

By Senator Brandes

24-00738B-19

2019346__

1 A bill to be entitled
 2 An act relating to conditional medical release;
 3 amending s. 947.005, F.S.; defining the terms
 4 "conditional medical release" and "electronic
 5 monitoring device"; amending s. 947.149, F.S.;
 6 expanding eligibility for conditional medical release
 7 to include inmates with debilitating illnesses;
 8 defining the term "inmate with a debilitating
 9 illness"; redefining the term "terminally ill inmate";
 10 reenacting ss. 316.1935(6), 775.084(4)(k),
 11 775.087(2)(b) and (3)(b), 784.07(3), 790.235(1),
 12 794.0115(7), 893.135(1)(b), (c), and (g), and (3),
 13 921.0024(2), 944.605(7)(b), 944.70(1)(b),
 14 947.13(1)(h), and 947.141(1), (2), and (7), F.S., all
 15 relating to authorized conditional medical release
 16 granted under s. 947.149, F.S., to incorporate the
 17 amendment made to s. 947.149, F.S., in references
 18 thereto; providing an effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Present subsections (4), (5), and (6) through
 23 (15) of section 947.005, Florida Statutes, are redesignated as
 24 subsection (5), (6), and (8) through (17), respectively, and
 25 new subsections (4) and (7) are added to that section, to read:

26 947.005 Definitions.—As used in this chapter, unless the
 27 context clearly indicates otherwise:

28 (4) "Conditional medical release" means the release from a
 29 state correctional institution or facility as provided in this

24-00738B-19

2019346__

chapter for a medical or physical condition pursuant to s.
947.149.

(7) "Electronic monitoring device" means an active electronic or telecommunications device that is used to track and monitor the location of a person. Such devices include, but are not limited to, voice tracking systems, position tracking systems, position location systems, and biometric tracking systems.

Section 2. Subsection (1) of 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 consideration for release under the conditional medical release program when the inmate, because of an existing medical or physical condition, is determined by the department to be within one of the following designations:

(a) "Inmate with a debilitating illness," which means an inmate who is determined to be suffering from a significant and permanent terminal or nonterminal condition, disease, or syndrome that has rendered the inmate so physically or cognitively debilitated or incapacitated as to create a reasonable probability that the inmate does not constitute a danger to herself or himself or to others.

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

24-00738B-19

2019346__

59 herself or himself or to others.

60 (c)~~(b)~~ "Terminally ill inmate," which means an inmate who
61 has a condition caused by injury, disease, or illness that
62 ~~which~~, to a reasonable degree of medical certainty, renders the
63 inmate terminally ill to the extent that there can be no
64 recovery, and death is expected within 12 months is imminent,
65 and so that the inmate does not constitute a danger to herself
66 or himself or to others.

67 Section 3. For the purpose of incorporating the amendment
68 made by this act to section 947.149, Florida Statutes, in a
69 reference thereto, subsection (6) of section 316.1935, Florida
70 Statutes, is reenacted to read:

71 316.1935 Fleeing or attempting to elude a law enforcement
72 officer; aggravated fleeing or eluding.—

73 (6) Notwithstanding s. 948.01, no court may suspend, defer,
74 or withhold adjudication of guilt or imposition of sentence for
75 any violation of this section. A person convicted and sentenced
76 to a mandatory minimum term of incarceration under paragraph
77 (3) (b) or paragraph (4) (b) is not eligible for statutory gain-
78 time under s. 944.275 or any form of discretionary early
79 release, other than pardon or executive clemency or conditional
80 medical release under s. 947.149, prior to serving the mandatory
81 minimum sentence.

82 Section 4. For the purpose of incorporating the amendment
83 made by this act to section 947.149, Florida Statutes, in a
84 reference thereto, paragraph (k) of subsection (4) of section
85 775.084, Florida Statutes, is reenacted to read:

86 775.084 Violent career criminals; habitual felony offenders
87 and habitual violent felony offenders; three-time violent felony

24-00738B-19

2019346__

88 offenders; definitions; procedure; enhanced penalties or
89 mandatory minimum prison terms.-

90 (4)

91 (k)1. A defendant sentenced under this section as a
92 habitual felony offender, a habitual violent felony offender, or
93 a violent career criminal is eligible for gain-time granted by
94 the Department of Corrections as provided in s. 944.275(4)(b).

