

By Senator Evers

2-00544-12

2012506

1 A bill to be entitled
2 An act relating to parole interview dates for certain
3 inmates; amending ss. 947.16, 947.174, and 947.1745,
4 F.S.; extending from 2 years to 7 years the period
5 between parole interview dates for inmates convicted
6 of committing certain specified crimes; reenacting s.
7 947.165(1), F.S., relating to the Parole Commission
8 developing and implementing objective parole
9 guidelines to serve as the criteria upon which parole
10 decisions are to be made, to incorporate the
11 amendments made to s. 947.1745, F.S., in a reference
12 thereto; providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Paragraph (g) of subsection (4) of section
17 947.16, Florida Statutes, is amended to read:

18 947.16 Eligibility for parole; initial parole interviews;
19 powers and duties of commission.—

20 (4) A person who has become eligible for an initial parole
21 interview and who may, according to the objective parole
22 guidelines of the commission, be granted parole shall be placed
23 on parole in accordance with the provisions of this law; except
24 that, in any case of a person convicted of murder, robbery,
25 burglary of a dwelling or burglary of a structure or conveyance
26 in which a human being is present, aggravated assault,
27 aggravated battery, kidnapping, sexual battery or attempted
28 sexual battery, incest or attempted incest, an unnatural and
29 lascivious act or an attempted unnatural and lascivious act,

2-00544-12

2012506

30 lewd and lascivious behavior, assault or aggravated assault when
31 a sexual act is completed or attempted, battery or aggravated
32 battery when a sexual act is completed or attempted, arson, or
33 any felony involving the use of a firearm or other deadly weapon
34 or the use of intentional violence, at the time of sentencing
35 the judge may enter an order retaining jurisdiction over the
36 offender for review of a commission release order. This
37 jurisdiction of the trial court judge is limited to the first
38 one-third of the maximum sentence imposed. When any person is
39 convicted of two or more felonies and concurrent sentences are
40 imposed, then the jurisdiction of the trial court judge as
41 provided herein applies to the first one-third of the maximum
42 sentence imposed for the highest felony of which the person was
43 convicted. When any person is convicted of two or more felonies
44 and consecutive sentences are imposed, then the jurisdiction of
45 the trial court judge as provided herein applies to one-third of
46 the total consecutive sentences imposed.

47 (g) The decision of the original sentencing judge or, in
48 her or his absence, the chief judge of the circuit to vacate any
49 parole release order as provided in this section is not
50 appealable. Each inmate whose parole release order has been
51 vacated by the court shall be reinterviewed within 2 years after
52 the date of receipt of the vacated release order and every 2
53 years thereafter, or earlier by order of the court retaining
54 jurisdiction. However, each inmate whose parole release order
55 has been vacated by the court and who has been:

- 56 1. Convicted of murder or attempted murder;
- 57 2. Convicted of sexual battery or attempted sexual battery;

58 ~~or~~

2-00544-12

2012506

59 3. Convicted of kidnapping;

60 4. Convicted of robbery;

61 5. Convicted of burglary of a dwelling or burglary of a
62 structure or conveyance in which a human being is present and a
63 sexual act is completed or attempted; or

64 ~~6.3-~~ Sentenced to a 25-year minimum mandatory sentence
65 previously provided in s. 775.082,

66
67 shall be reinterviewed once within 7 years after the date of
68 receipt of the vacated release order and once every 7 years
69 thereafter, if the commission finds that it is not reasonable to
70 expect that parole would be granted during the following years
71 and states the bases for the finding in writing. For an ~~any~~
72 inmate who is within 7 years of his or her tentative release
73 date, the commission may establish a reinterview date before
74 ~~prior to~~ the 7-year schedule.

