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HB 685

2013 Legislature

1
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 specified crimes; requiring a periodic
7 parole interview for an inmate convicted of kidnapping
8 or attempted kidnapping or robbery, burglary of a
9 dwelling, burglary of a structure or conveyance, or
10 breaking and entering, or the attempt thereof of any
11 of these crimes, in which a human being is present and
12 a sexual act is attempted or completed; reenacting s.
13 947.165(1), F.S., relating to objective parole
14 guidelines, to incorporate the amendment made by this
15 act to s. 947.1745, F.S., in a reference thereto;
16 providing an effective date.

17
18 Be It Enacted by the Legislature of the State of Florida:

19
20 Section 1. Paragraph (g) of subsection (4) of section
21 947.16, Florida Statutes, is amended to read:

22 947.16 Eligibility for parole; initial parole interviews;
23 powers and duties of commission.—

24 (4) A person who has become eligible for an initial parole
25 interview and who may, according to the objective parole
26 guidelines of the commission, be granted parole shall be placed
27 on parole in accordance with the provisions of this law; except
28 that, in any case of a person convicted of murder, robbery,

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

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

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57 | years thereafter, or earlier by order of the court retaining
 58 | jurisdiction. However, each inmate whose parole release order
 59 | has been vacated by the court and who has been:

- 60 | 1. Convicted of murder or attempted murder;
- 61 | 2. Convicted of sexual battery or attempted sexual
 62 | battery; ~~or~~
- 63 | 3. Convicted of kidnapping or attempted kidnapping;
- 64 | 4. Convicted of robbery, burglary of a dwelling, burglary
 65 | of a structure or conveyance, or breaking and entering, or the
 66 | attempt thereof of any of these crimes, in which a human being
 67 | is present and a sexual act is attempted or completed; or
- 68 | ~~5.3-~~ Sentenced to a 25-year minimum mandatory sentence
 69 | previously provided in s. 775.082,

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

79 | Section 2. Paragraph (b) of subsection (1) of section
 80 | 947.174, Florida Statutes, is amended to read:

81 | 947.174 Subsequent interviews.—

82 | (1)

83 | (b) For any inmate convicted of murder ~~or~~ attempted
 84 | murder; ~~sexual battery~~ or attempted sexual battery; kidnapping

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85 | or attempted kidnapping; or robbery, burglary of a dwelling,
86 | burglary of a structure or conveyance, or breaking and entering,
87 | or the attempt thereof of any of these crimes, in which a human
88 | being is present and a sexual act is attempted or completed, or
89 | any inmate who has been sentenced to a 25-year minimum mandatory
90 | sentence previously provided in s. 775.082, and whose
91 | presumptive parole release date is more than 7 years after the
92 | date of the initial interview, a hearing examiner shall schedule
93 | an interview for review of the presumptive parole release date.
94 | The interview shall take place once within 7 years after the
95 | initial interview and once every 7 years thereafter if the
96 | commission finds that it is not reasonable to expect that parole
97 | will be granted at a hearing during the following years and
98 | states the bases for the finding in writing. For an ~~any~~ inmate
99 | who is within 7 years of his or her tentative release date, the
100 | commission may establish an interview date before the 7-year
101 | schedule.

102 | Section 3. Subsection (6) of section 947.1745, Florida
103 | Statutes, is amended to read:

104 | 947.1745 Establishment of effective parole release date.—
105 | If the inmate's institutional conduct has been satisfactory, the
106 | presumptive parole release date shall become the effective
107 | parole release date as follows:

108 | (6) Within 90 days before the effective parole release
109 | date interview, the commission shall send written notice to the
110 | sentencing judge of any inmate who has been scheduled for an
111 | effective parole release date interview. If the sentencing judge
112 | is no longer serving, the notice must be sent to the chief judge

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113 of the circuit in which the offender was sentenced. The chief
 114 judge may designate any circuit judge within the circuit to act
 115 in the place of the sentencing judge. Within 30 days after
 116 receipt of the commission's notice, the sentencing judge, or the
 117 designee, shall send to the commission notice of objection to
 118 parole release, if the judge objects to such release. If there
 119 is objection by the judge, such objection may constitute good
 120 cause in exceptional circumstances as described in s. 947.173,
 121 and the commission may schedule a subsequent review within 2
 122 years, extending the presumptive parole release date beyond that
 123 time. However, for an inmate who has been:

124 (a) Convicted of murder or attempted murder;

125 (b) Convicted of sexual battery or attempted sexual
 126 battery; ~~or~~

127 (c) Convicted of kidnapping or attempted kidnapping;

128 (d) Convicted of robbery, burglary of a dwelling, burglary
 129 of a structure or conveyance, or breaking and entering, or the
 130 attempt thereof of any of these crimes, in which a human being
 131 is present and a sexual act is attempted or completed; or

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

134
 135 the commission may schedule a subsequent review under this
 136 subsection once every 7 years, extending the presumptive parole
 137 release date beyond that time if the commission finds that it is
 138 not reasonable to expect that parole would be granted at a
 139 review during the following years and states the bases for the
 140 finding in writing. For an ~~any~~ inmate who is within 7 years of

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141 his or her release date, the commission may schedule a
142 subsequent review before ~~prior to~~ the 7-year schedule. With any
143 subsequent review the same procedure outlined above will be
144 followed. If the judge remains silent with respect to parole
145 release, the commission may authorize an effective parole
146 release date. This subsection applies if the commission desires
147 to consider the establishment of an effective release date
148 without delivery of the effective parole release date interview.
149 Notice of the effective release date must be sent to the
150 sentencing judge, and either the judge's response to the notice
151 must be received or the time period allowed for such response
152 must elapse before the commission may authorize an effective
153 release date.

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

158 947.165 Objective parole guidelines.—

159 (1) The commission shall develop and implement objective
160 parole guidelines which shall be the criteria upon which parole
161 decisions are made. The objective parole guidelines shall be
162 developed according to an acceptable research method and shall
163 be based on the seriousness of offense and the likelihood of
164 favorable parole outcome. The guidelines shall require the
165 commission to aggravate or aggregate each consecutive sentence
166 in establishing the presumptive parole release date. Factors
167 used in arriving at the salient factor score and the severity of
168 offense behavior category shall not be applied as aggravating

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169 | circumstances. If the sentencing judge files a written objection
170 | to the parole release of an inmate as provided for in s.
171 | 947.1745(6), such objection may be used by the commission as a
172 | basis to extend the presumptive parole release date.
173 | Section 5. This act shall take effect July 1, 2013.