

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; authorizing the authority to extend or advance the
10 control release date for arrangements for the transfer of
11 custody pending deportation; creating s. 947.1461, F.S.,
12 relating to control release for removal and deportation;
13 requiring the department to identify eligible inmates at
14 the reception process; specifying eligibility criteria;
15 requiring the department to coordinate with federal
16 authorities to determine immigration status and
17 eligibility for removal; requiring the department to
18 identify eligible inmates who waive administrative and
19 appellate rights and who agree to cooperate; requiring the
20 Control Release Authority to establish control release
21 dates; authorizing the control release dates to be set
22 after the alien has served a minimum 50 percent of his or
23 her court-imposed sentence; requiring the department to
24 maintain exclusive control and responsibility for the
25 custody and transportation of an alien until the alien is
26 transferred to federal custody; requiring the Control
27 Release Authority to give notice to aliens concerning
28 reentering the United States; prohibiting aliens from

29 | benefiting from control release awards when removal is not
 30 | reasonably foreseeable; requiring the department to
 31 | compile and report certain statistics; providing an
 32 | effective date.

34 | Be It Enacted by the Legislature of the State of Florida:

36 | Section 1. The Department of Corrections and the Parole
 37 | Commission shall immediately initiate, coordinate, and establish
 38 | agreements among multiple state, local, and federal authorities
 39 | to implement the United States Immigration and Customs
 40 | Enforcement Rapid Removal of Eligible Parolees Accepted for
 41 | Transfer (REPAT) program. The goals of this effort shall be to:

42 | (1) Ensure that deportable aliens are not released from
 43 | prison to the community;

44 | (2) Reduce the number of criminal aliens incarcerated in
 45 | the state prison system;

46 | (3) Provide for the mandatory revocation of control
 47 | release and the confinement of criminal aliens who reenter the
 48 | United States;

49 | (4) Allow eligible inmates to be released for deportation
 50 | purposes before the expiration of the sentence;

51 | (5) Expedite the deportation process; and

52 | (6) Improve information-sharing procedures between the
 53 | Immigration and Customs Enforcement of the United States
 54 | Department of Homeland Security and the Department of
 55 | Corrections.

56 | Section 2. Subsections (2), (5), and (7) of section

57 947.146, Florida Statutes, are amended to read:

58 947.146 Control Release Authority.—

59 (2) The authority shall implement a system for determining
 60 the number and type of inmates who must be released into the
 61 community under control release in order to maintain the state
 62 prison system between 99 and 100 percent of its total capacity
 63 as defined in s. 944.023 or in order to execute an immediate
 64 deportation order from federal immigration authorities. ~~An~~ ~~no~~
 65 inmate does not have ~~has~~ a right to control release. Control
 66 release is an administrative function ~~solely~~ used solely to
 67 manage the state prison population within total capacity and to
 68 expedite the deportation process. An inmate may not receive an
 69 advancement of his or her control release date by an award of
 70 control release allotments for any period of time before the
 71 date the inmate becomes statutorily eligible for control release
 72 or before the subsequent date of establishment of the inmate's
 73 advanceable control release date.

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

85 (2).

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

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

90 1. Recently discovered information of:

91 a. Past criminal conduct;

92 b. Verified threats by inmates provided by victims, law
 93 enforcement, or the department;

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

95 d. Psychological or physical trauma to the victim due to
 96 the criminal offense;

97 e. Court-ordered restitution;

98 f. History of abuse or addiction to a chemical substance
 99 verified by a presentence or postsentence investigation report;

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

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

102 i. Cooperation with law enforcement;

103 j. Strong community support; and

104 k. A documented mental condition as a factor for future
 105 criminal behavior.

106 2. The recommendation of the department regarding:

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

108 b. Institutional adjustment of the inmate, which may
 109 include refusal by the inmate to sign the agreement to the
 110 conditions of the release plan.

111 3. Total capacity of the state prison system.

112 4. Arrangements for the transfer of custody pending

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113 deportation.

114 (b) Authorize an individual commissioner to postpone a
115 control release date for not more than 60 days without a hearing
116 for any inmate who has become the subject of a disciplinary
117 proceeding, a criminal arrest, an information, or an indictment;
118 who has been terminated from work release; or about whom there
119 is any recently discovered information as specified in paragraph
120 (a).

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

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

126 (e) Provide for victim input into the decisionmaking
127 process which may be used by the authority as aggravation or
128 mitigation in determining which persons shall be released on
129 control release.

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

133 (g) Contract with a public defender or private counsel for
134 representation of indigent persons charged with violating the
135 terms of control release.

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

138 Section 3. Section 947.1461, Florida Statutes, is created
139 to read:

140 947.1461 Control release for removal and deportation

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141 only.—

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

148 (2) The department shall coordinate with federal
149 authorities to determine an inmate's immigration status and
150 eligibility for removal and to obtain the final removal order.

151 (3) The department shall identify aliens for removal who
152 have voluntarily waived all administrative and judicial
153 appellate rights in writing and who have agreed in writing to
154 fully cooperate with federal authorities to obtain valid travel
155 documentation and facilitate removal.

156 (4) Upon acceptance into the federal deportation program,
157 the Control Release Authority shall establish a control release
158 date for the alien to be transferred into federal custody.
159 Notwithstanding s. 944.275(4)(b)3., the Control Release
160 Authority may establish a control release date after the alien
161 has served a minimum of 50 percent of his or her court-imposed
162 sentence.

163 (5) The department shall maintain exclusive control and
164 responsibility for the custody and transportation of an alien
165 who is accepted into the federal deportation program until the
166 alien is physically transferred to federal custody.

167 (6) The Control Release Authority shall provide notice and
168 obtain acknowledgement in writing that notice was given to each

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169 alien who is eligible for deportation that reentry into the
170 United States requires the return of the alien to the custody of
171 the department in order to complete the remainder of his or her
172 court-imposed sentence. The alien must also waive in writing all
173 rights of extradition which would challenge the alien's return
174 to the department and Control Release Authority in order to
175 complete the remainder of his or her sentence.

176 (7) An alien may not under any circumstances receive the
177 benefits of control release awards if the federal authorities
178 determine that the alien's removal is not reasonably
179 foreseeable.

180 (8) The department shall compile statistics on this
181 program, including the number of aliens who are transferred to
182 federal custody, the number of aliens who are actually removed
183 from the United States, the number of aliens who reenter the
184 United States, and the annualized cost-avoidance achieved.

185 Section 4. This act shall take effect July 1, 2011.