95 2. For an offense committed on or after October 1, 1995, a
96 defendant sentenced under this section as a violent career
97 criminal is not eligible for any form of discretionary early
98 release, other than pardon or executive clemency, or conditional
99 medical release granted pursuant to s. 947.149.

100 3. For an offense committed on or after July 1, 1999, a
101 defendant sentenced under this section as a three-time violent
102 felony offender shall be released only by expiration of sentence
103 and shall not be eligible for parole, control release, or any
104 form of early release.

105 Section 5. For the purpose of incorporating the amendment
106 made by this act to section 947.149, Florida Statutes, in a
107 reference thereto, paragraph (b) of subsection (2) and paragraph
108 (b) of subsection (3) of section 775.087, Florida Statutes, are
109 reenacted to read:

110 775.087 Possession or use of weapon; aggravated battery;
111 felony reclassification; minimum sentence.-

112 (2)

113 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph
114 (a)3. does not prevent a court from imposing a longer sentence
115 of incarceration as authorized by law in addition to the minimum
116 mandatory sentence, or from imposing a sentence of death

24-00738B-19

2019346__

117 pursuant to other applicable law. Subparagraph (a)1.,
118 subparagraph (a)2., or subparagraph (a)3. does not authorize a
119 court to impose a lesser sentence than otherwise required by
120 law.

121

122 Notwithstanding s. 948.01, adjudication of guilt or imposition
123 of sentence shall not be suspended, deferred, or withheld, and
124 the defendant is not eligible for statutory gain-time under s.
125 944.275 or any form of discretionary early release, other than
126 pardon or executive clemency, or conditional medical release
127 under s. 947.149, prior to serving the minimum sentence.

128 (3)

129 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph
130 (a)3. does not prevent a court from imposing a longer sentence
131 of incarceration as authorized by law in addition to the minimum
132 mandatory sentence, or from imposing a sentence of death
133 pursuant to other applicable law. Subparagraph (a)1.,
134 subparagraph (a)2., or subparagraph (a)3. does not authorize a
135 court to impose a lesser sentence than otherwise required by
136 law.

137

138 Notwithstanding s. 948.01, adjudication of guilt or imposition
139 of sentence shall not be suspended, deferred, or withheld, and
140 the defendant is not eligible for statutory gain-time under s.
141 944.275 or any form of discretionary early release, other than
142 pardon or executive clemency, or conditional medical release
143 under s. 947.149, prior to serving the minimum sentence.

144 Section 6. For the purpose of incorporating the amendment
145 made by this act to section 947.149, Florida Statutes, in a

24-00738B-19

2019346__

146 reference thereto, subsection (3) of section 784.07, Florida
147 Statutes, is reenacted to read:

148 784.07 Assault or battery of law enforcement officers,
149 firefighters, emergency medical care providers, public transit
150 employees or agents, or other specified officers;
151 reclassification of offenses; minimum sentences.—

152 (3) Any person who is convicted of a battery under
153 paragraph (2)(b) and, during the commission of the offense, such
154 person possessed:

155 (a) A "firearm" or "destructive device" as those terms are
156 defined in s. 790.001, shall be sentenced to a minimum term of
157 imprisonment of 3 years.

158 (b) A semiautomatic firearm and its high-capacity
159 detachable box magazine, as defined in s. 775.087(3), or a
160 machine gun as defined in s. 790.001, shall be sentenced to a
161 minimum term of imprisonment of 8 years.

162
163 Notwithstanding s. 948.01, adjudication of guilt or imposition
164 of sentence shall not be suspended, deferred, or withheld, and
165 the defendant is not eligible for statutory gain-time under s.
166 944.275 or any form of discretionary early release, other than
167 pardon or executive clemency, or conditional medical release
168 under s. 947.149, prior to serving the minimum sentence.

