



941056

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/07/2011	.	
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The Committee on Criminal Justice (Evers) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

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

(4) A person who has become eligible for an initial parole interview and who may, according to the objective parole guidelines of the commission, be granted parole shall be placed on parole in accordance with the provisions of this law; except



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13 that, in any case of a person convicted of murder, robbery,
14 burglary of a dwelling or burglary of a structure or conveyance
15 in which a human being is present, aggravated assault,
16 aggravated battery, kidnapping, sexual battery or attempted
17 sexual battery, incest or attempted incest, an unnatural and
18 lascivious act or an attempted unnatural and lascivious act,
19 lewd and lascivious behavior, assault or aggravated assault when
20 a sexual act is completed or attempted, battery or aggravated
21 battery when a sexual act is completed or attempted, arson, or
22 any felony involving the use of a firearm or other deadly weapon
23 or the use of intentional violence, at the time of sentencing
24 the judge may enter an order retaining jurisdiction over the
25 offender for review of a commission release order. This
26 jurisdiction of the trial court judge is limited to the first
27 one-third of the maximum sentence imposed. When any person is
28 convicted of two or more felonies and concurrent sentences are
29 imposed, then the jurisdiction of the trial court judge as
30 provided herein applies to the first one-third of the maximum
31 sentence imposed for the highest felony of which the person was
32 convicted. When any person is convicted of two or more felonies
33 and consecutive sentences are imposed, then the jurisdiction of
34 the trial court judge as provided herein applies to one-third of
35 the total consecutive sentences imposed.

36 (g) The decision of the original sentencing judge or, in
37 her or his absence, the chief judge of the circuit to vacate any
38 parole release order as provided in this section is not
39 appealable. Each inmate whose parole release order has been
40 vacated by the court shall be reinterviewed within 2 years after
41 the date of receipt of the vacated release order and every 2



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42 years thereafter, or earlier by order of the court retaining
43 jurisdiction. However, each inmate whose parole release order
44 has been vacated by the court and who has been:

- 45 1. Convicted of murder or attempted murder;
46 2. Convicted of sexual battery or attempted sexual battery;

47 ~~or~~

- 48 3. Convicted of kidnapping or attempted kidnapping;
49 4. Convicted of robbery, burglary of a dwelling, burglary
50 of a structure or conveyance, or breaking and entering, or the
51 attempt of any of these crimes, in which a human being is
52 present and a sexual act is attempted or completed; or

53 5.3. Sentenced to a 25-year minimum mandatory sentence
54 previously provided in s. 775.082,

55
56 shall be reinterviewed once within 7 years after the date of
57 receipt of the vacated release order and once every 7 years
58 thereafter, if the commission finds that it is not reasonable to
59 expect that parole would be granted during the following years
60 and states the bases for the finding in writing. For an any
61 inmate who is within 7 years of his or her tentative release
62 date, the commission may establish a reinterview date before
63 ~~prior to~~ the 7-year schedule.

64 Section 2. Paragraph (b) of subsection (1) of section
65 947.174, Florida Statutes, is amended to read:

66 947.174 Subsequent interviews.—

67 (1)

68 (b) For any inmate convicted of murder, attempted murder,
69 sexual battery, ~~or~~ attempted sexual battery, kidnapping, or
70 attempted kidnapping; or robbery, burglary of a dwelling,



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71 burglary of a structure or conveyance, or breaking and entering,
72 or the attempt of any of these crimes, in which a human being is
73 present and a sexual act is attempted or completed, or for any
74 inmate who has been sentenced to a 25-year minimum mandatory
75 sentence previously provided in s. 775.082, and whose
76 presumptive parole release date is more than 7 years after the
77 date of the initial interview, a hearing examiner shall schedule
78 an interview for review of the presumptive parole release date.
79 The interview shall take place once within 7 years after the
80 initial interview and once every 7 years thereafter if the
81 commission finds that it is not reasonable to expect that parole
82 will be granted at a hearing during the following years and
83 states the bases for the finding in writing. For an any inmate
84 who is within 7 years of his or her tentative release date, the
85 commission may establish an interview date before the 7-year
86 schedule.

