

By Senator Brandes

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1                                   A bill to be entitled  
2       An act relating to inmate conditional medical release;  
3       creating s. 945.0911, F.S.; establishing the  
4       conditional medical release program within the  
5       Department of Corrections; establishing a panel to  
6       consider specified matters; defining terms; providing  
7       for program eligibility; requiring any inmate who  
8       meets certain criteria to be considered for  
9       conditional medical release; providing that the inmate  
10      does not have a right to release or to a certain  
11      medical evaluation; requiring the department to  
12      identify eligible inmates; requiring the department to  
13      refer an inmate to the panel for consideration;  
14      providing for victim notification in certain  
15      circumstances; requiring the panel to conduct a  
16      hearing within a specified timeframe; specifying  
17      requirements for the hearing; providing a review  
18      process for an inmate who is denied release; providing  
19      conditions for release; providing that a medical  
20      releasee remains in the care, custody, supervision,  
21      and control of the department and is eligible to earn  
22      or lose gain-time; prohibiting a medical releasee or  
23      his or her community-based housing from being counted  
24      in the prison system population and the prison  
25      capacity figures, respectively; providing for the  
26      revocation of an inmate's conditional medical release;  
27      authorizing the medical releasee to be returned to the  
28      department's custody if his or her medical or physical  
29      condition improves; requiring a majority of the panel

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30 members to agree on the appropriateness of revocation;  
31 providing that gain-time is not forfeited for  
32 revocation based on improvement in the inmate's  
33 condition; providing a review process for an inmate  
34 who has his or her release revoked; authorizing the  
35 medical releasee to be recommitted if he or she  
36 violates any conditions of the release; requiring that  
37 the medical releasee be detained if a violation is  
38 based on certain circumstances; requiring that a  
39 majority of the panel members agree on the  
40 appropriateness of revocation; authorizing the  
41 forfeiture of gain-time if the revocation is based on  
42 certain violations; providing a review process for an  
43 inmate who has his or her release revoked; requiring  
44 that the medical releasee be given specified  
45 information in certain instances; providing rulemaking  
46 authority; repealing s. 947.149, F.S., relating to  
47 conditional medical release; amending ss. 316.1935,  
48 775.084, 775.087, 784.07, 790.235, 794.0115, 893.135,  
49 921.0024, 944.605, 944.70, 947.13, and 947.141, F.S.;

50 conforming cross-references to changes made by the  
51 act; providing an effective date.

52  
53 Be It Enacted by the Legislature of the State of Florida:

54  
55 Section 1. Section 945.0911, Florida Statutes, is created  
56 to read:

57 945.0911 Conditional medical release.-

58 (1) CREATION.-There is established a conditional medical

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59 release program within the department for the purpose of  
60 determining whether release is appropriate for eligible inmates,  
61 supervising the released inmates, and conducting revocation  
62 hearings as provided for in this section. The establishment of  
63 the conditional medical release program must include a panel of  
64 at least three people appointed by the secretary or his or her  
65 designee for the purpose of determining the appropriateness of  
66 conditional medical release and conducting revocation hearings  
67 on the inmate releases.

68 (2) DEFINITIONS.—As used in this section, the term:

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

76 (b) "Permanently incapacitated inmate" means an inmate who  
77 has a condition caused by injury, disease, or illness which, to  
78 a reasonable degree of medical certainty, renders the inmate  
79 permanently and irreversibly physically incapacitated to the  
80 extent that the inmate does not constitute a danger to herself  
81 or himself or to others.

82 (c) "Terminally ill inmate" means an inmate who has a  
83 condition caused by injury, disease, or illness that, to a  
84 reasonable degree of medical certainty, renders the inmate  
85 terminally ill to the extent that there can be no recovery,  
86 death is expected within 12 months, and the inmate does not  
87 constitute a danger to herself or himself or to others.

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88       (3) ELIGIBILITY.—An inmate is eligible for consideration  
89 for release under the conditional medical release program when  
90 the inmate, because of an existing medical or physical  
91 condition, is determined by the department to be an inmate with  
92 a debilitating illness, a permanently incapacitated inmate, or a  
93 terminally ill inmate.

94       (4) REFERRAL FOR CONSIDERATION.—

95       (a)1. Notwithstanding any provision to the contrary, any  
96 inmate in the custody of the department who meets one or more of  
97 the eligibility requirements under subsection (3) must be  
98 considered for conditional medical release.

99       2. The authority to grant conditional medical release rests  
100 solely with the department. An inmate does not have a right to  
101 release or to a medical evaluation to determine eligibility for  
102 release pursuant to this section.

103       (b) The department must identify inmates who may be  
104 eligible for conditional medical release based upon available  
105 medical information. In considering an inmate for conditional  
106 medical release, the department may require additional medical  
107 evidence, including examinations of the inmate, or any other  
108 additional investigations the department deems necessary for  
109 determining the appropriateness of the eligible inmate's  
110 release.

