

By Senator Clemens

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1                   A bill to be entitled  
2           An act relating to criminal justice; amending ss.  
3           784.078 and 800.09, F.S.; conforming a term to changes  
4           made by ch. 2014-191, Laws of Florida; amending s.  
5           947.002, F.S.; conforming a term to changes made by  
6           ch. 2014-191, Laws of Florida; conforming a cross  
7           reference; amending s. 947.02, F.S.; conforming a term  
8           to changes made by ch. 2014-191, Laws of Florida;  
9           repealing s. 947.021, F.S., relating to expedited  
10          appointments to the Florida Commission on Offender  
11          Review; amending s. 947.10, F.S.; deleting an  
12          applicability provision; updating a term; amending s.  
13          947.16, F.S.; conforming a term to changes made by ch.  
14          2014-191, Laws of Florida; amending s. 947.172, F.S.;  
15          deleting a provision requiring the assigning of cases  
16          on a random basis; conforming a term to changes made  
17          by ch. 2014-191, Laws of Florida; amending ss.  
18          947.174, 947.1745, and 947.22, F.S.; conforming a term  
19          to changes made by ch. 2014-191, Laws of Florida;  
20          amending s. 960.001, F.S.; requiring a law enforcement  
21          agency to provide specified instructions to a victim;  
22          requiring a law enforcement agency to promptly make  
23          reasonable efforts to provide the victim with  
24          specified information under certain circumstances;  
25          amending s. 20.32, F.S.; conforming provisions to  
26          changes made by the act; providing effective dates.

27  
28   Be It Enacted by the Legislature of the State of Florida:  
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30 Section 1. Paragraph (b) of subsection (2) of section  
31 784.078, Florida Statutes, is amended to read:

32 784.078 Battery of facility employee by throwing, tossing,  
33 or expelling certain fluids or materials.—

34 (2)

35 (b) "Employee" includes any person who is a commission  
36 investigator ~~parole examiner~~ with the Florida Commission on  
37 Offender Review.

38 Section 2. Paragraph (a) of subsection (1) of section  
39 800.09, Florida Statutes, is amended to read:

40 800.09 Lewd or lascivious exhibition in the presence of an  
41 employee.—

42 (1) As used in this section, the term:

43 (a) "Employee" means any person employed by or performing  
44 contractual services for a public or private entity operating a  
45 facility or any person employed by or performing contractual  
46 services for the corporation operating the prison industry  
47 enhancement programs or the correctional work programs under  
48 part II of chapter 946. The term also includes any person who is  
49 a commission investigator ~~parole examiner~~ with the Florida  
50 Commission on Offender Review.

51 Section 3. Subsection (4) of section 947.002, Florida  
52 Statutes, is amended to read:

53 947.002 Intent.—

54 (4) Commission investigators ~~Hearing examiners~~ are assigned  
55 on the basis of caseload needs as determined by the chair.

56 Section 4. Section 947.02, Florida Statutes, is amended to  
57 read:

58 947.02 Florida Commission on Offender Review; members,

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59 appointment.—

60 (1) ~~Except as provided in s. 947.021,~~ The members of the  
61 Florida Commission on Offender Review shall be appointed by the  
62 Governor and Cabinet from a list of eligible applicants  
63 submitted by a commissioner parole qualifications committee. The  
64 appointments of members of the commission shall be certified to  
65 the Senate by the Governor and Cabinet for confirmation, and the  
66 membership of the commission shall include representation from  
67 minority persons as defined in s. 288.703.

