

By Senator Brandes

24-00764-20

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1 A bill to be entitled
2 An act relating to aging inmate conditional release;
3 creating s. 945.0912, F.S.; establishing the
4 conditional aging inmate release program within the
5 Department of Corrections; establishing a panel to
6 consider specified matters; providing for program
7 eligibility; requiring that an inmate who meets
8 certain criteria be considered for conditional aging
9 inmate release; providing that the inmate does not
10 have a right to release; requiring the department to
11 identify eligible inmates; requiring the department to
12 refer an inmate to the panel for consideration;
13 providing victim notification requirements under
14 certain circumstances; requiring the panel to conduct
15 a hearing within a specified timeframe; providing
16 requirements for the hearing; providing a review
17 process for an inmate who is denied release; providing
18 conditions for release; prohibiting an aging releasee
19 or his or her community-based housing from being
20 counted in the prison system population and the prison
21 capacity figures, respectively; providing for the
22 revocation of an aging inmate release; requiring the
23 aging releasee to be detained if a violation is based
24 on certain circumstances; authorizing the aging
25 releasee to be returned to the department if he or she
26 violates any conditions of the release; requiring a
27 majority of the panel to agree on the appropriateness
28 of revocation; authorizing the forfeiture of gain-time
29 if the revocation is based on certain violations;

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30 providing a review process for an inmate who has his
31 or her released revoked; requiring the aging releasee
32 to be given specified information in certain
33 instances; providing rulemaking authority; providing
34 an effective date.

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36 Be It Enacted by the Legislature of the State of Florida:

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38 Section 1. Section 945.0912, Florida Statutes, is created
39 to read:

40 945.0912 Conditional aging release.—

41 (1) CREATION.—There is established a conditional aging
42 inmate release program within the department for the purpose of
43 determining eligible inmates who are appropriate for such
44 release, supervising the released inmates, and conducting
45 revocation hearings as provided for in this section. The program
46 must include a panel of at least three people appointed by the
47 secretary or his or her designee for the purpose of determining
48 the appropriateness of conditional aging inmate release and
49 conducting revocation hearings on the inmate releases.

50 (2) ELIGIBILITY.—

51 (a) An inmate is eligible for consideration for release
52 under the conditional aging inmate release program when the
53 inmate has reached 70 years of age and has served at least 10
54 years on his or her term of imprisonment.

55 (b) An inmate may not be considered for release through the
56 program if he or she has ever been found guilty of, regardless
57 of adjudication, or entered a plea of nolo contendere or guilty
58 to, or has been adjudicated delinquent for committing:

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59 1. A violation of any of the following sections which
60 results in the actual killing of a human being:

61 a. Section 775.33(4).

62 b. Section 782.04(1) or (2).

63 c. Section 782.09.

64 2. Any felony offense that serves as a predicate to
65 registration as a sexual offender in accordance with s.
66 943.0435; or

67 3. Any similar offense committed in another jurisdiction
68 which would be an offense listed in this paragraph if it had
69 been committed in violation of the laws of this state.

70 (3) REFERRAL FOR CONSIDERATION.—

71 (a)1. Notwithstanding any provision to the contrary, an
72 inmate in the custody of the department who is eligible for
73 consideration pursuant to subsection (2) must be considered for
74 conditional aging inmate release.

75 2. The authority to grant conditional aging inmate release
76 rests solely with the department. An inmate does not have a
77 right to such release.

78 (b) The department must identify inmates who may be
79 eligible for conditional aging inmate release. In considering an
80 inmate for conditional aging inmate release under the program,
81 the department may require the production of additional evidence
82 or any other additional investigations that the department deems
83 are necessary for determining the appropriateness of the
84 eligible inmate's release.

85 (c) The department must refer an inmate to the panel
86 established under subsection (1) for review and determination of
87 conditional aging inmate release upon his or her identification

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88 as potentially eligible for release pursuant to this section.

89 (d) If the case that resulted in the inmate's commitment to
90 the department involved a victim, and the victim specifically
91 requested notification pursuant to s. 16, Art. I of the State
92 Constitution, the department must notify the victim of the
93 inmate's referral to the panel immediately upon identification
94 of the inmate as potentially eligible for release under this
95 section. Additionally, the victim must be afforded the right to
96 be heard regarding the release of the inmate.

