

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 620

INTRODUCER: Senator Bracy

SUBJECT: Parole Eligibility

DATE: February 15, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Siples	Jones	CJ	Pre-meeting
2.			ACJ	
3.			AP	

I. Summary:

SB 620 revises the legislative intent regarding the determination of parole of eligible inmates by the Florida Commission on Offender Review (FCOR). The bill provides that the decision to parole an inmate is an act of discretion based on reliable evidence, rather than an act of grace as currently in statute. The bill further revises the intent to add that the FCOR's primary focus should be on anticipating that an inmate will become eligible for parole. It directs the FCOR to focus on the inmate's institutional achievements, lack of disciplinary reports, and all indications of the lack of risk to the public in a parole release of the inmate.

The bill requires the FCOR to partner with the Department of Corrections (DOC) to create a lifer's program for all parole-eligible inmates, which must be equally available to all inmates, male and female. The bill directs the FCOR to expedite those inmates who appear to have sufficient rehabilitation achievements attained through completion of the lifer's program.

According to the FCOR, the bill may have an indeterminate fiscal impact on the commission. The bill may have a negative fiscal impact on the DOC. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2021.

II. Present Situation:

Parole

Parole is a discretionary release that allows certain offenders to serve the remainder of their court-imposed sentences in the community under strict supervision. The Florida Commission on

Offender Release (FCOR) is a 3-member body that administers parole in this state.¹ The FCOR's powers and duties, as it relates to parole, include:

- Determining what persons shall be placed on parole;
- Fixing the time and conditions of parole;
- Determining whether a person has violated parole and taking action with respect to such violation; and
- Making such investigations as may be necessary.²

In Florida, parole is limited; and the only inmates who are eligible for parole consideration are those who committed:

- Any felony prior to October 1, 1983, or those who elected to be sentenced outside the sentencing guidelines for felonies committed prior to July 1, 1984;
- A capital felony prior to October 1, 1995, except:
 - Murder or felony murder committed after May 25, 1994;
 - Making, possessing, throwing, placing, or discharging a destructive device or attempting to do so which results in the death of another after May 25, 1994;
 - First degree murder of a law enforcement officer, correctional officer, state attorney, or assistant state attorney committed after January 1, 1990; and
 - First degree murder of a justice or judge committed after October 1, 1990;
- Any continuing criminal enterprise before June 7, 1993; and
- Any attempted murder of a law enforcement officer between October 1, 1988 and October 1, 1995.³

As of January 6, 2021, there were approximately 3,754 inmates who were serving a parole-eligible sentence; however, roughly 603 of these inmates also have a parole-ineligible life sentence which renders them disqualified for release on parole.⁴ Of the remaining 3,151 parole-eligible inmates, 79 are female. In Fiscal Year 2019-20, the FCOR made 1,419 parole determinations, granted parole to 41 inmates, and released 43 inmates on parole. There are 424 releasees on parole supervision.⁵

The decision to grant parole is an act of grace of the state and is not considered a right.⁶ The FCOR established objective parole guidelines to guide its parole decisions, including setting a presumptive parole date for eligible offenders.⁷ The presumptive parole date, which is the tentative date an eligible offender may be released, can change, with the FCOR deciding to modify or suspend it.⁸

¹ Section 947.01, F.S.

² Section 947.13, F.S. The FCOR has other powers and duties related to clemency, conditional release, conditional medical release, and Control Release Authority.

³ Florida Commission on Offender Review, *2020 Annual Report*, p. 8, available at <https://www.fcor.state.fl.us/docs/reports/Annual%20Report%202020.pdf> (last visited February 9, 2021).

⁴ The DOC, *2021 Agency Bill Analysis for SB 620*, February 10, 2021, p. 2 (on file with the Senate Committee on Criminal Justice).

⁵ *Id.*

⁶ Section 947.002(5), F.S.

⁷ Section 947.165, F.S. *See also* rr. 23-21.007-21.011, F.A.C., and Office of Program Policy Analysis and Government Accountability, *Parole and Early Release, Report No. 19-13*, (Nov. 2019), p. 5, available at <https://oppaga.fl.gov/Documents/Reports/19-13.pdf> (last visited February 9, 2021).

⁸ *Id.*

In granting parole, the FCOR must find that the inmate, if released on parole, will live and conduct himself or herself as a respectable law-abiding person and that the inmate's release will be compatible with his or her own welfare and the welfare of society.⁹ The FCOR must also be satisfied that the parolee will be suitably employed in self-sustaining employment or that he or she will not become a public charge.