68 (2) A commissioner parole qualifications committee shall  
69 consist of five persons who are appointed by the Governor and  
70 Cabinet. One member shall be designated as chair by the Governor  
71 and Cabinet. The committee shall provide for statewide  
72 advertisement and the receiving of applications for any position  
73 or positions on the commission and shall devise a plan for the  
74 determination of the qualifications of the applicants by  
75 investigations and comprehensive evaluations, including, but not  
76 limited to, investigation and evaluation of the character,  
77 habits, and philosophy of each applicant. Each commissioner  
78 ~~parole~~ qualifications committee shall exist for 2 years. If  
79 additional vacancies on the commission occur during this 2-year  
80 period, the committee may advertise and accept additional  
81 applications; however, all previously submitted applications  
82 shall be considered along with the new applications according to  
83 the previously established plan for the evaluation of the  
84 qualifications of applicants.

85 (3) Within 90 days before an anticipated vacancy by  
86 expiration of term pursuant to s. 947.03 or upon any other  
87 vacancy, the Governor and Cabinet shall appoint a commissioner

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88 ~~parole~~ qualifications committee if one has not been appointed  
89 during the previous 2 years. The committee shall consider  
90 applications for the commission seat, including the application  
91 of an incumbent commissioner if he or she applies, according to  
92 subsection (2). The committee shall submit a list of three  
93 eligible applicants, which may include the incumbent if the  
94 committee so decides, without recommendation, to the Governor  
95 and Cabinet for appointment to the commission. In the case of an  
96 unexpired term, the appointment must be for the remainder of the  
97 unexpired term and until a successor is appointed and qualified.  
98 If more than one seat is vacant, the committee shall submit a  
99 list of eligible applicants, without recommendation, containing  
100 a number of names equal to three times the number of vacant  
101 seats; however, the names submitted may not be distinguished by  
102 seat, and each submitted applicant shall be considered eligible  
103 for each vacancy.

104 (4) Upon receiving a list of eligible persons from the  
105 commissioner ~~parole~~ qualifications committee, the Governor and  
106 Cabinet may reject the list. If the list is rejected, the  
107 committee shall reinstitute the application and examination  
108 procedure according to subsection (2).

109 (5) Section 120.525 and chapters 119 and 286 apply to all  
110 activities and proceedings of a commissioner ~~parole~~  
111 qualifications committee.

112 Section 5. Section 947.021, Florida Statutes, is repealed.

113 Section 6. Section 947.10, Florida Statutes, is amended to  
114 read:

115 947.10 Business and political activity upon part of members  
116 and full-time employees of commission.—No member of the

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117 commission and no full-time employee thereof shall, during her  
118 or his service upon or under the commission, engage in any other  
119 business or profession or hold any other public office, nor  
120 shall she or he serve as the representative of any political  
121 party, or any political executive committee or other political  
122 governing body thereof, or as an executive officer or employee  
123 of any political committee, organization, or association or be  
124 engaged on the behalf of any candidate for public office in the  
125 solicitation of votes or otherwise. ~~However, this shall not be~~  
126 ~~deemed to exclude the appointment of the Secretary of~~  
127 ~~Corrections to the commission under the terms and conditions set~~  
128 ~~forth in this chapter.~~

129 Section 7. Subsection (1) and paragraph (e) of subsection  
130 (4) of section 947.16, Florida Statutes, are amended to read:

131 947.16 Eligibility for parole; initial parole interviews;  
132 powers and duties of commission.-

133 (1) Every person who has been convicted of a felony or who  
134 has been convicted of one or more misdemeanors and whose  
135 sentence or cumulative sentences total 12 months or more, who is  
136 confined in execution of the judgment of the court, and whose  
137 record during confinement or while under supervision is good,  
138 shall, unless otherwise provided by law, be eligible for  
139 interview for parole consideration of her or his cumulative  
140 sentence structure as follows:

141 (a) An inmate who has been sentenced for an indeterminate  
142 term or a term of 3 years or less shall have an initial  
143 interview conducted by a commission investigator ~~hearing~~  
144 ~~examiner~~ within 8 months after the initial date of confinement  
145 in execution of the judgment.

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146 (b) An inmate who has been sentenced for a minimum term in  
147 excess of 3 years but of less than 6 years shall have an initial  
148 interview conducted by a commission investigator ~~hearing~~  
149 ~~examiner~~ within 14 months after the initial date of confinement  
150 in execution of the judgment.

