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LEGISLATIVE ACTION

Senate

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House

The Committee on Criminal Justice (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 134 - 265

and insert:

pursuant to this section is appropriate for the inmate. If conditional medical release is approved, the inmate must be released by the department to the community within a reasonable amount of time with necessary release conditions imposed pursuant to subsection (6). An inmate who is granted conditional medical release is considered a medical releasee upon release to



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11 the community.

12 (c) An inmate who is denied conditional medical release by
13 the panel may have the decision reviewed by the department's
14 general counsel and chief medical officer, who must make a
15 recommendation to the secretary. The secretary must review all
16 relevant information and make a final decision about the
17 appropriateness of conditional medical release pursuant to this
18 section. The decision of the secretary is a final administrative
19 decision not subject to appeal. An inmate who is denied
20 conditional medical release may be subsequently reconsidered for
21 such release in a manner prescribed by department rule.

22 (6) RELEASE CONDITIONS.—

23 (a) An inmate granted release pursuant to this section is
24 released for a period equal to the length of time remaining on
25 his or her term of imprisonment on the date the release is
26 granted. Such inmate is considered a medical releasee upon
27 release from the department into the community. The medical
28 releasee must comply with all reasonable conditions of release
29 the department imposes, which must include, at a minimum:

30 1. Periodic medical evaluations at intervals determined by
31 the department at the time of release.

32 2. Supervision by an officer trained to handle special
33 offender caseloads.

34 3. Active electronic monitoring, if such monitoring is
35 determined to be necessary to ensure the safety of the public
36 and the medical releasee's compliance with release conditions.

37 4. Any conditions of community control provided for in s.
38 948.101.

39 5. Any other conditions the department deems appropriate to



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40 ensure the safety of the community and compliance by the medical
41 releasee.

42 (b) A medical releasee is considered to be in the care,
43 custody, supervision, and control of the department and remains
44 eligible to earn or lose gain-time in accordance with s. 944.275
45 and department rule. The medical releasee may not be counted in
46 the prison system population, and the medical releasee's
47 approved community-based housing location may not be counted in
48 the capacity figures for the prison system.

49 (7) REVOCATION HEARING AND RECOMMITMENT.—

50 (a)1. If the medical releasee's supervision officer
51 discovers that the medical or physical condition of the medical
52 releasee has improved to the extent that she or he would no
53 longer be eligible for release under this section, then the
54 conditional medical release may be revoked. The department may
55 order, as prescribed by department rule, that the medical
56 releasee be returned to the custody of the department for a
57 conditional medical release revocation hearing or may allow the
58 medical releasee to remain in the community pending the
59 revocation hearing.

60 2. The revocation hearing must be conducted by the panel
61 established in subsection (1). Before a revocation hearing
62 pursuant to this paragraph, the director of inmate health
63 services or his or her designee must review any medical evidence
64 pertaining to the medical releasee and provide the panel with a
65 recommendation regarding the medical releasee's improvement and
66 current medical or physical condition.

67 3. A majority of the panel members must agree that
68 revocation is appropriate for the medical releasee's conditional



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69 medical release to be revoked. If conditional medical release is
70 revoked due to improvement in his or her medical or physical
71 condition, the medical releasee must be recommitted to the
72 department to serve the balance of his or her sentence with
73 credit for the time served on conditional medical release and
74 without forfeiture of any gain-time accrued before recommitment.
75 If the medical releasee whose conditional medical release is
76 revoked due to an improvement in her or his medical or physical
77 condition would otherwise be eligible for parole or any other
78 release program, he or she may be considered for such release
79 program pursuant to law.

80 4. A medical releasee whose conditional medical release is
81 revoked pursuant to this paragraph may have the decision
82 reviewed by the department's general counsel and chief medical
83 officer, who must make a recommendation to the secretary. The
84 secretary must review all relevant information and make a final
85 decision about the appropriateness of the revocation of
86 conditional medical release pursuant to this paragraph. The
87 decision of the secretary is a final administrative decision not
88 subject to appeal.

89 (b)1. The medical releasee's conditional medical release
90 may also be revoked for violation of any release conditions the
91 department establishes, including, but not limited to, a new
92 violation of law.

93 2. If the basis of the violation of release conditions is
94 related to a new violation of law, the medical releasee must be
95 detained without bond until his or her initial appearance at
96 which a judicial determination of probable cause is made. If the
97 judge determines that there was no probable cause for the



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98 arrest, the medical releasee may be released. If the judge
99 determines that there was probable cause for the arrest, the
100 judge's determination also constitutes reasonable grounds to
101 believe that the medical releasee violated the conditions of the
102 conditional medical release.

103 3. The department must order that the medical releasee
104 subject to revocation under this paragraph be returned to
105 department custody for a conditional medical release revocation
106 hearing.

