

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #: HB 7125

FINAL HOUSE FLOOR ACTION:

SPONSOR(S): Judiciary Committee; Baxley

117 Y's

0 N's

**COMPANION
BILLS:** SB 1636

GOVERNOR'S ACTION: Approved

SUMMARY ANALYSIS

HB 7125 passed the House on April 30, 2014, as SB 1636. The bill provides for the re-naming of the Parole Commission to the Florida Commission on Offender Review.

The Parole Commission (Commission) is a constitutionally authorized decision-making body that serves as a quasi-judicial body. The Florida Constitution provides that there may be created by law a parole and probation commission with the power to supervise persons on probation and grant paroles or conditional releases to persons under sentences for crime. In 1941, the Commission was created by law to administer parole. Since that time, the administration of conditional release, conditional medical release, control release, and addiction recovery has been placed under the Commission. The Commission also acts as the investigative arm of the Governor and Cabinet, sitting as the Board of Executive Clemency. The Commission was established as the Florida Parole and Probation Commission, but was later renamed the Florida Parole Commission.

The bill changes the name of the "Parole Commission" to the "Florida Commission on Offender Review" in order to more accurately reflect the current roles of the commission.

The bill may have an insignificant negative impact on state expenditures, but according to the Commission, this impact will be absorbed within existing funds. The bill does not appear to have any impact on local government expenditures or revenues.

The bill was approved by the Governor on June 20, 2014, ch. 2014-191, L.O.F., and will become effective on July 1, 2014.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

The Parole Commission (Commission) is a constitutionally authorized decision-making body that serves as a quasi-judicial body.¹ The Florida Constitution² provides that there may be created by law a parole and probation commission with the power to supervise persons on probation and grant paroles or conditional releases to persons under sentences for crime.³ In 1941, the Commission was created by law to administer parole.⁴ Since that time, the administration of conditional release, conditional medical release, control release, and addiction recovery has been placed under the Commission.⁵ The Commission also acts as the investigative arm of the Governor and Cabinet, sitting as the Board of Executive Clemency.⁶ The Commission was established as the Florida Parole and Probation Commission in 1941⁷, but the name was changed to the Florida Parole Commission in 1989.⁸

Parole

Parole is the release of an inmate, prior to the expiration of the inmate's court-imposed sentence, with a period of supervision to be successfully completed by compliance with the conditions and terms of the release agreement ordered by the Commission.⁹ The decision of the Commission to parole an inmate is considered an act of grace of the State and not a right.¹⁰ The Parole Commission administers parole.¹¹ It allows an inmate who has been granted parole to serve the remainder of his or her prison sentence outside the confines of the institution.¹² Once released, the parolee is subject to conditions of supervision, and if those conditions are violated, the Commission may return the parolee to prison.¹³ Parole has experienced a number of changes over the years. In 1978, the Florida Legislature enacted "Objective Parole Guidelines," which required the Commission to develop and implement rules and criteria upon which parole decisions were to be made.¹⁴ These criteria were based on risk assessment and combined historical Commission decision-making experience with individual case elements. The most significant change, however, came in 1983. In that year, sentencing guidelines were enacted, thereby effectively abolishing parole for those offenders who were sentenced for crimes committed on or after October 1, 1983.¹⁵

Currently, all inmates who committed a capital felony murder prior to May 25, 1994, and all inmates who committed all other capital felonies, including sexual battery prior to October 1, 1995, are also parole eligible.¹⁶ There are approximately 5,107 inmates who are still eligible for parole consideration and numerous offenders who are still under parole supervision.¹⁷

¹ *Annual Report Florida Parole Commission 2011*, Available at <https://fpc.state.fl.us/PDFs/FPCAnnualreport2001011.pdf> (last visited March 3, 2014).

² FLA. CONST. art. IV, s. 8.

³ *Id.*

⁴ *Supra* note 1, at 17.

⁵ *Id.* at 17-19.

⁶ *Id.* at 29.

⁷ *Id.* at 17.

⁸ Chapter 88-122, L.O.F.

⁹ *Supra* note 1, at 80.

¹⁰ *Id.* at 76.

¹¹ See chs. 947, 948, and 949, F.S.

¹² *Supra* note 1, at 30.

¹³ *Id.*

¹⁴ *Id.* at 18.

¹⁵ *Id.* at 19.

¹⁶ *Id.* at 30.

¹⁷ *Florida Parole Commission Annual Report 2013*, Available at <https://fpc.state.fl.us/PDFs/FPCAnnualreport201213.pdf> (last visited March 3, 2014).

Conditional Release

In 1988, the Florida Legislature created the Conditional Release Program and placed it under the administration of the Commission¹⁸ (see chs. 947, 948, and 960, F.S.). Conditional Release requires mandatory post-prison supervision for inmates who are sentenced for certain violent crimes and who have served a prior felony commitment, or who are sentenced as a habitual offender, violent habitual offender, violent career criminal, or sexual predator. Unlike parole, conditional release is not discretionary release. Upon release from prison, inmates who are subject to conditional release are supervised for a period of time equal to the gain-time that they received in prison. These offenders are subject to strict conditions of supervision set by the Commission and this supervision can be revoked and the releasee returned to prison if the Commission determines that a violation of supervision has occurred.