169 Section 7. For the purpose of incorporating the amendment
170 made by this act to section 947.149, Florida Statutes, in a
171 reference thereto, subsection (1) of section 790.235, Florida
172 Statutes, is reenacted to read:

173 790.235 Possession of firearm or ammunition by violent
174 career criminal unlawful; penalty.—

24-00738B-19

2019346__

175 (1) Any person who meets the violent career criminal
176 criteria under s. 775.084(1)(d), regardless of whether such
177 person is or has previously been sentenced as a violent career
178 criminal, who owns or has in his or her care, custody,
179 possession, or control any firearm, ammunition, or electric
180 weapon or device, or carries a concealed weapon, including a
181 tear gas gun or chemical weapon or device, commits a felony of
182 the first degree, punishable as provided in s. 775.082, s.
183 775.083, or s. 775.084. A person convicted of a violation of
184 this section shall be sentenced to a mandatory minimum of 15
185 years' imprisonment; however, if the person would be sentenced
186 to a longer term of imprisonment under s. 775.084(4)(d), the
187 person must be sentenced under that provision. A person
188 convicted of a violation of this section is not eligible for any
189 form of discretionary early release, other than pardon,
190 executive clemency, or conditional medical release under s.
191 947.149.

192 Section 8. For the purpose of incorporating the amendment
193 made by this act to section 947.149, Florida Statutes, in a
194 reference thereto, subsection (7) of section 794.0115, Florida
195 Statutes, is reenacted to read:

196 794.0115 Dangerous sexual felony offender; mandatory
197 sentencing.—

198 (7) A defendant sentenced to a mandatory minimum term of
199 imprisonment under this section is not eligible for statutory
200 gain-time under s. 944.275 or any form of discretionary early
201 release, other than pardon or executive clemency, or conditional
202 medical release under s. 947.149, before serving the minimum
203 sentence.

24-00738B-19

2019346__

204 Section 9. For the purpose of incorporating the amendment
205 made by this act to section 947.149, Florida Statutes, in a
206 reference thereto, paragraphs (b), (c), and (g) of subsection
207 (1) and subsection (3) of section 893.135, Florida Statutes, are
208 reenacted to read:

209 893.135 Trafficking; mandatory sentences; suspension or
210 reduction of sentences; conspiracy to engage in trafficking.—

211 (1) Except as authorized in this chapter or in chapter 499
212 and notwithstanding the provisions of s. 893.13:

213 (b)1. Any person who knowingly sells, purchases,
214 manufactures, delivers, or brings into this state, or who is
215 knowingly in actual or constructive possession of, 28 grams or
216 more of cocaine, as described in s. 893.03(2)(a)4., or of any
217 mixture containing cocaine, but less than 150 kilograms of
218 cocaine or any such mixture, commits a felony of the first
219 degree, which felony shall be known as "trafficking in cocaine,"
220 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
221 If the quantity involved:

222 a. Is 28 grams or more, but less than 200 grams, such
223 person shall be sentenced to a mandatory minimum term of
224 imprisonment of 3 years, and the defendant shall be ordered to
225 pay a fine of \$50,000.

226 b. Is 200 grams or more, but less than 400 grams, such
227 person shall be sentenced to a mandatory minimum term of
228 imprisonment of 7 years, and the defendant shall be ordered to
229 pay a fine of \$100,000.

230 c. Is 400 grams or more, but less than 150 kilograms, such
231 person shall be sentenced to a mandatory minimum term of
232 imprisonment of 15 calendar years and pay a fine of \$250,000.

24-00738B-19

2019346__

233 2. Any person who knowingly sells, purchases, manufactures,
234 delivers, or brings into this state, or who is knowingly in
235 actual or constructive possession of, 150 kilograms or more of
236 cocaine, as described in s. 893.03(2)(a)4., commits the first
237 degree felony of trafficking in cocaine. A person who has been
238 convicted of the first degree felony of trafficking in cocaine
239 under this subparagraph shall be punished by life imprisonment
240 and is ineligible for any form of discretionary early release
241 except pardon or executive clemency or conditional medical
242 release under s. 947.149. However, if the court determines that,
243 in addition to committing any act specified in this paragraph:

244 a. The person intentionally killed an individual or
245 counseled, commanded, induced, procured, or caused the
246 intentional killing of an individual and such killing was the
247 result; or

248 b. The person's conduct in committing that act led to a
249 natural, though not inevitable, lethal result,

250
251 such person commits the capital felony of trafficking in
252 cocaine, punishable as provided in ss. 775.082 and 921.142. Any
253 person sentenced for a capital felony under this paragraph shall
254 also be sentenced to pay the maximum fine provided under
255 subparagraph 1.