If parole is to be granted, the FCOR must determine the conditions on which the inmate is released on parole.¹⁰ The FCOR has adopted standard conditions of parole in rule; however, it has authority to impose special conditions of parole.¹¹ If the inmate was convicted of a controlled substance violation, one of the conditions must be that the person submit to random substance abuse testing intermittently throughout the term of supervision. Payment of any debt due and owing to the state, as well as any payment of attorney's fees and costs due and owing to the state must also be a condition of parole, as well as the payment of any other fines, fees, restitution, or other court-ordered costs.¹²

The FCOR must provide the inmate with a certified copy of the terms and conditions of his or her parole once it authorizes the actual parole release date.¹³ If a parolee violates the terms of parole, he or she is subject to arrest and a return to prison to serve out the term for which the parolee was sentenced.¹⁴ Within 30 days of an arrest of a person charged with a violation of the terms and conditions of his or her parole, the parolee is entitled to a preliminary hearing to determine if probable cause exists to believe that the parolee has committed such violation.¹⁵ If probable cause is found, a final revocation hearing is convened to determine if the charge of parole violation is sustained and based on the findings, the FCOR may:

- Revoke parole and return the parolee to prison to serve the sentence imposed upon him or her;
- Reinstate the original order of parole;
- Order the placement of the parolee into a community control program; or
- Enter such other order as is proper.¹⁶

More than 90 percent of parolees successfully complete their supervision without revocation within the first three years.¹⁷

⁹ Section 947.18, F.S.

¹⁰ *Id.*

¹¹ *See* r. 23-21.0165, F.A.C.

¹² *Id.*, and s. 947.18, F.S.

¹³ Section 947.19, F.S.

¹⁴ Section 947.21, F.S.

¹⁵ Section 947.23(1), F.S.

¹⁶ Section 947.23(2)-(5), F.S.

¹⁷ *Supra* note 3 at 9.

Department of Corrections

Office of Programs and Re-Entry

The Office of Programs and Re-Entry (Office), within the DOC, provides programming for productive learning, positively transforming behaviors, and teaching pro-social skills that assist with re-integration into communities.¹⁸ The Office operates four sections:

- The Bureau of Program Development develops and implements technology used by institutions, community corrections, and community stakeholders to provide information about offenders.¹⁹
- The Bureau of Substance Abuse Treatment offers services and develops and fosters resources to facilitate successful reintegration from prison into the community.²⁰
- The Bureau of Education provides opportunities to inmates, such as academic education, career and technical education, library services, transition programs, and services specific to the special needs of youthful offenders.²¹
- Chaplaincy and Volunteer Services provides for the spiritual needs of inmates and coordinates religious education.²²

Programs for Parole-Eligible Inmates

Inmates incarcerated in DOC institutions generally have access to educational opportunities at faith- and character-based programs.²³ The goals of the programs are criminal rehabilitation, the successful reintegration of offenders into the community, and the reduction of recidivism.²⁴ These programs must emphasize the importance of personal responsibility, meaningful work, education, substance abuse treatment, and peer support.²⁵

A lifer's program is a reentry/transition program for long-term offenders that offers life skills and other social and educational courses to prepare them for successful reintegration into the community, and includes such courses as:

- Critical thinking;
- Problem solving;
- Substance abuse;
- Mental health;
- Stress/Anger management;
- Conflict resolution; and

¹⁸ The DOC, *Office of Programs and Re-Entry*, available at <http://www.dc.state.fl.us/development/index.html> (last visited February 10, 2021).

¹⁹ The DOC, *Bureau of Program Development*, available at <http://www.dc.state.fl.us/development/applied.html> (last visited February 10, 2021).

²⁰ The DOC, *Bureau of Substance Abuse Treatment*, available at <http://www.dc.state.fl.us/development/readiness.html> (last visited February 10, 2021).

²¹ The DOC, *Bureau of Education*, available at <http://www.dc.state.fl.us/development/programs.html> (last visited February 10, 2021).

²² The DOC, *Bureau of Chaplaincy and Volunteer Services*, available at <http://www.dc.state.fl.us/development/chaplaincy.html> (last visited February 10, 2021).

²³ *Id.*

²⁴ Section 944.803(7), F.S.