Control Release

In 1989, the Florida Legislature created the Control Release Authority.¹⁹ This program was a prison population management system administered by the Commission to keep the prison population at its lawful capacity.²⁰ The Commission does not currently review the inmate population for discretionary release under this authority as there are sufficient prison beds for the current prison population.²¹ There are, however, a small number of control releasees who are still under supervision.²² The Commission is responsible for monitoring the progress of these releasees and conducting revocation hearings when alleged violations are reported.²³

Conditional Medical Release

In 1992, the Florida Legislature created Conditional Medical Release.²⁴ This is a discretionary release that allows the Commission to release inmates on supervision who are “terminally ill” or “permanently incapacitated” and who are not a danger to others.²⁵

Addiction Recovery Supervision Program

In 2001, the Legislature created the Addiction Recovery Supervision Program and placed it under the Commission’s administration.²⁶ This program requires mandatory post-prison supervision for offenders who are released from a state correctional facility, were convicted of a crime committed on or after July 1, 2001, have a history of substance abuse or addiction or have participated in any drug treatment, and have not been convicted of a disqualifying offense.²⁷ The law requires the Commission to set the terms and conditions of supervision and to revoke that supervision if the offender fails to comply with them.²⁸ As of July 1, 2013, there were 295 parolees in this program.²⁹

Clemency

¹⁸ *Id.* at 7; see also chs. 947 and 948, F.S.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.* at 4.

²⁵ *Id.*

²⁶ *Id.* at 7.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

Clemency is a constitutionally authorized process that provides the means through which convicted felons may seek restoration of their civil rights and may be considered for relief from punishment.³⁰ The Office of Executive Clemency was created in 1975 to process applications for executive clemency requiring approval of the Governor and Cabinet who sit collectively as the Executive Clemency Board.³¹

In addition to processing requests for restoration of civil rights, applications for alien status, full pardons, remission of fines, waiver requests, commutations of sentence and specific authority to own, possess or use firearms, the office also provides verification and/or certification of restoration of civil rights and other forms of clemency granted, to law enforcement agencies, state attorneys, public defenders, licensing agencies, and supervisors of elections.³²

The Parole Commission primarily processes clemency applications and reviews certain inmates under their purview. There is confusion over the role of the Parole Commission because its name does not depict the duties actually prescribed by law.

Victim Services

The Victim Services' section provides direct, personal service to crime victims and their families.³³ Staff attempt to locate all victims of parole eligible inmates and persons seeking clemency to inform them of their right to be heard and participate in the clemency or parole process.³⁴ Victims are also informed of their right to be notified by the Department of Corrections of an inmate's movement within the prison system or escape.³⁵

Revocations

The Revocations Section reviews all violation reports, prepares arrest warrants, updates the National Crime Information Center/Florida Crime Information Center databases (NCIC/FCIC), responds to requests from law enforcement agencies, coordinates the extradition of violators, and performs functions relating to the docketing and processing of cases for Commission action involving review of supervision and violations of supervision.³⁶

The violation process begins when law enforcement or the Department of Corrections notifies the Commission that a releasee has violated one or more conditions of his/her supervision.³⁷ The Revocations Section is responsible for reviewing these reported violations and preparing a warrant for a Commissioner's signature.³⁸ The Commission may issue a warrant for the arrest of any offender when reasonable grounds exist to believe the releasee has violated any of the conditions of supervision.³⁹

Using the responsibilities discussed above, the chart below reflects the commission's current workload.⁴⁰

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.* at 6.

³⁴ *Id.*

³⁵ *Id.*

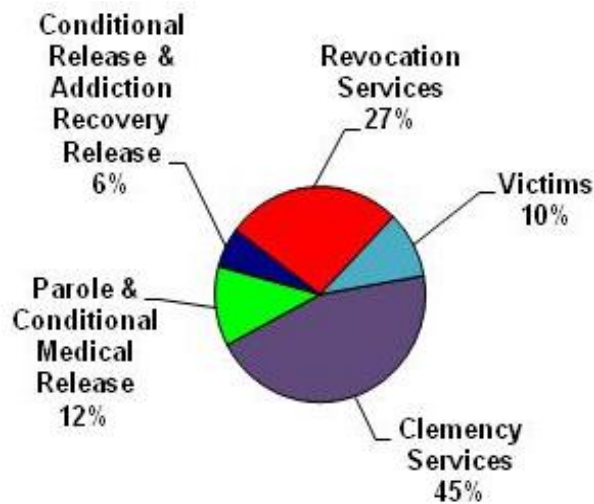
³⁶ *Florida Parole Commission Annual Report 2012*, Available at <https://fpc.state.fl.us/PDFs/FPCAnnualreport201112.pdf> (last visited March 3, 2014).

³⁷ *Id.* at 28.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Supra* note 1, at 9.



Effect of Bill

The bill renames the “Florida Parole Commission,” as the “Florida Commission on Offender Review.” The name change more accurately reflects the commission’s current role.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill may have an insignificant impact on state expenditures in the costs associated with changing signage, letterhead, etc.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any direct impact on the private sector.

D. FISCAL COMMENTS:

None.