256 3. Any person who knowingly brings into this state 300
257 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
258 and who knows that the probable result of such importation would
259 be the death of any person, commits capital importation of
260 cocaine, a capital felony punishable as provided in ss. 775.082
261 and 921.142. Any person sentenced for a capital felony under

24-00738B-19

2019346__

262 this paragraph shall also be sentenced to pay the maximum fine
263 provided under subparagraph 1.

264 (c)1. A person who knowingly sells, purchases,
265 manufactures, delivers, or brings into this state, or who is
266 knowingly in actual or constructive possession of, 4 grams or
267 more of any morphine, opium, hydromorphone, or any salt,
268 derivative, isomer, or salt of an isomer thereof, including
269 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
270 (3)(c)4., or 4 grams or more of any mixture containing any such
271 substance, but less than 30 kilograms of such substance or
272 mixture, commits a felony of the first degree, which felony
273 shall be known as "trafficking in illegal drugs," punishable as
274 provided in s. 775.082, s. 775.083, or s. 775.084. If the
275 quantity involved:

276 a. Is 4 grams or more, but less than 14 grams, such person
277 shall be sentenced to a mandatory minimum term of imprisonment
278 of 3 years and shall be ordered to pay a fine of \$50,000.

279 b. Is 14 grams or more, but less than 28 grams, such person
280 shall be sentenced to a mandatory minimum term of imprisonment
281 of 15 years and shall be ordered to pay a fine of \$100,000.

282 c. Is 28 grams or more, but less than 30 kilograms, such
283 person shall be sentenced to a mandatory minimum term of
284 imprisonment of 25 years and shall be ordered to pay a fine of
285 \$500,000.

286 2. A person who knowingly sells, purchases, manufactures,
287 delivers, or brings into this state, or who is knowingly in
288 actual or constructive possession of, 14 grams or more of
289 hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as
290 described in s. 893.03(2)(a)1.g., or any salt thereof, or 14

24-00738B-19

2019346__

291 grams or more of any mixture containing any such substance,
292 commits a felony of the first degree, which felony shall be
293 known as "trafficking in hydrocodone," punishable as provided in
294 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

295 a. Is 14 grams or more, but less than 28 grams, such person
296 shall be sentenced to a mandatory minimum term of imprisonment
297 of 3 years and shall be ordered to pay a fine of \$50,000.

298 b. Is 28 grams or more, but less than 50 grams, such person
299 shall be sentenced to a mandatory minimum term of imprisonment
300 of 7 years and shall be ordered to pay a fine of \$100,000.

301 c. Is 50 grams or more, but less than 200 grams, such
302 person shall be sentenced to a mandatory minimum term of
303 imprisonment of 15 years and shall be ordered to pay a fine of
304 \$500,000.

305 d. Is 200 grams or more, but less than 30 kilograms, such
306 person shall be sentenced to a mandatory minimum term of
307 imprisonment of 25 years and shall be ordered to pay a fine of
308 \$750,000.

309 3. A person who knowingly sells, purchases, manufactures,
310 delivers, or brings into this state, or who is knowingly in
311 actual or constructive possession of, 7 grams or more of
312 oxycodone, as described in s. 893.03(2)(a)1.g., or any salt
313 thereof, or 7 grams or more of any mixture containing any such
314 substance, commits a felony of the first degree, which felony
315 shall be known as "trafficking in oxycodone," punishable as
316 provided in s. 775.082, s. 775.083, or s. 775.084. If the
317 quantity involved:

318 a. Is 7 grams or more, but less than 14 grams, such person
319 shall be sentenced to a mandatory minimum term of imprisonment

24-00738B-19

2019346__

320 of 3 years and shall be ordered to pay a fine of \$50,000.

321 b. Is 14 grams or more, but less than 25 grams, such person
322 shall be sentenced to a mandatory minimum term of imprisonment
323 of 7 years and shall be ordered to pay a fine of \$100,000.

324 c. Is 25 grams or more, but less than 100 grams, such
325 person shall be sentenced to a mandatory minimum term of
326 imprisonment of 15 years and shall be ordered to pay a fine of
327 \$500,000.

328 d. Is 100 grams or more, but less than 30 kilograms, such
329 person shall be sentenced to a mandatory minimum term of
330 imprisonment of 25 years and shall be ordered to pay a fine of
331 \$750,000.

