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LEGISLATIVE ACTION

Senate

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House

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Floor: WD/3R

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04/26/2017 06:37 PM

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Senator Bracy moved the following:

Senate Amendment (with title amendment)

Between lines 385 and 386

insert:

Section 7. Section 947.149, Florida Statutes, is amended to read:

947.149 Conditional medical release.—

(1) The commission shall, in conjunction with the department, establish the conditional medical release program. An inmate is eligible for supervised ~~consideration for~~ release under the conditional medical release program when the inmate,



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12 because of an existing medical or physical condition, is
13 determined by the department to be within one of the following
14 designations:

15 (a) "Inmate with a debilitating illness," which means an
16 inmate who is determined to be suffering from a significant and
17 permanent non-terminal condition, disease, or syndrome that has
18 rendered the inmate so physically or cognitively debilitated or
19 incapacitated as to create a reasonable probability that he or
20 she does not present any danger to society.

21 (b) ~~(a)~~ "Permanently incapacitated inmate," which means an
22 inmate who has a condition caused by injury, disease, or illness
23 which, to a reasonable degree of medical certainty, renders the
24 inmate permanently and irreversibly physically incapacitated to
25 the extent that the inmate does not constitute a danger to
26 herself or himself or others.

27 (c) ~~(b)~~ "Terminally ill inmate," which means an inmate who
28 has a condition caused by injury, disease, or illness which, to
29 a reasonable degree of medical certainty, renders the inmate
30 terminally ill to the extent that there can be no recovery and
31 death is imminent, so that the inmate does not constitute a
32 danger to herself or himself or others.

33 (2) To be eligible, an inmate must also be determined by
34 the department to meet all of the following criteria:

35 (a) Has been convicted of a felony and has served at least
36 50 percent of his or her sentence.

37 (b) Has no current or prior conviction for a capital or
38 first degree felony, for a sexual offense, or for an offense
39 involving a child.

40 (c) Has not received a disciplinary report within the



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41 previous 6 months.

42 (d) Has never received a disciplinary report for a violent
43 act.

44 (e) Has renounced any gang affiliation.

45 (2) Notwithstanding any provision to the contrary, any
46 person determined eligible under this section and sentenced to
47 the custody of the department shall ~~may~~, upon referral by the
48 department and verification of eligibility by commission, be
49 placed on ~~considered for~~ conditional medical release by the
50 commission, ~~in addition to any parole consideration for which~~
51 ~~the inmate may be considered, except that conditional medical~~
52 ~~release is not authorized for an inmate who is under sentence of~~
53 ~~death.~~

54 (3) No inmate has a right to conditional medical release or
55 to a medical evaluation to determine eligibility for such
56 release.

57 (4) (a) (3) The commission has the authority and whether or
58 not to grant conditional medical release and establish
59 additional conditions of conditional medical release rests
60 solely within the discretion of the commission, in accordance
61 with the provisions of this section, together with the authority
62 to approve the release plan proposed by the department to
63 include necessary medical care and attention.

64 (b) The department shall identify inmates who may be
65 eligible for conditional medical release based upon available
66 medical information and shall refer them to the commission if
67 they are eligible under this section for consideration. In
68 considering an inmate for conditional medical release, the
69 commission may require that additional medical evidence be



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70 ~~produced or that additional medical examinations be conducted,~~
71 ~~and may require such other investigations to be made as may be~~
72 ~~warranted.~~

73 (d) The referral by the department to the commission must
74 include the following information:

75 1. Proposed conditional medical release plan.

76 2. Any relevant medical history, including current medical
77 prognosis.

78 3. Prison experience and criminal history. The criminal
79 history must include all of the following:

80 a. A claim of innocence, if any.

81 b. The degree to which the inmate accepts responsibility
82 for his or her acts leading to the conviction of the crime.

83 c. How any claim of responsibility has affected the
84 inmate's feelings of remorse.

85 4. Any history of substance abuse and mental health issues.

86 5. Any disciplinary action taken against the inmate while
87 in prison.

88 6. Any participation in prison work and other prison
89 programs.

90 7. Any other information deemed necessary by the
91 department.

92 (e) In verifying eligibility of an inmate for conditional
93 medical release, the commission shall review the information
94 provided by the department.

95 (f) The commission must finish its verification of the
96 eligibility of an inmate within 60 days after the department
97 refers the inmate for conditional medical release.

98 (5)-(4) The conditional medical release term of an inmate



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99 released on conditional medical release is for the remainder of
100 the inmate's sentence, without diminution of sentence for good
101 behavior. Supervision of the medical releasee must include
102 periodic medical evaluations at intervals included in the
103 recommended release plan and approved ~~determined~~ by the
104 commission at the time of release. Supervision may also include
105 electronic monitoring.

106 (6) (a) ~~(5) (a)~~ If it is discovered during the conditional
107 medical release that the medical or physical condition of the
108 medical releasee has improved to the extent that she or he would
109 no longer be eligible for conditional medical release under this
110 section, the commission may order that the releasee be returned
111 to the custody of the department for a conditional medical
112 release revocation hearing, in accordance with s. 947.141. If
113 conditional medical release is revoked due to improvement in the
114 medical or physical condition of the releasee, she or he shall
115 serve the balance of her or his sentence with credit for the
116 time served on conditional medical release and without
117 forfeiture of any gain-time accrued prior to conditional medical
118 release. If the person whose conditional medical release is
119 revoked due to an improvement in medical or physical condition
120 would otherwise be eligible for parole or any other release
121 program, the person may be considered for such release program
122 pursuant to law.

123 (b) In addition to revocation of conditional medical
124 release pursuant to paragraph (a), conditional medical release
125 may also be revoked for violation of any condition of the
126 release established by the commission, in accordance with s.
127 947.141, and the releasee's gain-time may be forfeited pursuant



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128 to s. 944.28(1).

129 ~~(7)~~~~(6)~~ The department and the commission shall adopt rules
130 as necessary to implement the conditional medical release
131 program.

132

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

134 And the title is amended as follows:

135 Delete line 37

136 and insert:

137 releasees; amending s. 947.149, F.S.; defining the
138 term "inmate with a debilitating illness"; expanding
139 eligibility for conditional medical release to include
140 inmates with debilitating illnesses; providing
141 criteria for eligibility; requiring the Department of
142 Corrections to refer an eligible inmate for release;
143 requiring the Commission on Offender Review to verify
144 the referral; requiring that the Department of
145 Corrections's referral for release include certain
146 documents; amending s. 958.11, F.S.; deleting a