111       (c) The department must refer an inmate to the panel  
112 established under subsection (1) for review and determination of  
113 conditional medical release upon his or her identification as  
114 potentially eligible for release pursuant to this section.

115       (d) If the case that resulted in the inmate's commitment to  
116 the department involved a victim, and the victim specifically

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117 requested notification pursuant to s. 16, Art. I of the State  
118 Constitution, the department must notify the victim of the  
119 inmate's referral to the panel immediately upon identification  
120 of the inmate as potentially eligible for release under this  
121 section. Additionally, the victim must be afforded the right to  
122 be heard regarding the release of the inmate.

123 (5) DETERMINATION OF RELEASE.—

124 (a) Within 45 days after receiving the referral, the panel  
125 established in subsection (1) must conduct a hearing to  
126 determine whether conditional medical release is appropriate for  
127 the inmate. Before the hearing, the director of inmate health  
128 services or his or her designee must review any relevant  
129 information, including, but not limited to, medical evidence,  
130 and provide the panel with a recommendation regarding the  
131 appropriateness of releasing the inmate pursuant to this  
132 section.

133 (b) A majority of the panel members must agree that release  
134 pursuant to this section is appropriate for the inmate.

135 (c) An inmate who is denied conditional medical release by  
136 the panel may have the decision reviewed by the department's  
137 general counsel and chief medical officer, who must make a  
138 recommendation to the secretary. The secretary must review all  
139 relevant information and make a final decision about the  
140 appropriateness of conditional medical release pursuant to this  
141 section. The decision of the secretary is a final administrative  
142 decision not subject to appeal. An inmate who is denied  
143 conditional medical release may be subsequently reconsidered for  
144 such release in a manner prescribed by department rule.

145 (6) RELEASE CONDITIONS.—

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146 (a) An inmate granted release pursuant to this section is  
147 released for a period equal to the length of time remaining on  
148 his or her term of imprisonment on the date the release is  
149 granted. The medical releasee must comply with all reasonable  
150 conditions of release the department imposes, which must  
151 include, at a minimum:

152 1. Periodic medical evaluations at intervals determined by  
153 the department at the time of release.

154 2. Supervision by an officer trained to handle special  
155 offender caseloads.

156 3. Active electronic monitoring, if such monitoring is  
157 determined to be necessary to ensure the safety of the public  
158 and the releasee's compliance with release conditions.

159 4. Any conditions of community control provided for in s.  
160 948.101.

161 5. Any other conditions the department deems appropriate to  
162 ensure the safety of the community and compliance by the medical  
163 releasee.

164 (b) A medical releasee is considered to be in the care,  
165 custody, supervision, and control of the department and remains  
166 eligible to earn or lose gain-time in accordance with s. 944.275  
167 and department rule. The medical releasee may not be counted in  
168 the prison system population, and the medical releasee's  
169 approved community-based housing location may not be counted in  
170 the capacity figures for the prison system.

171 (7) REVOCATION HEARING AND RECOMMITMENT.—

172 (a)1. If the medical releasee's supervision officer  
173 discovers that the medical or physical condition of the medical  
174 releasee has improved to the extent that she or he would no

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175 longer be eligible for release under this section, then the  
176 conditional medical release may be revoked. The department may  
177 order, as prescribed by department rule, that the medical  
178 releasee be returned to the custody of the department for a  
179 conditional medical release revocation hearing or may allow the  
180 medical releasee to remain in the community pending the  
181 revocation hearing.

182 2. The revocation hearing must be conducted by the panel  
183 established in subsection (1). Before a revocation hearing  
184 pursuant to this paragraph, the director of inmate health  
185 services or his or her designee must review any medical evidence  
186 pertaining to the releasee and provide the panel with a  
187 recommendation regarding the medical releasee's improvement and  
188 current medical or physical condition.

189 3. A majority of the panel members must agree that  
190 revocation is appropriate for the medical releasee's conditional  
191 medical release. If conditional medical release is revoked due  
192 to improvement in his or her medical or physical condition, the  
193 medical releasee must serve the balance of his or her sentence  
194 with credit for the time served on conditional medical release  
195 and without forfeiture of any gain-time accrued before  
196 recommitment. If the inmate whose conditional medical release is  
197 revoked due to an improvement in her or his medical or physical  
198 condition would otherwise be eligible for parole or any other  
199 release program, the inmate may be considered for such release  
200 program pursuant to law.

201 4. A medical releasee whose release is revoked pursuant to  
202 this paragraph may have the decision reviewed by the  
203 department's general counsel and chief medical officer, who must

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204 make a recommendation to the secretary. The secretary must  
205 review all relevant information and make a final decision about  
206 the appropriateness of the revocation of conditional medical  
207 release pursuant to this paragraph. The decision of the  
208 secretary is a final administrative decision not subject to  
209 appeal.

210 (b)1. Conditional medical release may also be revoked for  
211 violation of any release conditions the department establishes,  
212 including, but not limited to, a new violation of law.

