

By the Committee on Criminal Justice; and Senator Evers

591-01568-12

2012506c1

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 development and
8 implementation by the Parole Commission of objective
9 parole guidelines to serve as the criteria upon which
10 parole 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,

591-01568-12

2012506c1

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~~

591-01568-12

2012506c1

59 3. Convicted of kidnapping or attempted kidnapping;

60 4. Convicted of robbery, burglary of a dwelling, burglary
61 of a structure or conveyance, or breaking and entering, or the
62 attempt of any of these crimes, in which a human being is
63 present and a sexual act is attempted or completed; or

64 ~~5.3-~~ 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, ~~or~~ attempted sexual battery, kidnapping, or
81 attempted kidnapping; or robbery, burglary of a dwelling,
82 burglary of a structure or conveyance, or breaking and entering,
83 or the attempt of any of these crimes, in which a human being is
84 present and a sexual act is attempted or completed, or for any
85 inmate who has been sentenced to a 25-year minimum mandatory
86 sentence previously provided in s. 775.082, and whose
87 presumptive parole release date is more than 7 years after the

591-01568-12

2012506c1

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

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

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

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

591-01568-12

2012506c1

117 947.173, and the commission may schedule a subsequent review
118 within 2 years, extending the presumptive parole release date
119 beyond that time. However, for an inmate who has been:

120 (a) Convicted of murder or attempted murder;

121 (b) Convicted of sexual battery or attempted sexual
122 battery; ~~or~~

123 (c) Convicted of kidnapping or attempted kidnapping;

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

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

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

591-01568-12

2012506c1

146 sentencing judge, and either the judge's response to the notice
147 must be received or the time period allowed for such response
148 must elapse before the commission may authorize an effective
149 release date.

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

154 947.165 Objective parole guidelines.—

155 (1) The commission shall develop and implement objective
156 parole guidelines which shall be the criteria upon which parole
157 decisions are made. The objective parole guidelines shall be
158 developed according to an acceptable research method and shall
159 be based on the seriousness of offense and the likelihood of
160 favorable parole outcome. The guidelines shall require the
161 commission to aggravate or aggregate each consecutive sentence
162 in establishing the presumptive parole release date. Factors
163 used in arriving at the salient factor score and the severity of
164 offense behavior category shall not be applied as aggravating
165 circumstances. If the sentencing judge files a written objection
166 to the parole release of an inmate as provided for in s.
167 947.1745(6), such objection may be used by the commission as a
168 basis to extend the presumptive parole release date.

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