151 (c) An inmate who has been sentenced for a minimum term of  
152 6 or more years but other than for a life term shall have an  
153 initial interview conducted by a commission investigator ~~hearing~~  
154 ~~examiner~~ within 24 months after the initial date of confinement  
155 in execution of the judgment.

156 (d) An inmate who has been sentenced for a term of life  
157 shall have an initial interview conducted by a commission  
158 investigator ~~hearing-examiner~~ within 5 years after the initial  
159 date of confinement in execution of the judgment.

160 (e) An inmate who has been convicted and sentenced under  
161 ss. 958.011-958.15, or any other inmate who has been determined  
162 by the department to be a youthful offender, shall be  
163 interviewed by a commission investigator ~~parole-examiner~~ within  
164 8 months after the initial date of confinement in execution of  
165 the judgment.

166 (4) A person who has become eligible for an initial parole  
167 interview and who may, according to the objective parole  
168 guidelines of the commission, be granted parole shall be placed  
169 on parole in accordance with the provisions of this law; except  
170 that, in any case of a person convicted of murder, robbery,  
171 burglary of a dwelling or burglary of a structure or conveyance  
172 in which a human being is present, aggravated assault,  
173 aggravated battery, kidnapping, sexual battery or attempted  
174 sexual battery, incest or attempted incest, an unnatural and

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175 lascivious act or an attempted unnatural and lascivious act,  
176 lewd and lascivious behavior, assault or aggravated assault when  
177 a sexual act is completed or attempted, battery or aggravated  
178 battery when a sexual act is completed or attempted, arson, or  
179 any felony involving the use of a firearm or other deadly weapon  
180 or the use of intentional violence, at the time of sentencing  
181 the judge may enter an order retaining jurisdiction over the  
182 offender for review of a commission release order. This  
183 jurisdiction of the trial court judge is limited to the first  
184 one-third of the maximum sentence imposed. When any person is  
185 convicted of two or more felonies and concurrent sentences are  
186 imposed, then the jurisdiction of the trial court judge as  
187 provided herein applies to the first one-third of the maximum  
188 sentence imposed for the highest felony of which the person was  
189 convicted. When any person is convicted of two or more felonies  
190 and consecutive sentences are imposed, then the jurisdiction of  
191 the trial court judge as provided herein applies to one-third of  
192 the total consecutive sentences imposed.

193 (e) Upon receipt of notice of intent to retain jurisdiction  
194 from the original sentencing judge or her or his replacement,  
195 the commission shall, within 10 days, forward to the court its  
196 release order, the findings of fact, the commission  
197 investigator's ~~parole hearing examiner's~~ report and  
198 recommendation, and all supporting information upon which its  
199 release order was based.

200 Section 8. Subsections (1) and (2) of section 947.172,  
201 Florida Statutes, are amended to read:

202 947.172 Establishment of presumptive parole release date.-

203 (1) The commission investigator ~~hearing examiner~~ shall

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204 conduct an initial interview in accordance with the provisions  
205 of s. 947.16. This interview shall include introduction and  
206 explanation of the objective parole guidelines as they relate to  
207 presumptive and effective parole release dates and an  
208 explanation of the institutional conduct record and satisfactory  
209 release plan for parole supervision as each relates to parole  
210 release.