213 2. If the basis of the violation of release conditions is  
214 related to a new violation of law, the medical releasee must be  
215 detained without bond until his or her initial appearance at  
216 which a judicial determination of probable cause is made. If the  
217 judge determines that there was no probable cause for the  
218 arrest, the medical releasee may be released. If the judge  
219 determines that there was probable cause for the arrest, the  
220 judge's determination also constitutes reasonable grounds to  
221 believe that the offender violated the conditions of the  
222 release.

223 3. The department must order that the medical releasee  
224 subject to revocation under this paragraph be returned to  
225 department custody for a conditional medical release revocation  
226 hearing as prescribed by department rule.

227 4. A majority of the panel members must agree that  
228 revocation is appropriate for the medical releasee's conditional  
229 medical release. If conditional medical release is revoked  
230 pursuant to this paragraph, the medical releasee must serve the  
231 balance of his or her sentence with credit for the actual time  
232 served on conditional medical release. The releasee's gain-time



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233 accrued before recommitment may be forfeited pursuant to s.  
234 944.28(1). If the inmate whose conditional medical release is  
235 revoked subject to this paragraph would otherwise be eligible  
236 for parole or any other release program, he or she may be  
237 considered for such release program pursuant to law.

238 5. A medical releasee whose release has been revoked  
239 pursuant to this paragraph may have the revocation reviewed by  
240 the department's general counsel, who must make a recommendation  
241 to the secretary. The secretary must review all relevant  
242 information and make a final decision about the appropriateness  
243 of the revocation of conditional medical release pursuant to  
244 this paragraph. The decision of the secretary is a final  
245 administrative decision not subject to appeal.

246 (c) If the medical releasee subject to revocation under  
247 paragraph (a) or paragraph (b) elects to proceed with a hearing,  
248 the releasee must be informed orally and in writing of the  
249 following:

250 1. The alleged violation with which the releasee is  
251 charged.

252 2. The releasee's right to be represented by counsel.  
253 However, this subparagraph does not create a right to publicly  
254 funded legal counsel.

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

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

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

260 6. The releasee's right of access to all evidence used  
261 against the releasee and to confront and cross-examine adverse

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262 witnesses.

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

264 (8) RULEMAKING AUTHORITY.—The department may adopt rules as  
265 necessary to implement this section.

266 Section 2. Section 947.149, Florida Statutes, is repealed.

267 Section 3. Subsection (6) of section 316.1935, Florida  
268 Statutes, is amended to read:

269 316.1935 Fleeing or attempting to elude a law enforcement  
270 officer; aggravated fleeing or eluding.—

271 (6) Notwithstanding s. 948.01, no court may suspend, defer,  
272 or withhold adjudication of guilt or imposition of sentence for  
273 any violation of this section. A person convicted and sentenced  
274 to a mandatory minimum term of incarceration under paragraph  
275 (3)(b) or paragraph (4)(b) is not eligible for statutory gain-  
276 time under s. 944.275 or any form of discretionary early  
277 release, other than pardon or executive clemency or conditional  
278 medical release under s. 945.0911 ~~s. 947.149~~, prior to serving  
279 the mandatory minimum sentence.

280 Section 4. Paragraph (k) of subsection (4) of section  
281 775.084, Florida Statutes, is amended to read:

282 775.084 Violent career criminals; habitual felony offenders  
283 and habitual violent felony offenders; three-time violent felony  
284 offenders; definitions; procedure; enhanced penalties or  
285 mandatory minimum prison terms.—

286 (4)

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

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291           2. For an offense committed on or after October 1, 1995, a  
292 defendant sentenced under this section as a violent career  
293 criminal is not eligible for any form of discretionary early  
294 release, other than pardon or executive clemency, or conditional  
295 medical release granted pursuant to s. 945.0911 ~~s. 947.149~~.

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

301           Section 5. Paragraph (b) of subsection (2) and paragraph  
302 (b) of subsection (3) of section 775.087, Florida Statutes, are  
303 amended to read:

304           775.087 Possession or use of weapon; aggravated battery;  
305 felony reclassification; minimum sentence.-

306           (2)

307           (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph  
308 (a)3. does not prevent a court from imposing a longer sentence  
309 of incarceration as authorized by law in addition to the minimum  
310 mandatory sentence, or from imposing a sentence of death  
311 pursuant to other applicable law. Subparagraph (a)1.,  
312 subparagraph (a)2., or subparagraph (a)3. does not authorize a  
313 court to impose a lesser sentence than otherwise required by  
314 law.

315

316 Notwithstanding s. 948.01, adjudication of guilt or imposition  
317 of sentence shall not be suspended, deferred, or withheld, and  
318 the defendant is not eligible for statutory gain-time under s.  
319 944.275 or any form of discretionary early release, other than

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320 pardon or executive clemency, or conditional medical release  
321 under s. 945.0911 ~~s. 947.149~~, prior to serving the minimum  
322 sentence.

