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1 A bill to be entitled
2 An act relating to elderly inmates; providing legislative
3 intent; creating s. 947.148, F.S.; providing a short
4 title; creating the Elderly Rehabilitated Inmate
5 Supervision Program to authorize the Parole Commission to
6 approve the early release of certain elderly inmates;
7 providing eligibility requirements for an inmate to
8 participate in the program; requiring that the petition to
9 participate in the program include certain documents;
10 authorizing members of the public to be present at
11 meetings of the commission held to determine an inmate's
12 eligibility for the program; authorizing a victim to make
13 an oral statement or provide a written statement regarding
14 the granting, denying, or revoking of an inmate's
15 supervised release under the program; requiring that the
16 commission notify the victim or the victim's family within
17 a specified period regarding the filing of a petition, the
18 date of the commission's meeting, and the commission's
19 decision; authorizing the commission to approve an
20 inmate's participation in the program under certain
21 conditions; providing eligibility requirements that the
22 commission must review; requiring an examiner to interview
23 within a specified time an inmate who has filed a petition
24 for supervised release under the program; authorizing the
25 postponement of the interview; requiring the examiner to
26 explain and review certain criteria during the interview;
27 requiring that the examiner recommend a release date for
28 the inmate; providing certain conditions under which an

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29 inmate may not be released; requiring a panel of
30 commissioners to establish terms and conditions of the
31 supervised release under certain circumstances; requiring
32 that the inmate participate in community service, submit
33 to electronic monitoring, and provide restitution to
34 victims as a condition for participating in the program;
35 authorizing the commission to impose special conditions of
36 supervision; authorizing the inmate to request a review of
37 the terms and conditions of his or her program
38 supervision; requiring a panel of commissioners to render
39 a decision within a specified period regarding a request
40 to modify or continue the supervised release; providing
41 that participation in the program is voluntary; requiring
42 the commission to specify in writing the terms and
43 conditions of supervision and provide a certified copy to
44 the inmate; authorizing the trial court judge to enter an
45 order to retain jurisdiction over the offender; providing
46 a limitation of the trial court's jurisdiction; providing
47 for gain-time to accrue; providing procedures if the trial
48 court retains jurisdiction of the inmate; requiring a
49 correctional probation officer to supervise an inmate who
50 is released under the program; authorizing the Department
51 of Corrections to conduct the program using departmental
52 employees or private agencies; requiring the department to
53 adopt rules; creating s. 947.1481, F.S.; creating the
54 Restorative Justice Pilot Program; requiring the
55 Department of Corrections to develop a pilot program
56 patterned after the juvenile justice program offered by

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57 Neighborhood Restorative Justice Centers; requiring that
58 inmates who are eligible to participate in the Elderly
59 Rehabilitated Inmate Supervision Program be given priority
60 for participating in the pilot program; providing that the
61 pilot program be developed after consultation with
62 specified persons; authorizing the department to conduct
63 the pilot program using departmental employees or private
64 agencies; requiring the department to adopt rules;
65 amending s. 947.141, F.S.; conforming provisions to
66 changes made by the act; authorizing a law enforcement
67 officer to arrest an inmate under certain circumstances
68 who has been released under the Elderly Rehabilitated
69 Inmate Supervision Program; providing an effective date.

70
71 Be It Enacted by the Legislature of the State of Florida:

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73 Section 1. The Legislature recognizes the need to provide
74 a means for the release of older inmates who have demonstrated
75 that they have been rehabilitated while incarcerated. It is the
76 intent of the Legislature to address this issue by establishing
77 a conditional extension of the limits of confinement by
78 providing a mechanism for determining eligibility for early
79 release and supervising inmates who have been incarcerated for
80 at least 25 cumulative years and are 50 years of age or older.
81 The Legislature intends to provide for victim input and the
82 enforcement of penalties for those who fail to comply with
83 supervision while outside a prison facility. The Legislature
84 also intends that a pilot program patterned after the program

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85 offered by Neighborhood Restorative Justice Centers be
86 implemented and offered to inmates who are eligible for release
87 under the Elderly Rehabilitated Inmate Supervision Program.

88 Section 2. Section 947.148, Florida Statutes, is created
89 to read:

90 947.148 Elderly Rehabilitated Inmate Supervision Program.—

91 (1) This section may be cited as the "Elderly
92 Rehabilitated Inmate Supervision Program Act."

93 (2) As used in this section, the term "program" means the
94 Elderly Rehabilitated Inmate Supervision Program.