211 (2) Based on the objective parole guidelines and any other  
212 competent evidence relevant to aggravating and mitigating  
213 circumstances, the commission investigator ~~hearing examiner~~  
214 shall, within 10 days after the interview, recommend in writing  
215 to a panel of no fewer than two commissioners appointed by the  
216 chair a presumptive parole release date for the inmate. ~~The~~  
217 ~~chair shall assign cases to such panels on a random basis,~~  
218 ~~without regard to the inmate or to the commissioners sitting on~~  
219 ~~the panel.~~ If the recommended presumptive parole release date  
220 falls outside the matrix time ranges as determined by the  
221 objective parole guidelines, the commission investigator ~~hearing~~  
222 ~~examiner~~ shall include with the recommendation a statement in  
223 writing as to the reasons for the decision, specifying  
224 individual particularities. If a panel fails to reach a decision  
225 on a recommended presumptive parole release date, the chair or  
226 any other commissioner designated by the chair shall cast the  
227 deciding vote. Within 90 days after the date of the initial  
228 interview, the inmate shall be notified in writing of the  
229 decision as to the inmate's presumptive parole release date.

230 Section 9. Subsections (1), (2), and (4) of section  
231 947.174, Florida Statutes, are amended to read:

232 947.174 Subsequent interviews.-



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233 (1) (a) For any inmate, except an inmate convicted of an  
234 offense enumerated in paragraph (b), whose presumptive parole  
235 release date falls more than 2 years after the date of the  
236 initial interview, a commission investigator ~~hearing examiner~~  
237 shall schedule an interview for review of the presumptive parole  
238 release date. Such interview shall take place within 2 years  
239 after the initial interview and every 2 years thereafter.

240 (b) For any inmate convicted of murder or attempted murder;  
241 sexual battery or attempted sexual battery; kidnapping or  
242 attempted kidnapping; or robbery, burglary of a dwelling,  
243 burglary of a structure or conveyance, or breaking and entering,  
244 or the attempt thereof of any of these crimes, in which a human  
245 being is present and a sexual act is attempted or completed, or  
246 any inmate who has been sentenced to a 25-year minimum mandatory  
247 sentence previously provided in s. 775.082, and whose  
248 presumptive parole release date is more than 7 years after the  
249 date of the initial interview, a commission investigator ~~hearing~~  
250 ~~examiner~~ shall schedule an interview for review of the  
251 presumptive parole release date. The interview shall take place  
252 once within 7 years after the initial interview and once every 7  
253 years thereafter if the commission finds that it is not  
254 reasonable to expect that parole will be granted at a hearing  
255 during the following years and states the bases for the finding  
256 in writing. For an inmate who is within 7 years of his or her  
257 tentative release date, the commission may establish an  
258 interview date before the 7-year schedule.

259 (c) Such interviews shall be limited to determining whether  
260 or not information has been gathered which might affect the  
261 presumptive parole release date. The provisions of this

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262 subsection shall not apply to an inmate serving a concurrent  
263 sentence in another jurisdiction pursuant to s. 921.16(2).

264 (2) The commission, for good cause, may at any time request  
265 that a commission investigator ~~hearing examiner~~ conduct a  
266 subsequent hearing according to the procedures outlined in this  
267 section. Such request shall specify in writing the reasons for  
268 such review.

269 (4) The department or a commission investigator ~~hearing~~  
270 ~~examiner~~ may recommend that an inmate be placed in a work-  
271 release program prior to the last 18 months of her or his  
272 confinement before the presumptive parole release date. If the  
273 commission does not deny the recommendation within 30 days of  
274 the receipt of the recommendation, the inmate may be placed in  
275 such a program, and the department shall advise the commission  
276 of the fact prior to such placement.

277 Section 10. Subsection (1) of section 947.1745, Florida  
278 Statutes, is amended to read:

279 947.1745 Establishment of effective parole release date.—If  
280 the inmate's institutional conduct has been satisfactory, the  
281 presumptive parole release date shall become the effective  
282 parole release date as follows:

283 (1) Within 90 days before the presumptive parole release  
284 date, a commission investigator ~~hearing examiner~~ shall conduct a  
285 final interview with the inmate in order to establish an  
286 effective parole release date and parole release plan. If it is  
287 determined that the inmate's institutional conduct has been  
288 unsatisfactory, a statement to this effect shall be made in  
289 writing with particularity and shall be forwarded to a panel of  
290 no fewer than two commissioners appointed by the chair.