107 4. A majority of the panel members must agree that
108 revocation is appropriate for the medical releasee's conditional
109 medical release to be revoked. If conditional medical release is
110 revoked pursuant to this paragraph, the medical releasee must
111 serve the balance of his or her sentence with credit for the
112 actual time served on conditional medical release. The
113 releasee's gain-time accrued before recommitment may be
114 forfeited pursuant to s. 944.28(1). If the medical releasee
115 whose conditional medical release is revoked subject to this
116 paragraph would otherwise be eligible for parole or any other
117 release program, he or she may be considered for such release
118 program pursuant to law.

119 5. A medical releasee whose conditional medical release has
120 been revoked pursuant to this paragraph may have the revocation
121 reviewed by the department's general counsel, who must make a
122 recommendation to the secretary. The secretary must review all
123 relevant information and make a final decision about the
124 appropriateness of the revocation of conditional medical release
125 pursuant to this paragraph. The decision of the secretary is a
126 final administrative decision not subject to appeal.



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127 (c) If the medical releasee subject to revocation under
128 paragraph (a) or paragraph (b) elects to proceed with a hearing,
129 the medical releasee must be informed orally and in writing of
130 the following:

131 1. The alleged basis for the pending revocation proceeding
132 against the releasee.

133 2. The releasee's right to be represented by counsel.
134 However, this subparagraph does not create a right to publicly
135 funded legal counsel.

136 3. The releasee's right to be heard in person.

137 4. The releasee's right to secure, present, and compel the
138 attendance of witnesses relevant to the proceeding.

139 5. The releasee's right to produce documents on his or her
140 own behalf.

141 6. The releasee's right of access to all evidence used to
142 support the revocation proceeding against the releasee and to
143 confront and cross-examine adverse witnesses.

144 7. The releasee's right to waive the hearing.

145 (8) SPECIAL REQUIREMENTS UPON AN INMATE'S DIAGNOSIS OF A
146 TERMINAL CONDITION.—

147 (a) If an inmate is diagnosed with a terminal medical
148 condition that makes him or her eligible for consideration for
149 release under paragraph (2)(c) while in the custody of the
150 department, subject to confidentiality requirements, the
151 department must:

152 1. Notify the inmate's family or next of kin, and attorney,
153 if applicable, of such diagnosis within 72 hours of the
154 diagnosis.

155 2. Provide the inmate's family, including extended family,



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156 with an opportunity to visit the inmate in person within 7 days
157 upon such diagnosis.

158 3. Initiate a review for conditional medical release as
159 provided for in this section immediately upon such diagnosis.

160 (b) If the inmate has mental and physical capacity, he or
161 she must consent to release of confidential information for the
162 department to comply with the notification requirements required
163 in this subsection.

164 (9) RULEMAKING AUTHORITY.—The department may adopt rules as
165 necessary to implement this section.

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

167 And the title is amended as follows:

168 Delete lines 19 - 45

169 and insert:

170 conditions for release; providing that an inmate who
171 is approved for conditional medical release must be
172 released from the department in a reasonable amount of
173 time; providing that an inmate is considered a medical
174 releasee upon release from the department into the
175 community; providing that a medical releasee remains
176 in the care, custody, supervision, and control of the
177 department and is eligible to earn or lose gain-time;
178 prohibiting a medical releasee or his or her
179 community-based housing from being counted in the
180 prison system population and the prison capacity
181 figures, respectively; providing for the revocation of
182 a medical releasee's conditional medical release;
183 authorizing the medical releasee to be returned to the
184 department's custody if his or her medical or physical



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185 condition improves; requiring a majority of the panel
186 members to agree on the appropriateness of revocation;
187 providing that gain-time is not forfeited for
188 revocation based on improvement in the medical
189 releasee's condition; providing a review process for a
190 medical releasee who has his or her release revoked;
191 authorizing the medical releasee to be recommitted if
192 he or she violates any conditions of the release;
193 requiring that the medical releasee be detained if a
194 violation is based on certain circumstances; requiring
195 that a majority of the panel members agree on the
196 appropriateness of revocation; requiring specified
197 medical releasees to be recommitted to the department
198 upon the revocation of the conditional medical
199 release; authorizing the forfeiture of gain-time if
200 the revocation is based on certain violations;
201 providing a review process for a medical releasee who
202 has his or her release revoked; requiring that the
203 medical releasee be given specified information in
204 certain instances; requiring the department to notify
205 certain persons within a specified time frame of an
206 inmate's diagnosis of a terminal medical condition;
207 requiring the department to allow a visit between an
208 inmate and certain persons within 7 days of a
209 diagnosis of a terminal medical condition; requiring
210 the department to initiate the conditional medical
211 release review process immediately upon an inmate's
212 diagnosis of a terminal medical condition; requiring
213 the inmate to consent to release of information in



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certain circumstances; providing rulemaking