite the deportation process; and

45 (6) Improve information-sharing procedures between the
46 Immigration and Customs Enforcement Section of the United States
47 Department of Homeland Security and the department.

48 Section 2. Subsections (2), (5), and (7) of section
49 947.146, Florida Statutes, are amended to read:

50 947.146 Control Release Authority.—

51 (2) The authority shall implement a system for determining
52 the number and type of inmates who must be released into the
53 community under control release in order to maintain the state
54 prison system between 99 and 100 percent of its total capacity
55 as defined in s. 944.023 or to execute an immediate deportation
56 order from federal immigration authorities. ~~An~~ ~~No~~ inmate does

57 | not have ~~has~~ a right to control release. Control release is an
 58 | administrative function solely used to manage the state prison
 59 | population within total capacity and to expedite the deportation
 60 | process. An inmate may not receive an advancement of his or her
 61 | control release date by an award of control release allotments
 62 | for any period of time before the date the inmate becomes
 63 | statutorily eligible for control release or before the
 64 | subsequent date of establishment of the inmate's advanceable
 65 | control release date.

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

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

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

- 82 | 1. Recently discovered information of:
 - 83 | a. Past criminal conduct;
 - 84 | b. Verified threats by inmates provided by victims, law

85 enforcement, or the department;

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

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

88 the criminal offense;

89 e. Court-ordered restitution;

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

91 verified by a presentence or postsentence investigation report;

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

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

94 i. Cooperation with law enforcement;

95 j. Strong community support; and

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

97 criminal behavior.

98 2. The recommendation of the department regarding:

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

100 b. Institutional adjustment of the inmate, which may

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

102 conditions of the release plan.

103 3. Total capacity of the state prison system.

104 4. Arrangements for the transfer of custody pending

105 deportation.

106 (b) Authorize an individual commissioner to postpone a

107 control release date for not more than 60 days without a hearing

108 for any inmate who has become the subject of a disciplinary

109 proceeding, a criminal arrest, an information, or an indictment;

110 who has been terminated from work release; or about whom there

111 is any recently discovered information as specified in paragraph

112 (a).

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113 (c) Determine the terms, conditions, and period of time of
114 control release for persons released under ~~pursuant to~~ this
115 section.

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

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

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

125 (g) Contract with a public defender or private counsel for
126 representation of indigent persons charged with violating the
127 terms of control release.

128 (h) Adopt such rules as the authority deems necessary to
129 implement ~~for implementation of the provisions of~~ this section.

130 Section 3. Section 947.1461, Florida Statutes, is created
131 to read:

132 947.1461 Control release for removal and deportation
133 only.—

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

140 (2) The department shall coordinate with federal

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141 authorities to determine the immigration status and eligibility
142 for removal and to obtain the final removal order.

143 (3) The department shall identify aliens for removal who
144 have voluntarily waived all administrative and judicial
145 appellate rights in writing and who have agreed in writing to
146 fully cooperate with federal authorities to obtain valid travel
147 documentation and facilitate removal.

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

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

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

168 (7) An alien may not under any circumstances receive the

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169 benefits of control release awards if the federal authorities
170 determine that the alien's removal is not reasonably
171 foreseeable.

172 (8) The department shall compile statistics on this
173 program, including the number of aliens who are transferred to
174 federal custody, the number of aliens who are actually removed
175 from the United States, the number of aliens who reenter the
176 United States, and the annualized cost-avoidance achieved.

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