323 (3)

324 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph  
325 (a)3. does not prevent a court from imposing a longer sentence  
326 of incarceration as authorized by law in addition to the minimum  
327 mandatory sentence, or from imposing a sentence of death  
328 pursuant to other applicable law. Subparagraph (a)1.,  
329 subparagraph (a)2., or subparagraph (a)3. does not authorize a  
330 court to impose a lesser sentence than otherwise required by  
331 law.

332  
333 Notwithstanding s. 948.01, adjudication of guilt or imposition  
334 of sentence shall not be suspended, deferred, or withheld, and  
335 the defendant is not eligible for statutory gain-time under s.  
336 944.275 or any form of discretionary early release, other than  
337 pardon or executive clemency, or conditional medical release  
338 under s. 945.0911 ~~s. 947.149~~, prior to serving the minimum  
339 sentence.

340 Section 6. Subsection (3) of section 784.07, Florida  
341 Statutes, is amended to read:

342 784.07 Assault or battery of law enforcement officers,  
343 firefighters, emergency medical care providers, public transit  
344 employees or agents, or other specified officers;  
345 reclassification of offenses; minimum sentences.-

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

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

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

356

357 Notwithstanding s. 948.01, adjudication of guilt or imposition  
358 of sentence shall not be suspended, deferred, or withheld, and  
359 the defendant is not eligible for statutory gain-time under s.  
360 944.275 or any form of discretionary early release, other than  
361 pardon or executive clemency, or conditional medical release  
362 under s. 945.0911 ~~s. 947.149~~, prior to serving the minimum  
363 sentence.

364 Section 7. Subsection (1) of section 790.235, Florida  
365 Statutes, is amended to read:

366 790.235 Possession of firearm or ammunition by violent  
367 career criminal unlawful; penalty.—

368 (1) Any person who meets the violent career criminal  
369 criteria under s. 775.084(1)(d), regardless of whether such  
370 person is or has previously been sentenced as a violent career  
371 criminal, who owns or has in his or her care, custody,  
372 possession, or control any firearm, ammunition, or electric  
373 weapon or device, or carries a concealed weapon, including a  
374 tear gas gun or chemical weapon or device, commits a felony of  
375 the first degree, punishable as provided in s. 775.082, s.  
376 775.083, or s. 775.084. A person convicted of a violation of  
377 this section shall be sentenced to a mandatory minimum of 15

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378 years' imprisonment; however, if the person would be sentenced  
379 to a longer term of imprisonment under s. 775.084(4)(d), the  
380 person must be sentenced under that provision. A person  
381 convicted of a violation of this section is not eligible for any  
382 form of discretionary early release, other than pardon,  
383 executive clemency, or conditional medical release under s.  
384 945.0911 ~~s. 947.149~~.

385 Section 8. Subsection (7) of section 794.0115, Florida  
386 Statutes, is amended to read:

387 794.0115 Dangerous sexual felony offender; mandatory  
388 sentencing.—

389 (7) A defendant sentenced to a mandatory minimum term of  
390 imprisonment under this section is not eligible for statutory  
391 gain-time under s. 944.275 or any form of discretionary early  
392 release, other than pardon or executive clemency, or conditional  
393 medical release under s. 945.0911 ~~s. 947.149~~, before serving the  
394 minimum sentence.

395 Section 9. Paragraphs (b), (c), and (g) of subsection (1)  
396 and subsection (3) of section 893.135, Florida Statutes, are  
397 amended to read:

398 893.135 Trafficking; mandatory sentences; suspension or  
399 reduction of sentences; conspiracy to engage in trafficking.—

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

402 (b)1. Any person who knowingly sells, purchases,  
403 manufactures, delivers, or brings into this state, or who is  
404 knowingly in actual or constructive possession of, 28 grams or  
405 more of cocaine, as described in s. 893.03(2)(a)4., or of any  
406 mixture containing cocaine, but less than 150 kilograms of

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407 cocaine or any such mixture, commits a felony of the first  
408 degree, which felony shall be known as "trafficking in cocaine,"  
409 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

410 If the quantity involved:

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

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

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

422 2. Any person who knowingly sells, purchases, manufactures,  
423 delivers, or brings into this state, or who is knowingly in  
424 actual or constructive possession of, 150 kilograms or more of  
425 cocaine, as described in s. 893.03(2)(a)4., commits the first  
426 degree felony of trafficking in cocaine. A person who has been  
427 convicted of the first degree felony of trafficking in cocaine  
428 under this subparagraph shall be punished by life imprisonment  
429 and is ineligible for any form of discretionary early release  
430 except pardon or executive clemency or conditional medical  
431 release under s. 945.0911 ~~s. 947.149~~. However, if the court  
432 determines that, in addition to committing any act specified in  
433 this paragraph:

434 a. The person intentionally killed an individual or  
435 counseled, commanded, induced, procured, or caused the

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436 intentional killing of an individual and such killing was the  
437 result; or

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

440

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

446 3. Any person who knowingly brings into this state 300  
447 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,  
448 and who knows that the probable result of such importation would  
449 be the death of any person, commits capital importation of  
450 cocaine, a capital felony punishable as provided in ss. 775.082  
451 and 921.142. Any person sentenced for a capital felony under  
452 this paragraph shall also be sentenced to pay the maximum fine  
453 provided under subparagraph 1.