97 (4) DETERMINATION OF RELEASE.—

98 (a) Within 45 days after receiving the referral, the panel
99 established in subsection (1) must conduct a hearing to
100 determine whether the inmate is appropriate for conditional
101 aging inmate release.

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

104 (c) An inmate who is denied conditional aging inmate
105 release by the panel may have the decision reviewed by the
106 department's general counsel, who must make a recommendation to
107 the secretary. The secretary must review all relevant
108 information and make a final decision about the appropriateness
109 of conditional aging inmate release pursuant to this section.
110 The decision of the secretary is a final administrative decision
111 not subject to appeal. An inmate who is denied conditional aging
112 inmate release may be subsequently reconsidered for such release
113 in a manner prescribed by rule.

114 (5) RELEASE CONDITIONS.—

115 (a) An inmate granted release pursuant to this section is
116 released for a period equal to the length of time remaining on

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117 his or her term of imprisonment on the date the release is
118 granted. The aging releasee must comply with all reasonable
119 conditions of release the department imposes, which must
120 include, at a minimum:

121 1. Supervision by an officer trained to handle special
122 offender caseloads.

123 2. Active electronic monitoring, if such monitoring is
124 determined to be necessary to ensure the safety of the public
125 and the releasee's compliance with release conditions.

126 3. Any conditions of community control provided for in s.
127 948.101.

128 4. Any other conditions the department deems appropriate to
129 ensure the safety of the community and compliance by the aging
130 releasee.

131 (b) An aging releasee is considered to be in the care,
132 custody, supervision, and control of the department and remains
133 eligible to earn or lose gain-time in accordance with s. 944.275
134 and department rule. The aging releasee may not be counted in
135 the prison system population, and the aging releasee's approved
136 community-based housing location may not be counted in the
137 capacity figures for the prison system.

138 (6) REVOCATION HEARING AND RECOMMITMENT.—

139 (a)1. An inmate's conditional aging inmate release may be
140 revoked for a violation of any condition of the release
141 established by the department, including, but not limited to, a
142 new violation of law.

143 2. If the basis of the violation of release conditions is
144 related to a new violation of law, the aging releasee must be
145 detained without bond until his or her initial appearance, at

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146 which a judicial determination of probable cause is made. If the
147 judge determines that there was no probable cause for the
148 arrest, the aging releasee may be released. If the judge
149 determines that there was probable cause for the arrest, the
150 judge's determination also constitutes reasonable grounds to
151 believe that the offender violated the conditions of the
152 release.

153 3. The department must order that the aging releasee
154 subject to revocation under this paragraph be returned to
155 department custody for a conditional aging inmate release
156 revocation hearing as prescribed by rule.

157 4. A majority of the panel members must agree that
158 revocation is appropriate for the aging releasee's conditional
159 release. If conditional release is revoked pursuant to this
160 paragraph, the aging releasee must serve the balance of his or
161 her sentence with credit for the actual time served on
162 conditional aging inmate release. The releasee's gain-time
163 accrued before recommitment may be forfeited pursuant to s.
164 944.28(1). If the inmate whose conditional aging inmate release
165 is revoked subject to this paragraph would otherwise be eligible
166 for parole or any other release program, he or she may be
167 considered for such release program pursuant to law.

168 5. An aging releasee whose release has been revoked
169 pursuant to this paragraph may have the revocation reviewed by
170 the department's general counsel, who must make a recommendation
171 to the secretary. The secretary must review all relevant
172 information and make a final decision about the appropriateness
173 of the revocation of conditional aging inmate release pursuant
174 to this paragraph. The decision of the secretary is a final

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175 administrative decision not subject to appeal.

176 (b) If the aging releasee subject to revocation under
177 paragraph (a) elects to proceed with a hearing, the releasee
178 must be informed orally and in writing of the following:

179 1. The alleged violation with which the releasee is
180 charged.

181 2. The releasee's right to be represented by counsel.
182 However, this subparagraph does not create a right to publicly
183 funded legal counsel.

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

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

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

189 6. The releasee's right of access to all evidence used
190 against the releasee and to confront and cross-examine adverse
191 witnesses.

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

193 (7) RULEMAKING AUTHORITY.—The department may adopt rules as
194 necessary to implement this section.

195 Section 2. This act shall take effect July 1, 2020.