95 (3) An inmate may petition the commission for supervised
96 release under the program if the inmate:

97 (a) Is 50 years of age or older;

98 (b) Has been convicted of a felony and served at least 25
99 consecutive years of incarceration;

100 (c) Is not eligible for parole or conditional medical
101 release;

102 (d) Has not been sentenced for a capital felony;

103 (e) Is not serving a minimum mandatory sentence; and

104 (f) Has not received a disciplinary report within the
105 previous 6 months.

106 (4) Each petition filed on behalf of an inmate to
107 participate in the program must contain:

108 (a) A proposed release plan;

109 (b) Documentation of the inmate's relevant medical
110 history, including current medical prognosis;

111 (c) The inmate's prison experience and criminal history.

112 The criminal history must include any claim of innocence, the

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113 degree to which the inmate accepts responsibility for his or her
114 acts leading to the conviction of the crime, and how the claim
115 of responsibility has affected the inmate's feelings of remorse;

116 (d) Documentation of the inmate's history of substance
117 abuse and mental health;

118 (e) Documentation of any disciplinary action taken against
119 the inmate while in prison;

120 (f) Documentation of the inmate's participation in prison
121 work and programs; and

122 (g) Documentation of the inmate's renunciation of gang
123 affiliation.

124 (5) An inmate may file only one petition to participate in
125 the program.

126 (6) All matters relating to the granting, denying, or
127 revoking of an inmate's supervised release in the program shall
128 be decided in a meeting at which the public may be present. A
129 victim of the crime committed by the inmate, a victim's parent
130 or guardian if the victim is a minor, a lawful representative of
131 the victim or of the victim's parent or guardian if the victim
132 is a minor, or a homicide victim's next of kin may make an oral
133 statement or submit a written statement regarding his or her
134 views as to the granting, denying, or revoking of supervision. A
135 person who is not a member or employee of the commission, the
136 victim of the crime committed by the inmate, the victim's parent
137 or guardian if the victim is a minor, a lawful representative of
138 the victim or of the victim's parent or guardian if the victim
139 is a minor, or a homicide victim's next of kin may participate
140 in deliberations concerning the granting and revoking of an

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141 inmate's supervised release in the program only upon the prior
142 written approval of the chair of the commission. The commission
143 shall notify the victim, the victim's parent or guardian if the
144 victim is a minor, a lawful representative of the victim or of
145 the victim's parent or guardian if the victim is a minor, or the
146 victim's next of kin if the victim is deceased no later than 30
147 days after the petition is received by the commission, no later
148 than 30 days before the commission's meeting, and no later than
149 30 days after the commission's decision.

150 (7) The commission may approve an inmate for participation
151 in the program if the inmate demonstrates:

152 (a) Successful participation in programs designed to
153 restore the inmate as a useful and productive person in the
154 community upon release;

155 (b) Genuine reform and changed behavior over a period of
156 years;

157 (c) Remorse for actions that have caused pain and
158 suffering to the victims of his or her offenses; and

159 (d) A renunciation of criminal activity and gang
160 affiliation if the inmate was a member of a gang.

161 (8) In considering eligibility for participation in the
162 program, the commission shall review the inmate's:

163 (a) Entire criminal history and record;

164 (b) Complete medical history, including history of
165 substance abuse, mental health, and current medical prognosis;

166 (c) Prison disciplinary record;

167 (d) Work record;

168 (e) Program participation; and

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169 (f) Gang affiliation, if any.

170
171 The commission shall consider the inmate's responsibility for
172 the acts leading to the conviction, including any prior and
173 continued statements of innocence and the inmate's feelings of
174 remorse.

175 (9) (a) An examiner shall interview the inmate within 90
176 days after a petition is filed on behalf of the inmate. An
177 interview may be postponed for a period not to exceed 90 days.
178 Such postponement must be for good cause, which includes, but
179 need not be limited to, the need for the commission to obtain a
180 presentence or postsentence investigation report or a violation
181 report. The reason for postponement shall be noted in writing
182 and included in the official record. A postponement for good
183 cause may not result in an interview being conducted later than
184 90 days after the inmate's initial scheduled interview.

185 (b) During the interview, the examiner shall explain the
186 program to the inmate and review the inmate's institutional
187 conduct record, criminal history, medical history, work records,
188 program participation, gang affiliation, and satisfactory
189 release plan for supervision under the program.

190 (c) Within 10 days after the interview, the examiner shall
191 recommend in writing to a panel of no fewer than two
192 commissioners appointed by the chair a release date for the
193 inmate. The commissioners are not bound by the examiner's
194 recommended release date.