454 (c)1. A person who knowingly sells, purchases,  
455 manufactures, delivers, or brings into this state, or who is  
456 knowingly in actual or constructive possession of, 4 grams or  
457 more of any morphine, opium, hydromorphone, or any salt,  
458 derivative, isomer, or salt of an isomer thereof, including  
459 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or  
460 (3)(c)4., or 4 grams or more of any mixture containing any such  
461 substance, but less than 30 kilograms of such substance or  
462 mixture, commits a felony of the first degree, which felony  
463 shall be known as "trafficking in illegal drugs," punishable as  
464 provided in s. 775.082, s. 775.083, or s. 775.084. If the



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465 quantity involved:

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

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

472 c. Is 28 grams or more, but less than 30 kilograms, such  
473 person shall be sentenced to a mandatory minimum term of  
474 imprisonment of 25 years and shall be ordered to pay a fine of  
475 \$500,000.

476 2. A person who knowingly sells, purchases, manufactures,  
477 delivers, or brings into this state, or who is knowingly in  
478 actual or constructive possession of, 28 grams or more of  
479 hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as  
480 described in s. 893.03(2)(a)1.g., or any salt thereof, or 28  
481 grams or more of any mixture containing any such substance,  
482 commits a felony of the first degree, which felony shall be  
483 known as "trafficking in hydrocodone," punishable as provided in  
484 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

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

488 b. Is 50 grams or more, but less than 100 grams, such  
489 person shall be sentenced to a mandatory minimum term of  
490 imprisonment of 7 years and shall be ordered to pay a fine of  
491 \$100,000.

492 c. Is 100 grams or more, but less than 300 grams, such  
493 person shall be sentenced to a mandatory minimum term of

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494 imprisonment of 15 years and shall be ordered to pay a fine of  
495 \$500,000.

496 d. Is 300 grams or more, but less than 30 kilograms, such  
497 person shall be sentenced to a mandatory minimum term of  
498 imprisonment of 25 years and shall be ordered to pay a fine of  
499 \$750,000.

500 3. A person who knowingly sells, purchases, manufactures,  
501 delivers, or brings into this state, or who is knowingly in  
502 actual or constructive possession of, 7 grams or more of  
503 oxycodone, as described in s. 893.03(2)(a)1.g., or any salt  
504 thereof, or 7 grams or more of any mixture containing any such  
505 substance, commits a felony of the first degree, which felony  
506 shall be known as "trafficking in oxycodone," punishable as  
507 provided in s. 775.082, s. 775.083, or s. 775.084. If the  
508 quantity involved:

509 a. Is 7 grams or more, but less than 14 grams, such person  
510 shall be sentenced to a mandatory minimum term of imprisonment  
511 of 3 years and shall be ordered to pay a fine of \$50,000.

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

515 c. Is 25 grams or more, but less than 100 grams, such  
516 person shall be sentenced to a mandatory minimum term of  
517 imprisonment of 15 years and shall be ordered to pay a fine of  
518 \$500,000.

519 d. Is 100 grams or more, but less than 30 kilograms, such  
520 person shall be sentenced to a mandatory minimum term of  
521 imprisonment of 25 years and shall be ordered to pay a fine of  
522 \$750,000.

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

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

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

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

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

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

531 893.03(1)(a)62.;

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

533 893.0356, of any substance described in sub-sub-subparagraphs

534 (I)-(V); or

535 (VII) A mixture containing any substance described in sub-

536 sub-subparagraphs (I)-(VI),

537

538 commits a felony of the first degree, which felony shall be  
539 known as "trafficking in fentanyl," punishable as provided in s.  
540 775.082, s. 775.083, or s. 775.084.

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

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

545 (II) Is 14 grams or more, but less than 28 grams, such  
546 person shall be sentenced to a mandatory minimum term of  
547 imprisonment of 15 years, and shall be ordered to pay a fine of  
548 \$100,000.

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

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552           5. A person who knowingly sells, purchases, manufactures,  
553 delivers, or brings into this state, or who is knowingly in  
554 actual or constructive possession of, 30 kilograms or more of  
555 any morphine, opium, oxycodone, hydrocodone, codeine,  
556 hydromorphone, or any salt, derivative, isomer, or salt of an  
557 isomer thereof, including heroin, as described in s.  
558 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or  
559 more of any mixture containing any such substance, commits the  
560 first degree felony of trafficking in illegal drugs. A person  
561 who has been convicted of the first degree felony of trafficking  
562 in illegal drugs under this subparagraph shall be punished by  
563 life imprisonment and is ineligible for any form of  
564 discretionary early release except pardon or executive clemency  
565 or conditional medical release under s. 945.0911 ~~s. 947.149~~.  
566 However, if the court determines that, in addition to committing  
567 any act specified in this paragraph:

568           a. The person intentionally killed an individual or  
569 counseled, commanded, induced, procured, or caused the  
570 intentional killing of an individual and such killing was the  
571 result; or

572           b. The person's conduct in committing that act led to a  
573 natural, though not inevitable, lethal result,  
574  
575 such person commits the capital felony of trafficking in illegal  
576 drugs, punishable as provided in ss. 775.082 and 921.142. A  
577 person sentenced for a capital felony under this paragraph shall  
578 also be sentenced to pay the maximum fine provided under  
579 subparagraph 1.

