

By Senator Bennett

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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
5 federal deportation program for state inmates;
6 specifying the goals of the program; amending s.
7 947.146, F.S., relating to the Control Release
8 Authority; requiring the authority to implement a
9 program to execute an immediate deportation order;
10 authorizing the authority to extend or advance the
11 control release date for arrangements for the transfer
12 of custody pending deportation; creating s. 947.1461,
13 F.S., relating to control release for removal and
14 deportation; requiring the department to identify
15 eligible inmates at the reception process; specifying
16 eligibility criteria; requiring the department to
17 coordinate with federal authorities to determine
18 immigration status and eligibility for removal;
19 requiring the department to identify eligible inmates
20 who waive administrative and appellate rights and who
21 agree to cooperate; requiring the Control Release
22 Authority to establish control release dates;
23 authorizing the control release dates to be set after
24 the alien has served a minimum 50 percent of his or
25 her court-imposed sentence; requiring the department
26 to maintain exclusive control and responsibility for
27 the custody and transportation of an alien until the
28 alien is transferred to federal custody; requiring the
29 Control Release Authority to give notice to aliens

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30 concerning reentering the United States; prohibiting
31 aliens from benefiting from control release awards
32 when removal is not reasonably foreseeable; requiring
33 the department to compile and report certain
34 statistics; providing an effective date.

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36 Be It Enacted by the Legislature of the State of Florida:

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

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

46 (2) Reduce the number of criminal aliens incarcerated in
47 the state prison system;

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

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

53 (5) Expedite the deportation process; and

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

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

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59 947.146, Florida Statutes, are amended to read:

60 947.146 Control Release Authority.—

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

76 (5) Whenever the inmate population drops below 99 percent
77 of total capacity and remains below 99 percent for 90
78 consecutive days without requiring the release of inmates under
79 this section, all control release dates ~~shall~~ become void and an
80 no inmate is not ~~shall be~~ eligible for release under any
81 previously established control release date. However, control
82 release dates for deportation purposes do not become void when
83 the inmate population changes. An inmate does ~~shall~~ not have a
84 right to a control release date, and ~~nor shall~~ the authority is
85 not ~~be~~ required to establish or reestablish any additional
86 control release dates except under ~~the provisions of~~ subsection
87 (2).

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

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

92 1. Recently discovered information of:

93 a. Past criminal conduct;

94 b. Verified threats by inmates provided by victims, law
95 enforcement, or the department;

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

97 d. Psychological or physical trauma to the victim due to
98 the criminal offense;

99 e. Court-ordered restitution;

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

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

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

104 i. Cooperation with law enforcement;

105 j. Strong community support; and

106 k. A documented mental condition as a factor for future
107 criminal behavior.

108 2. The recommendation of the department regarding:

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

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

113 3. Total capacity of the state prison system.

114 4. Arrangements for the transfer of custody pending
115 deportation.

116 (b) Authorize an individual commissioner to postpone a

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

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

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

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

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

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

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

140 Section 3. Section 947.1461, Florida Statutes, is created
141 to read:

142 947.1461 Control release for removal and deportation only.-

143 (1) The Department of Corrections shall begin during the
144 inmate reception process a procedure to identify eligible aliens
145 and determine if deportation is feasible and in the best

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146 interests of the state. Aliens who are ineligible for the
147 federal deportation process under this section are inmates who
148 are ineligible for control release under s. 947.146(3)(a)-(m).

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

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

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

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

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

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175 to the department and Control Release Authority in order to
176 complete the remainder of his or her sentence.

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

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

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