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291 Section 11. Subsection (1) of section 947.22, Florida  
292 Statutes, is amended to read:

293 947.22 Authority to arrest parole violators with or without  
294 warrant.—

295 (1) If a member of the commission or a duly authorized  
296 representative of the commission has reasonable grounds to  
297 believe that a parolee has violated the terms and conditions of  
298 her or his parole in a material respect, such member or  
299 representative may issue a warrant for the arrest of such  
300 parolee. The warrant shall be returnable before a member of the  
301 commission or a duly authorized representative of the  
302 commission. The commission, a commissioner, or a commission  
303 investigator ~~parole examiner~~ with approval of the commission  
304 ~~parole examiner supervisor~~, may release the parolee on bail or  
305 her or his own recognizance, conditioned upon her or his  
306 appearance at any hearings noticed by the commission. If not  
307 released on bail or her or his own recognizance, the parolee  
308 shall be committed to jail pending hearings pursuant to s.  
309 947.23. The commission, at its election, may have the hearing  
310 conducted by one or more commissioners or by a duly authorized  
311 representative of the commission. Any parole and probation  
312 officer, any officer authorized to serve criminal process, or  
313 any peace officer of this state is authorized to execute the  
314 warrant.

315 Section 12. Effective July 1, 2017, paragraph (h) of  
316 subsection (1) of section 960.001, Florida Statutes, is amended  
317 to read:

318 960.001 Guidelines for fair treatment of victims and  
319 witnesses in the criminal justice and juvenile justice systems.—

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320 (1) The Department of Legal Affairs, the state attorneys,  
321 the Department of Corrections, the Department of Juvenile  
322 Justice, the Florida Commission on Offender Review, the State  
323 Courts Administrator and circuit court administrators, the  
324 Department of Law Enforcement, and every sheriff's department,  
325 police department, or other law enforcement agency as defined in  
326 s. 943.10(4) shall develop and implement guidelines for the use  
327 of their respective agencies, which guidelines are consistent  
328 with the purposes of this act and s. 16(b), Art. I of the State  
329 Constitution and are designed to implement s. 16(b), Art. I of  
330 the State Constitution and to achieve the following objectives:

331 (h) *Return of property to victim.*—

332 1. A law enforcement agency ~~agencies~~ and the state attorney  
333 shall promptly return a victim's property held for evidentiary  
334 purposes unless there is a compelling law enforcement reason for  
335 retaining it. The trial or juvenile court exercising  
336 jurisdiction over the criminal or juvenile proceeding may enter  
337 appropriate orders to implement this subsection, including  
338 allowing photographs of the victim's property to be used as  
339 evidence at the criminal trial or the juvenile proceeding in  
340 place of the victim's property if no related substantial  
341 evidentiary issue ~~related thereto~~ is in dispute.

342 2. A law enforcement agency shall give a victim  
343 instructions that outline the process for a replevin action and  
344 the procedures specified in s. 539.001(15) for obtaining  
345 possession of the victim's property located in a pawnshop. If a  
346 law enforcement agency locates the property in the possession of  
347 a pawnbroker, the law enforcement agency shall promptly make  
348 reasonable efforts to provide the victim with the name and

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349 location of the pawnshop.

350 Section 13. Subsection (2) of section 20.32, Florida  
351 Statutes, is amended to read:

352 20.32 Florida Commission on Offender Review.—

353 (2) All powers, duties, and functions relating to the  
354 appointment of the Florida Commission on Offender Review as  
355 provided in s. 947.02 ~~or s. 947.021~~ shall be exercised and  
356 performed by the Governor and Cabinet. ~~Except as provided in s.~~  
357 ~~947.021,~~ Each appointment shall be made from among the first  
358 three eligible persons on the list of the persons eligible for  
359 said position.

360 Section 14. Except as otherwise expressly provided in this  
361 act, this act shall take effect upon becoming a law.