580           6. A person who knowingly brings into this state 60

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581 kilograms or more of any morphine, opium, oxycodone,  
582 hydrocodone, codeine, hydromorphone, or any salt, derivative,  
583 isomer, or salt of an isomer thereof, including heroin, as  
584 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or  
585 60 kilograms or more of any mixture containing any such  
586 substance, and who knows that the probable result of such  
587 importation would be the death of a person, commits capital  
588 importation of illegal drugs, a capital felony punishable as  
589 provided in ss. 775.082 and 921.142. A person sentenced for a  
590 capital felony under this paragraph shall also be sentenced to  
591 pay the maximum fine provided under subparagraph 1.

592 (g)1. Any person who knowingly sells, purchases,  
593 manufactures, delivers, or brings into this state, or who is  
594 knowingly in actual or constructive possession of, 4 grams or  
595 more of flunitrazepam or any mixture containing flunitrazepam as  
596 described in s. 893.03(1)(a) commits a felony of the first  
597 degree, which felony shall be known as "trafficking in  
598 flunitrazepam," punishable as provided in s. 775.082, s.  
599 775.083, or s. 775.084. If the quantity involved:

600 a. Is 4 grams or more but less than 14 grams, such person  
601 shall be sentenced to a mandatory minimum term of imprisonment  
602 of 3 years, and the defendant shall be ordered to pay a fine of  
603 \$50,000.

604 b. Is 14 grams or more but less than 28 grams, such person  
605 shall be sentenced to a mandatory minimum term of imprisonment  
606 of 7 years, and the defendant shall be ordered to pay a fine of  
607 \$100,000.

608 c. Is 28 grams or more but less than 30 kilograms, such  
609 person shall be sentenced to a mandatory minimum term of

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610 imprisonment of 25 calendar years and pay a fine of \$500,000.

611 2. Any person who knowingly sells, purchases, manufactures,  
612 delivers, or brings into this state or who is knowingly in  
613 actual or constructive possession of 30 kilograms or more of  
614 flunitrazepam or any mixture containing flunitrazepam as  
615 described in s. 893.03(1)(a) commits the first degree felony of  
616 trafficking in flunitrazepam. A person who has been convicted of  
617 the first degree felony of trafficking in flunitrazepam under  
618 this subparagraph shall be punished by life imprisonment and is  
619 ineligible for any form of discretionary early release except  
620 pardon or executive clemency or conditional medical release  
621 under s. 945.0911 ~~s. 947.149~~. However, if the court determines  
622 that, in addition to committing any act specified in this  
623 paragraph:

624 a. The person intentionally killed an individual or  
625 counseled, commanded, induced, procured, or caused the  
626 intentional killing of an individual and such killing was the  
627 result; or

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

630  
631 such person commits the capital felony of trafficking in  
632 flunitrazepam, punishable as provided in ss. 775.082 and  
633 921.142. Any person sentenced for a capital felony under this  
634 paragraph shall also be sentenced to pay the maximum fine  
635 provided under subparagraph 1.

636 (3) Notwithstanding the provisions of s. 948.01, with  
637 respect to any person who is found to have violated this  
638 section, adjudication of guilt or imposition of sentence shall

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639 not be suspended, deferred, or withheld, nor shall such person  
640 be eligible for parole prior to serving the mandatory minimum  
641 term of imprisonment prescribed by this section. A person  
642 sentenced to a mandatory minimum term of imprisonment under this  
643 section is not eligible for any form of discretionary early  
644 release, except pardon or executive clemency or conditional  
645 medical release under s. 945.0911 ~~s. 947.149~~, prior to serving  
646 the mandatory minimum term of imprisonment.

647 Section 10. Subsection (2) of section 921.0024, Florida  
648 Statutes, is amended to read:

649 921.0024 Criminal Punishment Code; worksheet computations;  
650 scoresheets.—

651 (2) The lowest permissible sentence is the minimum sentence  
652 that may be imposed by the trial court, absent a valid reason  
653 for departure. The lowest permissible sentence is any nonstate  
654 prison sanction in which the total sentence points equals or is  
655 less than 44 points, unless the court determines within its  
656 discretion that a prison sentence, which may be up to the  
657 statutory maximums for the offenses committed, is appropriate.  
658 When the total sentence points exceeds 44 points, the lowest  
659 permissible sentence in prison months shall be calculated by  
660 subtracting 28 points from the total sentence points and  
661 decreasing the remaining total by 25 percent. The total sentence  
662 points shall be calculated only as a means of determining the  
663 lowest permissible sentence. The permissible range for  
664 sentencing shall be the lowest permissible sentence up to and  
665 including the statutory maximum, as defined in s. 775.082, for  
666 the primary offense and any additional offenses before the court  
667 for sentencing. The sentencing court may impose such sentences