332 4.a. A person who knowingly sells, purchases, manufactures,
333 delivers, or brings into this state, or who is knowingly in
334 actual or constructive possession of, 4 grams or more of:

335 (I) Alfentanil, as described in s. 893.03(2)(b)1.;

336 (II) Carfentanil, as described in s. 893.03(2)(b)6.;

337 (III) Fentanyl, as described in s. 893.03(2)(b)9.;

338 (IV) Sufentanil, as described in s. 893.03(2)(b)30.;

339 (V) A fentanyl derivative, as described in s.

340 893.03(1)(a)62.;

341 (VI) A controlled substance analog, as described in s.

342 893.0356, of any substance described in sub-sub-subparagraphs

343 (I)-(V); or

344 (VII) A mixture containing any substance described in sub-
345 sub-subparagraphs (I)-(VI),

346

347 commits a felony of the first degree, which felony shall be

348 known as "trafficking in fentanyl," punishable as provided in s.

24-00738B-19

2019346__

349 775.082, s. 775.083, or s. 775.084.

350 b. If the quantity involved under sub-subparagraph a.:

351 (I) Is 4 grams or more, but less than 14 grams, such person
352 shall be sentenced to a mandatory minimum term of imprisonment
353 of 3 years, and shall be ordered to pay a fine of \$50,000.

354 (II) Is 14 grams or more, but less than 28 grams, such
355 person shall be sentenced to a mandatory minimum term of
356 imprisonment of 15 years, and shall be ordered to pay a fine of
357 \$100,000.

358 (III) Is 28 grams or more, such person shall be sentenced
359 to a mandatory minimum term of imprisonment of 25 years, and
360 shall be ordered to pay a fine of \$500,000.

361 5. A person who knowingly sells, purchases, manufactures,
362 delivers, or brings into this state, or who is knowingly in
363 actual or constructive possession of, 30 kilograms or more of
364 any morphine, opium, oxycodone, hydrocodone, codeine,
365 hydromorphone, or any salt, derivative, isomer, or salt of an
366 isomer thereof, including heroin, as described in s.
367 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
368 more of any mixture containing any such substance, commits the
369 first degree felony of trafficking in illegal drugs. A person
370 who has been convicted of the first degree felony of trafficking
371 in illegal drugs under this subparagraph shall be punished by
372 life imprisonment and is ineligible for any form of
373 discretionary early release except pardon or executive clemency
374 or conditional medical release under s. 947.149. However, if the
375 court determines that, in addition to committing any act
376 specified in this paragraph:

377 a. The person intentionally killed an individual or

24-00738B-19

2019346__

378 counseled, commanded, induced, procured, or caused the
379 intentional killing of an individual and such killing was the
380 result; or

381 b. The person's conduct in committing that act led to a
382 natural, though not inevitable, lethal result,
383
384 such person commits the capital felony of trafficking in illegal
385 drugs, punishable as provided in ss. 775.082 and 921.142. A
386 person sentenced for a capital felony under this paragraph shall
387 also be sentenced to pay the maximum fine provided under
388 subparagraph 1.

389 6. A person who knowingly brings into this state 60
390 kilograms or more of any morphine, opium, oxycodone,
391 hydrocodone, codeine, hydromorphone, or any salt, derivative,
392 isomer, or salt of an isomer thereof, including heroin, as
393 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or
394 60 kilograms or more of any mixture containing any such
395 substance, and who knows that the probable result of such
396 importation would be the death of a person, commits capital
397 importation of illegal drugs, a capital felony punishable as
398 provided in ss. 775.082 and 921.142. A person sentenced for a
399 capital felony under this paragraph shall also be sentenced to
400 pay the maximum fine provided under subparagraph 1.

401 (g)1. Any person who knowingly sells, purchases,
402 manufactures, delivers, or brings into this state, or who is
403 knowingly in actual or constructive possession of, 4 grams or
404 more of flunitrazepam or any mixture containing flunitrazepam as
405 described in s. 893.03(1)(a) commits a felony of the first
406 degree, which felony shall be known as "trafficking in

24-00738B-19

2019346__

407 flunitrazepam," punishable as provided in s. 775.082, s.
408 775.083, or s. 775.084. If the quantity involved:

409 a. Is 4 grams or more but less than 14 grams, such person
410 shall be sentenced to a mandatory minimum term of imprisonment
411 of 3 years, and the defendant shall be ordered to pay a fine of
412 \$50,000.