195 (10) An inmate may not be placed in the program merely as
196 a reward for good conduct or efficient performance of duties

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197 assigned in prison. An inmate may not be placed in the program
198 unless the commission finds that there is reasonable probability
199 that, if the inmate is placed in the program, he or she will
200 live and conduct himself or herself as a respectable and law-
201 abiding person and that the inmate's release will be compatible
202 with his or her own welfare and the welfare of society.

203 (11) When the commission has accepted the petition,
204 approved the proposed release plan, and determined that the
205 inmate is eligible for the program, a panel of no fewer than two
206 commissioners shall establish the terms and conditions of the
207 supervision. When granting supervised release under the program,
208 the commission shall require the inmate to participate in 10
209 hours of community service for each year served in prison,
210 require that the inmate be subject to electronic monitoring for
211 at least 1 year, and require reparation or restitution be paid
212 to the victim for the damage or loss caused by the offense for
213 which the inmate was imprisoned, unless the commission finds
214 reasons to the contrary. If the commission does not order
215 restitution or orders only partial restitution, the commission
216 must state on the record the reasons for its decision. The
217 amount of such reparation or restitution shall be determined by
218 the commission.

219 (12) The commission may impose any special conditions it
220 considers warranted from its review of the release plan and
221 inmate's record, including, but not limited to, a requirement
222 that the inmate:

223 (a) Pay any debt due and owing to the state under s.
224 960.17 or pay attorney's fees and costs that are owed to the

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225 state under s. 938.29;

226 (b) Not leave the state or any definite physical area
227 within the state without the consent of the commission;

228 (c) Not associate with persons engaged in criminal
229 activity; and

230 (d) Carry out the instructions of her or his supervising
231 correctional probation officer.

232 (13) (a) An inmate may request a review of the terms and
233 conditions of his or her supervised release under the program. A
234 panel of at least two commissioners appointed by the chair shall
235 consider the inmate's request, render a written decision and the
236 reasons for the decision to continue or to modify the terms and
237 conditions of the program supervision, and inform the inmate of
238 the decision in writing within 30 days after the date of receipt
239 of the request for review. During any period of review of the
240 terms and conditions of supervision, the inmate shall be subject
241 to the authorized terms and conditions of supervision until such
242 time that a decision is made to continue or modify the terms and
243 conditions of supervision.

244 (b) The length of supervision shall be the remaining
245 amount of time the inmate has yet to serve, including
246 calculations for gain-time credit, as determined by the
247 department.

248 (c) An inmate's participation in the program is voluntary,
249 and the inmate must agree to abide by all conditions of release.
250 The commission, upon authorizing a supervision release date,
251 shall specify in writing the terms and conditions of the program
252 supervision and provide a certified copy of these terms and

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253 conditions to the inmate.

254 (14)(a) At the time of sentencing, the trial court judge
255 may enter an order retaining jurisdiction over the offender for
256 review of a release order by the commission under this section.
257 This jurisdiction of the trial court judge is limited to the
258 first one-third of the maximum sentence imposed. When a person
259 is convicted of two or more felonies and concurrent sentences
260 are imposed, the jurisdiction of the trial court applies to the
261 first one-third of the maximum sentence imposed for the highest
262 felony of which the person was convicted. When any person is
263 convicted of two or more felonies and consecutive sentences are
264 imposed, the jurisdiction of the trial court judge applies to
265 one-third of the total consecutive sentences imposed.

266 (b) In retaining jurisdiction for purposes of this
267 subsection, the trial court must state the justification with
268 individual particularity, and such justification shall be made a
269 part of the court record. A copy of the justification and the
270 uniform commitment form issued by the court pursuant to s.
271 944.17 shall be delivered together to the department.

272 (c) Gain-time as provided for by law shall accrue, except
273 that an offender over whom the trial court has retained
274 jurisdiction as provided in this subsection may not be released
275 during the first one-third of her or his sentence by reason of
276 gain-time.

277 (d) In such a case of retained jurisdiction, the
278 commission, within 30 days after the entry of its release order,
279 shall send notice of its release order to the original
280 sentencing judge and to the appropriate state attorney. The

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281 release order shall be made contingent upon entry of an order by
282 the appropriate circuit judge relinquishing jurisdiction as
283 provided for in paragraph (e). If the original sentencing judge
284 is no longer in service, such notice shall be sent to the chief
285 judge of the circuit in which the offender was sentenced. The
286 chief judge may designate any circuit judge within the circuit
287 to act in the place of the original sentencing judge.

288 (e) The original sentencing judge or her or his
289 replacement shall notify the commission within 10 days after
290 receipt of the notice provided for in paragraph (d) as to
291 whether the court desires to retain jurisdiction. If the
292 original sentencing judge or her or his replacement does not so
293 notify the commission within the 10-day period or notifies the
294 commission that the court does not desire to retain
295 jurisdiction, the commission may dispose of the matter as it
296 sees fit.