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668 concurrently or consecutively. However, any sentence to state  
669 prison must exceed 1 year. If the lowest permissible sentence  
670 under the code exceeds the statutory maximum sentence as  
671 provided in s. 775.082, the sentence required by the code must  
672 be imposed. If the total sentence points are greater than or  
673 equal to 363, the court may sentence the offender to life  
674 imprisonment. An offender sentenced to life imprisonment under  
675 this section is not eligible for any form of discretionary early  
676 release, except executive clemency or conditional medical  
677 release under s. 945.0911 ~~s. 947.149~~.

678 Section 11. Paragraph (b) of subsection (7) of section  
679 944.605, Florida Statutes, is amended to read:

680 944.605 Inmate release; notification; identification card.-

681 (7)

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

683 1. The department determines have a valid driver license or  
684 state identification card, except that the department shall  
685 provide these inmates with a replacement state identification  
686 card or replacement driver license, if necessary.

687 2. Have an active detainer, unless the department  
688 determines that cancellation of the detainer is likely or that  
689 the incarceration for which the detainer was issued will be less  
690 than 12 months in duration.

691 3. Are released due to an emergency release or a  
692 conditional medical release under s. 945.0911 ~~s. 947.149~~.

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

695 5. Are subject to sex offender residency restrictions, and  
696 who, upon release under such restrictions, do not have a



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697 qualifying address.

698 Section 12. Subsection (1) of section 944.70, Florida  
699 Statutes, is amended to read:

700 944.70 Conditions for release from incarceration.—

701 (1) (a) A person who is convicted of a crime committed on or  
702 after October 1, 1983, but before January 1, 1994, may be  
703 released from incarceration only:

- 704 1. Upon expiration of the person's sentence;
- 705 2. Upon expiration of the person's sentence as reduced by  
706 accumulated gain-time;
- 707 3. As directed by an executive order granting clemency;
- 708 4. Upon attaining the provisional release date;
- 709 5. Upon placement in a conditional release program pursuant  
710 to s. 947.1405; or
- 711 6. Upon the granting of control release pursuant to s.  
712 947.146.

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

- 715 1. Upon expiration of the person's sentence;
- 716 2. Upon expiration of the person's sentence as reduced by  
717 accumulated meritorious or incentive gain-time;
- 718 3. As directed by an executive order granting clemency;
- 719 4. Upon placement in a conditional release program pursuant  
720 to s. 947.1405 or a conditional medical release program pursuant  
721 to s. 945.0911 ~~s. 947.149~~; or
- 722 5. Upon the granting of control release, including  
723 emergency control release, pursuant to s. 947.146.

724 Section 13. Paragraph (h) of subsection (1) of section  
725 947.13, Florida Statutes, is amended to read:

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726 947.13 Powers and duties of commission.—

727 (1) The commission shall have the powers and perform the  
728 duties of:

729 ~~(h) Determining what persons will be released on~~  
730 ~~conditional medical release under s. 947.149, establishing the~~  
731 ~~conditions of conditional medical release, and determining~~  
732 ~~whether a person has violated the conditions of conditional~~  
733 ~~medical release and taking action with respect to such a~~  
734 ~~violation.~~

735 Section 14. Section 947.141, Florida Statutes, is amended  
736 to read:

737 947.141 Violations of conditional release, control release,  
738 ~~or conditional medical release~~ or addiction-recovery  
739 supervision.—

740 (1) If a member of the commission or a duly authorized  
741 representative of the commission has reasonable grounds to  
742 believe that an offender who is on release supervision under s.  
743 947.1405, s. 947.146, ~~s. 947.149~~, or s. 944.4731 has violated  
744 the terms and conditions of the release in a material respect,  
745 such member or representative may cause a warrant to be issued  
746 for the arrest of the releasee; if the offender was found to be  
747 a sexual predator, the warrant must be issued.

748 (2) Upon the arrest on a felony charge of an offender who  
749 is on release supervision under s. 947.1405, s. 947.146, ~~s.~~  
750 ~~947.149~~, or s. 944.4731, the offender must be detained without  
751 bond until the initial appearance of the offender at which a  
752 judicial determination of probable cause is made. If the trial  
753 court judge determines that there was no probable cause for the  
754 arrest, the offender may be released. If the trial court judge

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755 determines that there was probable cause for the arrest, such  
756 determination also constitutes reasonable grounds to believe  
757 that the offender violated the conditions of the release. Within  
758 24 hours after the trial court judge's finding of probable  
759 cause, the detention facility administrator or designee shall  
760 notify the commission and the department of the finding and  
761 transmit to each a facsimile copy of the probable cause  
762 affidavit or the sworn offense report upon which the trial court  
763 judge's probable cause determination is based. The offender must  
764 continue to be detained without bond for a period not exceeding  
765 72 hours excluding weekends and holidays after the date of the  
766 probable cause determination, pending a decision by the  
767 commission whether to issue a warrant charging the offender with  
768 violation of the conditions of release. Upon the issuance of the  
769 commission's warrant, the offender must continue to be held in  
770 custody pending a revocation hearing held in accordance with  
771 this section.