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

89 947.1745 Establishment of effective parole release date.—If
90 the inmate's institutional conduct has been satisfactory, the
91 presumptive parole release date shall become the effective
92 parole release date as follows:

93 (6) Within 90 days before the effective parole release date
94 interview, the commission shall send written notice to the
95 sentencing judge of any inmate who has been scheduled for an
96 effective parole release date interview. If the sentencing judge
97 is no longer serving, the notice must be sent to the chief judge
98 of the circuit in which the offender was sentenced. The chief
99 judge may designate any circuit judge within the circuit to act



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100 in the place of the sentencing judge. Within 30 days after
101 receipt of the commission's notice, the sentencing judge, or the
102 designee, shall send to the commission notice of objection to
103 parole release, if the judge objects to the ~~such~~ release. If
104 there is objection by the judge, such objection may constitute
105 good cause in exceptional circumstances as described in s.
106 947.173, and the commission may schedule a subsequent review
107 within 2 years, extending the presumptive parole release date
108 beyond that time. However, for an inmate who has been:

109 (a) Convicted of murder or attempted murder;

110 (b) Convicted of sexual battery or attempted sexual
111 battery; ~~or~~

112 (c) Convicted of kidnapping or attempted kidnapping;

113 (d) Convicted of robbery, burglary of a dwelling, burglary
114 of a structure or conveyance, or breaking and entering, or the
115 attempt of any of these crimes, in which a human being is
116 present and a sexual act is attempted or completed; or

117 (e) ~~(e)~~ Sentenced to a 25-year minimum mandatory sentence
118 previously provided in s. 775.082,

119
120 the commission may schedule a subsequent review under this
121 subsection once every 7 years, extending the presumptive parole
122 release date beyond that time if the commission finds that it is
123 not reasonable to expect that parole would be granted at a
124 review during the following years and states the bases for the
125 finding in writing. For an ~~any~~ inmate who is within 7 years of
126 his or her release date, the commission may schedule a
127 subsequent review before ~~prior to~~ the 7-year schedule. With any
128 subsequent review the same procedure outlined above will be



129 followed. If the judge remains silent with respect to parole
130 release, the commission may authorize an effective parole
131 release date. This subsection applies if the commission desires
132 to consider the establishment of an effective release date
133 without delivery of the effective parole release date interview.
134 Notice of the effective release date must be sent to the
135 sentencing judge, and either the judge's response to the notice
136 must be received or the time period allowed for such response
137 must elapse before the commission may authorize an effective
138 release date.

139 Section 4. For the purpose of incorporating the amendment
140 made by this act to section 947.1745, Florida Statutes, in a
141 reference thereto, subsection (1) of section 947.165, Florida
142 Statutes, is reenacted to read:

143 947.165 Objective parole guidelines.—

144 (1) The commission shall develop and implement objective
145 parole guidelines which shall be the criteria upon which parole
146 decisions are made. The objective parole guidelines shall be
147 developed according to an acceptable research method and shall
148 be based on the seriousness of offense and the likelihood of
149 favorable parole outcome. The guidelines shall require the
150 commission to aggravate or aggregate each consecutive sentence
151 in establishing the presumptive parole release date. Factors
152 used in arriving at the salient factor score and the severity of
153 offense behavior category shall not be applied as aggravating
154 circumstances. If the sentencing judge files a written objection
155 to the parole release of an inmate as provided for in s.
156 947.1745(6), such objection may be used by the commission as a
157 basis to extend the presumptive parole release date.



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158 Section 5. This act shall take effect July 1, 2012.

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160 ===== T I T L E A M E N D M E N T =====

161 And the title is amended as follows:

162 Delete everything before the enacting clause
163 and insert:

164 A bill to be entitled

165 An act relating to parole interview dates for certain
166 inmates; amending ss. 947.16, 947.174, and 947.1745,
167 F.S.; extending from 2 years to 7 years the period
168 between parole interview dates for inmates convicted
169 of committing certain specified crimes; reenacting s.
170 947.165(1), F.S., relating to the development and
171 implementation by the Parole Commission of objective
172 parole guidelines to serve as the criteria upon which
173 parole decisions are to be made, to incorporate the
174 amendments made to s. 947.1745, F.S., in a reference
175 thereto; providing an effective date.