297 (f) Upon receipt of notice of intent to retain
298 jurisdiction from the original sentencing judge or her or his
299 replacement, the commission shall, within 10 days, forward to
300 the court its release order, the examiner's report and
301 recommendation, and all supporting information upon which its
302 release order was based.

303 (g) Within 30 days after receipt of the items listed in
304 paragraph (f), the original sentencing judge or her or his
305 replacement shall review the order, findings, and evidence. If
306 the judge finds that the order of the commission is not based on
307 competent, substantial evidence or that participation in the
308 program is not in the best interest of the community or the

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309 inmate, the court may vacate the release order. The judge or her
310 or his replacement shall notify the commission of the decision
311 of the court, and, if the release order is vacated, such
312 notification must contain the evidence relied on and the reasons
313 for denial. A copy of the notice shall be sent to the inmate.

314 (15) A correctional probation officer as defined in s.
315 943.10 shall supervise the inmate released under this program.

316 (16) The department may provide departmental staff to
317 conduct the program created under this section or may contract
318 with other public or private agencies for the delivery of
319 services related to the program created under this section.

320 (17) The department shall adopt rules to administer this
321 section.

322 Section 3. Section 947.1481, Florida Statutes, is created
323 to read:

324 947.1481 Restorative Justice Pilot Program.—

325 (1) As used in this section, the term "pilot program"
326 means the Restorative Justice Pilot Program.

327 (2) The department shall develop the pilot program that is
328 patterned after the program offered by the Neighborhood
329 Restorative Justice Centers established under s. 985.155. The
330 pilot program shall be implemented at one maximum security
331 prison for women and at two maximum security prisons for men.
332 The portion of the pilot program which include classes on the
333 effect that crime has on victims shall be made available on a
334 voluntary basis. Inmates who are eligible to participate in the
335 Elderly Rehabilitated Inmate Supervision Program shall be given
336 priority for participation in the pilot program.

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337 (3) The pilot program created under this section shall be
338 developed after identifying a need in the community for the
339 pilot program through consultation with representatives of the
340 public, members of the judiciary, law enforcement agencies,
341 state attorneys, and defense attorneys.

342 (4) The department may provide departmental staff to
343 conduct the pilot program or may contract with other public or
344 private agencies for the delivery of services related to the
345 pilot program.

346 (5) The department shall adopt rules to administer this
347 section.

348 Section 4. Section 947.141, Florida Statutes, is amended
349 to read:

350 947.141 Violations of conditional release, control
351 release, or conditional medical release or addiction-recovery
352 supervision.—

353 (1) If a member of the commission or a duly authorized
354 representative of the commission has reasonable grounds to
355 believe that an offender who is on release supervision under s.
356 947.1405, s. 947.146, s. 947.148, s. 947.149, or s. 944.4731 has
357 violated the terms and conditions of the release in a material
358 respect, such member or representative may cause a warrant to be
359 issued for the arrest of the releasee; if the offender was found
360 to be a sexual predator, the warrant must be issued.

361 (2) Upon the arrest on a felony charge of an offender who
362 is on release supervision under s. 947.1405, s. 947.146, s.
363 947.148, s. 947.149, or s. 944.4731, the offender must be
364 detained without bond until the initial appearance of the

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365 offender at which a judicial determination of probable cause is
366 made. If the trial court judge determines that there was no
367 probable cause for the arrest, the offender may be released. If
368 the trial court judge determines that there was probable cause
369 for the arrest, such determination also constitutes reasonable
370 grounds to believe that the offender violated the conditions of
371 the release. Within 24 hours after the trial court judge's
372 finding of probable cause, the detention facility administrator
373 or designee shall notify the commission and the department of
374 the finding and transmit to each a facsimile copy of the
375 probable cause affidavit or the sworn offense report upon which
376 the trial court judge's probable cause determination is based.
377 The offender must continue to be detained without bond for a
378 period not exceeding 72 hours excluding weekends and holidays
379 after the date of the probable cause determination, pending a
380 decision by the commission whether to issue a warrant charging
381 the offender with violation of the conditions of release. Upon
382 the issuance of the commission's warrant, the offender must
383 continue to be held in custody pending a revocation hearing held
384 in accordance with this section.

385 (3) Within 45 days after notice to the Parole Commission
386 of the arrest of a releasee charged with a violation of the
387 terms and conditions of conditional release, control release,
388 conditional medical release, or addiction-recovery supervision,
389 the releasee must be afforded a hearing conducted by a
390 commissioner or a duly authorized representative thereof. If the
391 releasee elects to proceed with a hearing, the releasee must be
392 informed orally and in writing of the following:

393 (a) The alleged violation with which the releasee is
 394 charged.