413 b. Is 14 grams or more but less than 28 grams, such person
414 shall be sentenced to a mandatory minimum term of imprisonment
415 of 7 years, and the defendant shall be ordered to pay a fine of
416 \$100,000.

417 c. Is 28 grams or more but less than 30 kilograms, such
418 person shall be sentenced to a mandatory minimum term of
419 imprisonment of 25 calendar years and pay a fine of \$500,000.

420 2. Any person who knowingly sells, purchases, manufactures,
421 delivers, or brings into this state or who is knowingly in
422 actual or constructive possession of 30 kilograms or more of
423 flunitrazepam or any mixture containing flunitrazepam as
424 described in s. 893.03(1)(a) commits the first degree felony of
425 trafficking in flunitrazepam. A person who has been convicted of
426 the first degree felony of trafficking in flunitrazepam under
427 this subparagraph shall be punished by life imprisonment and is
428 ineligible for any form of discretionary early release except
429 pardon or executive clemency or conditional medical release
430 under s. 947.149. However, if the court determines that, in
431 addition to committing any act specified in this paragraph:

432 a. The person intentionally killed an individual or
433 counseled, commanded, induced, procured, or caused the
434 intentional killing of an individual and such killing was the
435 result; or

24-00738B-19

2019346__

436 b. The person's conduct in committing that act led to a
437 natural, though not inevitable, lethal result,

438
439 such person commits the capital felony of trafficking in
440 flunitrazepam, punishable as provided in ss. 775.082 and
441 921.142. Any person sentenced for a capital felony under this
442 paragraph shall also be sentenced to pay the maximum fine
443 provided under subparagraph 1.

444 (3) Notwithstanding the provisions of s. 948.01, with
445 respect to any person who is found to have violated this
446 section, adjudication of guilt or imposition of sentence shall
447 not be suspended, deferred, or withheld, nor shall such person
448 be eligible for parole prior to serving the mandatory minimum
449 term of imprisonment prescribed by this section. A person
450 sentenced to a mandatory minimum term of imprisonment under this
451 section is not eligible for any form of discretionary early
452 release, except pardon or executive clemency or conditional
453 medical release under s. 947.149, prior to serving the mandatory
454 minimum term of imprisonment.

455 Section 10. For the purpose of incorporating the amendment
456 made by this act to section 947.149, Florida Statutes, in a
457 reference thereto, subsection (2) of section 921.0024, Florida
458 Statutes, is reenacted to read:

459 921.0024 Criminal Punishment Code; worksheet computations;
460 scoresheets.—

461 (2) The lowest permissible sentence is the minimum sentence
462 that may be imposed by the trial court, absent a valid reason
463 for departure. The lowest permissible sentence is any nonstate
464 prison sanction in which the total sentence points equals or is

24-00738B-19

2019346__

465 less than 44 points, unless the court determines within its
466 discretion that a prison sentence, which may be up to the
467 statutory maximums for the offenses committed, is appropriate.
468 When the total sentence points exceeds 44 points, the lowest
469 permissible sentence in prison months shall be calculated by
470 subtracting 28 points from the total sentence points and
471 decreasing the remaining total by 25 percent. The total sentence
472 points shall be calculated only as a means of determining the
473 lowest permissible sentence. The permissible range for
474 sentencing shall be the lowest permissible sentence up to and
475 including the statutory maximum, as defined in s. 775.082, for
476 the primary offense and any additional offenses before the court
477 for sentencing. The sentencing court may impose such sentences
478 concurrently or consecutively. However, any sentence to state
479 prison must exceed 1 year. If the lowest permissible sentence
480 under the code exceeds the statutory maximum sentence as
481 provided in s. 775.082, the sentence required by the code must
482 be imposed. If the total sentence points are greater than or
483 equal to 363, the court may sentence the offender to life
484 imprisonment. An offender sentenced to life imprisonment under
485 this section is not eligible for any form of discretionary early
486 release, except executive clemency or conditional medical
487 release under s. 947.149.

488 Section 11. For the purpose of incorporating the amendment
489 made by this act to section 947.149, Florida Statutes, in a
490 reference thereto, paragraph (b) of subsection (7) of section
491 944.605, Florida Statutes, is reenacted to read:

492 944.605 Inmate release; notification; identification card.-
493 (7)

24-00738B-19

2019346__

494 (b) Paragraph (a) does not apply to inmates who:

495 1. The department determines have a valid driver license or
496 state identification card, except that the department shall
497 provide these inmates with a replacement state identification
498 card or replacement driver license, if necessary.