75 Section 2. Paragraph (b) of subsection (1) of section
76 947.174, Florida Statutes, is amended to read:

77 947.174 Subsequent interviews.—

78 (1)

79 (b) For any inmate convicted of murder, attempted murder,
80 sexual battery~~7~~, or attempted sexual battery, kidnapping,
81 robbery, or burglary of a dwelling or burglary of a structure or
82 conveyance in which a human being is present and a sexual act is
83 completed or attempted, or any inmate who has been sentenced to
84 a 25-year minimum mandatory sentence previously provided in s.
85 775.082, and whose presumptive parole release date is more than
86 7 years after the date of the initial interview, a hearing
87 examiner shall schedule an interview for review of the

2-00544-12

2012506

88 presumptive parole release date. The interview shall take place
89 once within 7 years after the initial interview and once every 7
90 years thereafter if the commission finds that it is not
91 reasonable to expect that parole will be granted at a hearing
92 during the following years and states the bases for the finding
93 in writing. For an ~~any~~ inmate who is within 7 years of his or
94 her tentative release date, the commission may establish an
95 interview date before the 7-year schedule.

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

98 947.1745 Establishment of effective parole release date.—If
99 the inmate's institutional conduct has been satisfactory, the
100 presumptive parole release date shall become the effective
101 parole release date as follows:

102 (6) Within 90 days before the effective parole release date
103 interview, the commission shall send written notice to the
104 sentencing judge of any inmate who has been scheduled for an
105 effective parole release date interview. If the sentencing judge
106 is no longer serving, the notice must be sent to the chief judge
107 of the circuit in which the offender was sentenced. The chief
108 judge may designate any circuit judge within the circuit to act
109 in the place of the sentencing judge. Within 30 days after
110 receipt of the commission's notice, the sentencing judge, or the
111 designee, shall send to the commission notice of objection to
112 parole release, if the judge objects to such release. If there
113 is objection by the judge, such objection may constitute good
114 cause in exceptional circumstances as described in s. 947.173,
115 and the commission may schedule a subsequent review within 2
116 years, extending the presumptive parole release date beyond that

2-00544-12

2012506__

117 time. However, for an inmate who has been:

118 (a) Convicted of murder or attempted murder;

119 (b) Convicted of sexual battery or attempted sexual
120 battery; ~~or~~

121 (c) Convicted of kidnapping;

122 (d) Convicted of robbery;

123 (e) Convicted of burglary of a dwelling or burglary of a
124 structure or conveyance in which a human being is present and a
125 sexual act is completed or attempted; or

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

128
129 the commission may schedule a subsequent review under this
130 subsection once every 7 years, extending the presumptive parole
131 release date beyond that time if the commission finds that it is
132 not reasonable to expect that parole would be granted at a
133 review during the following years and states the bases for the
134 finding in writing. For an ~~any~~ inmate who is within 7 years of
135 his or her release date, the commission may schedule a
136 subsequent review before ~~prior to~~ the 7-year schedule. With any
137 subsequent review the same procedure outlined above will be
138 followed. If the judge remains silent with respect to parole
139 release, the commission may authorize an effective parole
140 release date. This subsection applies if the commission desires
141 to consider the establishment of an effective release date
142 without delivery of the effective parole release date interview.
143 Notice of the effective release date must be sent to the
144 sentencing judge, and either the judge's response to the notice
145 must be received or the time period allowed for such response

2-00544-12

2012506

146 must elapse before the commission may authorize an effective
147 release date.

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

152 947.165 Objective parole guidelines.—

153 (1) The commission shall develop and implement objective
154 parole guidelines which shall be the criteria upon which parole
155 decisions are made. The objective parole guidelines shall be
156 developed according to an acceptable research method and shall
157 be based on the seriousness of offense and the likelihood of
158 favorable parole outcome. The guidelines shall require the
159 commission to aggravate or aggregate each consecutive sentence
160 in establishing the presumptive parole release date. Factors
161 used in arriving at the salient factor score and the severity of
162 offense behavior category shall not be applied as aggravating
163 circumstances. If the sentencing judge files a written objection
164 to the parole release of an inmate as provided for in s.
165 947.1745(6), such objection may be used by the commission as a
166 basis to extend the presumptive parole release date.

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