395 (b) The releasee's right to be represented by counsel.

396 (c) The releasee's right to be heard in person.

397 (d) The releasee's right to secure, present, and compel
 398 the attendance of witnesses relevant to the proceeding.

399 (e) The releasee's right to produce documents on the
 400 releasee's own behalf.

401 (f) The releasee's right of access to all evidence used
 402 against the releasee and to confront and cross-examine adverse
 403 witnesses.

404 (g) The releasee's right to waive the hearing.

405 (4) Within a reasonable time following the hearing, the
 406 commissioner or the commissioner's duly authorized
 407 representative who conducted the hearing shall make findings of
 408 fact in regard to the alleged violation. A panel of no fewer
 409 than two commissioners shall enter an order determining whether
 410 the charge of violation of conditional release, control release,
 411 conditional medical release, or addiction-recovery supervision
 412 has been sustained based upon the findings of fact presented by
 413 the hearing commissioner or authorized representative. By such
 414 order, the panel may revoke conditional release, control
 415 release, conditional medical release, or addiction-recovery
 416 supervision and thereby return the releasee to prison to serve
 417 the sentence imposed, reinstate the original order granting the
 418 release, or enter such other order as it considers proper.
 419 Effective for inmates whose offenses were committed on or after
 420 July 1, 1995, the panel may order the placement of a releasee,

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421 upon a finding of violation pursuant to this subsection, into a
422 local detention facility as a condition of supervision.

423 (5) Effective for inmates whose offenses were committed on
424 or after July 1, 1995, notwithstanding the provisions of ss.
425 775.08, former 921.001, 921.002, 921.187, 921.188, 944.02, and
426 951.23, or any other law to the contrary, by such order as
427 provided in subsection (4), the panel, upon a finding of guilt,
428 may, as a condition of continued supervision, place the releasee
429 in a local detention facility for a period of incarceration not
430 to exceed 22 months. Prior to the expiration of the term of
431 incarceration, or upon recommendation of the chief correctional
432 officer of that county, the commission shall cause inquiry into
433 the inmate's release plan and custody status in the detention
434 facility and consider whether to restore the inmate to
435 supervision, modify the conditions of supervision, or enter an
436 order of revocation, thereby causing the return of the inmate to
437 prison to serve the sentence imposed. The provisions of this
438 section do not prohibit the panel from entering such other order
439 or conducting any investigation that it deems proper. The
440 commission may only place a person in a local detention facility
441 pursuant to this section if there is a contractual agreement
442 between the chief correctional officer of that county and the
443 Department of Corrections. The agreement must provide for a per
444 diem reimbursement for each person placed under this section,
445 which is payable by the Department of Corrections for the
446 duration of the offender's placement in the facility. This
447 section does not limit the commission's ability to place a
448 person in a local detention facility for less than 1 year.

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449 (6) Whenever a conditional release, control release,
450 conditional medical release, or addiction-recovery supervision
451 is revoked by a panel of no fewer than two commissioners and the
452 releasee is ordered to be returned to prison, the releasee, by
453 reason of the misconduct, shall be deemed to have forfeited all
454 gain-time or commutation of time for good conduct, as provided
455 for by law, earned up to the date of release. However, if a
456 conditional medical release is revoked due to the improved
457 medical or physical condition of the releasee, the releasee
458 shall not forfeit gain-time accrued before the date of
459 conditional medical release. This subsection does not deprive
460 the prisoner of the right to gain-time or commutation of time
461 for good conduct, as provided by law, from the date of return to
462 prison.

463 (7) If a law enforcement officer has probable cause to
464 believe that an offender who is on release supervision under s.
465 947.1405, s. 947.146, s. 947.148, s. 947.149, or s. 944.4731 has
466 violated the terms and conditions of his or her release by
467 committing a felony offense, the officer shall arrest the
468 offender without a warrant, and a warrant need not be issued in
469 the case.

470 (8) When a law enforcement officer has reasonable grounds
471 to believe that a releasee has violated the terms and conditions
472 of her or his supervision in a material respect under the
473 Elderly Rehabilitated Inmate Supervision Program, the law
474 enforcement officer may arrest the releasee without warrant and
475 bring her or him before one or more commissioners or a duly
476 authorized representative of the commission. Proceedings shall

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477 | take place when a warrant has been issued by a member of the
478 | commission or a duly authorized representative of the
479 | commission.

480 | Section 5. This act shall take effect July 1, 2011.