772 (3) Within 45 days after notice to the Florida Commission  
773 on Offender Review of the arrest of a releasee charged with a  
774 violation of the terms and conditions of conditional release,  
775 control release, conditional medical release, or addiction-  
776 recovery supervision, the releasee must be afforded a hearing  
777 conducted by a commissioner or a duly authorized representative  
778 thereof. If the releasee elects to proceed with a hearing, the  
779 releasee must be informed orally and in writing of the  
780 following:

781 (a) The alleged violation with which the releasee is  
782 charged.

783 (b) The releasee's right to be represented by counsel.

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- 784 (c) The releasee's right to be heard in person.
- 785 (d) The releasee's right to secure, present, and compel the  
786 attendance of witnesses relevant to the proceeding.
- 787 (e) The releasee's right to produce documents on the  
788 releasee's own behalf.
- 789 (f) The releasee's right of access to all evidence used  
790 against the releasee and to confront and cross-examine adverse  
791 witnesses.
- 792 (g) The releasee's right to waive the hearing.
- 793 (4) Within a reasonable time following the hearing, the  
794 commissioner or the commissioner's duly authorized  
795 representative who conducted the hearing shall make findings of  
796 fact in regard to the alleged violation. A panel of no fewer  
797 than two commissioners shall enter an order determining whether  
798 the charge of violation of conditional release, control release,  
799 conditional medical release, or addiction-recovery supervision  
800 has been sustained based upon the findings of fact presented by  
801 the hearing commissioner or authorized representative. By such  
802 order, the panel may revoke conditional release, control  
803 release, conditional medical release, or addiction-recovery  
804 supervision and thereby return the releasee to prison to serve  
805 the sentence imposed, reinstate the original order granting the  
806 release, or enter such other order as it considers proper.  
807 Effective for inmates whose offenses were committed on or after  
808 July 1, 1995, the panel may order the placement of a releasee,  
809 upon a finding of violation pursuant to this subsection, into a  
810 local detention facility as a condition of supervision.
- 811 (5) Effective for inmates whose offenses were committed on  
812 or after July 1, 1995, notwithstanding the provisions of ss.

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813 775.08, former 921.001, 921.002, 921.187, 921.188, 944.02, and  
814 951.23, or any other law to the contrary, by such order as  
815 provided in subsection (4), the panel, upon a finding of guilt,  
816 may, as a condition of continued supervision, place the releasee  
817 in a local detention facility for a period of incarceration not  
818 to exceed 22 months. Prior to the expiration of the term of  
819 incarceration, or upon recommendation of the chief correctional  
820 officer of that county, the commission shall cause inquiry into  
821 the inmate's release plan and custody status in the detention  
822 facility and consider whether to restore the inmate to  
823 supervision, modify the conditions of supervision, or enter an  
824 order of revocation, thereby causing the return of the inmate to  
825 prison to serve the sentence imposed. The provisions of this  
826 section do not prohibit the panel from entering such other order  
827 or conducting any investigation that it deems proper. The  
828 commission may only place a person in a local detention facility  
829 pursuant to this section if there is a contractual agreement  
830 between the chief correctional officer of that county and the  
831 Department of Corrections. The agreement must provide for a per  
832 diem reimbursement for each person placed under this section,  
833 which is payable by the Department of Corrections for the  
834 duration of the offender's placement in the facility. This  
835 section does not limit the commission's ability to place a  
836 person in a local detention facility for less than 1 year.

837 (6) Whenever a conditional release, control release,  
838 conditional medical release, or addiction-recovery supervision  
839 is revoked by a panel of no fewer than two commissioners and the  
840 releasee is ordered to be returned to prison, the releasee, by  
841 reason of the misconduct, shall be deemed to have forfeited all

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842 gain-time or commutation of time for good conduct, as provided  
843 for by law, earned up to the date of release. However, if a  
844 conditional medical release is revoked due to the improved  
845 medical or physical condition of the releasee, the releasee  
846 shall not forfeit gain-time accrued before the date of  
847 conditional medical release. This subsection does not deprive  
848 the prisoner of the right to gain-time or commutation of time  
849 for good conduct, as provided by law, from the date of return to  
850 prison.

851 (7) If a law enforcement officer has probable cause to  
852 believe that an offender who is on release supervision under s.  
853 947.1405, s. 947.146, ~~s. 947.149~~, or s. 944.4731 has violated  
854 the terms and conditions of his or her release by committing a  
855 felony offense, the officer shall arrest the offender without a  
856 warrant, and a warrant need not be issued in the case.

857 Section 15. This act shall take effect October 1, 2020.