499 2. Have an active detainer, unless the department
500 determines that cancellation of the detainer is likely or that
501 the incarceration for which the detainer was issued will be less
502 than 12 months in duration.

503 3. Are released due to an emergency release or a
504 conditional medical release under s. 947.149.

505 4. Are not in the physical custody of the department at or
506 within 180 days before release.

507 5. Are subject to sex offender residency restrictions, and
508 who, upon release under such restrictions, do not have a
509 qualifying address.

510 Section 12. For the purpose of incorporating the amendment
511 made by this act to section 947.149, Florida Statutes, in a
512 reference thereto, paragraph (b) of subsection (1) of section
513 944.70, Florida Statutes, is reenacted to read:

514 944.70 Conditions for release from incarceration.—

515 (1)

516 (b) A person who is convicted of a crime committed on or
517 after January 1, 1994, may be released from incarceration only:

518 1. Upon expiration of the person's sentence;

519 2. Upon expiration of the person's sentence as reduced by
520 accumulated meritorious or incentive gain-time;

521 3. As directed by an executive order granting clemency;

522 4. Upon placement in a conditional release program pursuant

24-00738B-19

2019346__

523 to s. 947.1405 or a conditional medical release program pursuant
524 to s. 947.149; or

525 5. Upon the granting of control release, including
526 emergency control release, pursuant to s. 947.146.

527 Section 13. For the purpose of incorporating the amendment
528 made by this act to section 947.149, Florida Statutes, in a
529 reference thereto, paragraph (h) of subsection (1) of section
530 947.13, Florida Statutes, is reenacted to read:

531 947.13 Powers and duties of commission.—

532 (1) The commission shall have the powers and perform the
533 duties of:

534 (h) Determining what persons will be released on
535 conditional medical release under s. 947.149, establishing the
536 conditions of conditional medical release, and determining
537 whether a person has violated the conditions of conditional
538 medical release and taking action with respect to such a
539 violation.

540 Section 14. For the purpose of incorporating the amendment
541 made by this act to section 947.149, Florida Statutes, in a
542 reference thereto, subsections (1), (2), and (7) of section
543 947.141, Florida Statutes, are reenacted to read:

544 947.141 Violations of conditional release, control release,
545 or conditional medical release or addiction-recovery
546 supervision.—

547 (1) If a member of the commission or a duly authorized
548 representative of the commission has reasonable grounds to
549 believe that an offender who is on release supervision under s.
550 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has violated
551 the terms and conditions of the release in a material respect,

24-00738B-19

2019346__

552 such member or representative may cause a warrant to be issued
553 for the arrest of the releasee; if the offender was found to be
554 a sexual predator, the warrant must be issued.

555 (2) Upon the arrest on a felony charge of an offender who
556 is on release supervision under s. 947.1405, s. 947.146, s.
557 947.149, or s. 944.4731, the offender must be detained without
558 bond until the initial appearance of the offender at which a
559 judicial determination of probable cause is made. If the trial
560 court judge determines that there was no probable cause for the
561 arrest, the offender may be released. If the trial court judge
562 determines that there was probable cause for the arrest, such
563 determination also constitutes reasonable grounds to believe
564 that the offender violated the conditions of the release. Within
565 24 hours after the trial court judge's finding of probable
566 cause, the detention facility administrator or designee shall
567 notify the commission and the department of the finding and
568 transmit to each a facsimile copy of the probable cause
569 affidavit or the sworn offense report upon which the trial court
570 judge's probable cause determination is based. The offender must
571 continue to be detained without bond for a period not exceeding
572 72 hours excluding weekends and holidays after the date of the
573 probable cause determination, pending a decision by the
574 commission whether to issue a warrant charging the offender with
575 violation of the conditions of release. Upon the issuance of the
576 commission's warrant, the offender must continue to be held in
577 custody pending a revocation hearing held in accordance with
578 this section.

579 (7) If a law enforcement officer has probable cause to
580 believe that an offender who is on release supervision under s.

24-00738B-19

2019346__

581 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has violated
582 the terms and conditions of his or her release by committing a
583 felony offense, the officer shall arrest the offender without a
584 warrant, and a warrant need not be issued in the case.

585 Section 15. This act shall take effect October 1, 2019.