²⁵ Section 944.803(4)(b), F.S.

- Life planning/goal setting.²⁶

According to the DOC, the New River Correctional Institution, which houses adult male inmates, is the only prison that offers a lifer's program, the "Pathways Program." The Bureau of Education developed the program and the academic staff at the facility facilitates the program.²⁷

Program participants must:

- Complete at least 250 hours of community service activities, such as leading enrichment or wellness activities or tutoring other participants in academics;
- Participate for 100 hours in an enrichment program which is offered on Fridays, and may include activities such as art expression or creative writing; and
- Complete the available courses within each of the following paths:
 - Academic Path, which offers adult basic education and GED preparation;
 - Cognitive Path, which offers a cognitive-behavioral curriculum and includes courses that address anger management, communication skills, and critical thinking;
 - Employment Path, which offers financial literacy, computer literacy, employability, and a 100-hour course that covers job readiness and life management skills; and
 - Wellness Path, which offers courses on parenting, lifestyle and wellness, and transition elements, and a men-only workshop that addresses sensitive topics of relationships, sexuality, and intimacy.²⁸

The program is available to parole-eligible male inmates recommend by the FCOR, which typically refers an inmate as he approaches his presumptive parole release date.²⁹ Completion of the program does not guarantee that a participant will be granted parole nor will it lengthen the participant's remaining sentence time.³⁰

Although parole-eligible female inmates do not have access to the lifer's program, all female inmates have access to the faith-and character-based programs.³¹

III. Effect of Proposed Changes:

The bill revises the legislative intent of the parole statute, ch. 947, F.S., to provide that the decision to parole an inmate is an act of discretion based on reliable evidence, rather than an act of grace as currently in statute. The bill further revises the intent language to add that the FCOR's primary focus should be on anticipating that an inmate will become eligible for parole. It directs the FCOR to focus on the inmate's institutional achievements, lack of disciplinary reports, and all indications of the lack of risk to the public in a parole release of the inmate.

The bill requires the FCOR to partner with the DOC to create a lifer's program for all inmates eligible for parole, and to adopt rules ensuring that the lifer's program is equally available to all

²⁶ The FCOR, *2021 Agency Bill Analysis for SB 620*, p. 3, February 10, 2021, (on file with the Senate Committee on Criminal Justice).

²⁷ *Supra* note 4.

²⁸ E-mail correspondence from Chris Taylor, Legislative Specialist, Department of Corrections, (February 10, 2021) (on file with the Senate Committee on Criminal Justice).

²⁹ *Supra* note 26.

³⁰ *Supra* note 28.

³¹ *Supra* note 4.

inmates, both male and female. The bill requires the FCOR to expedite those inmates who appear to have sufficient rehabilitation achievements previously attained through completion of the lifer's program.

The bill is effective July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The FCOR indicates that the bill may have a potential fiscal impact which cannot be determined at this time due to the bill's lack of clarity on whether the funding will be appropriated from the FCOR's or the DOC's budget.³² Additionally, the FCOR may need to create a position to coordinate the lifer's program.

The DOC is unable to precisely determine the fiscal effect on the department. The DOC estimates that it would need additional personnel and resources to develop, implement,

³² *Supra* note 26 at 4-5.

and maintain a lifer’s program that is equally available to all parole-eligible inmates. The DOC would also require additional staff for its Office of Community Corrections as it is anticipated that there will be an increased caseload as the population shifts to community corrections.³³

The DOC provides that the department would need 13 additional staff to provide community supervision of parolees. The staffing and funds requested by the DOC is as follows:

Class Title	Class Code	Salary & Benefits	FTE #	Year 1 Annual Costs
Correctional Probation Specialist	8040	\$ 62,307	13	\$ 809,991
Total salaries & benefits			13	\$ 809,991
Recurring expense - P&P		\$ 8,455		\$ 109,915
Non-recurring expense - P&P		\$ 5,949		\$ 77,337
Total expenses				\$ 187,252
Human Resource Services		\$ 330		\$ 4,290
Salary incentive (if applicable)		\$ 1,128		\$ 14,664
Technology Impact (100 hours @ \$87 per hour)				\$ 8,700
Total			13	\$ 1,024,897
Summary of Costs				
Recurring				\$ 938,860
Non-recurring				\$ 86,037
Total				\$ 1,024,897

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill neither defines the term “lifer program,” nor establishes criteria for the lifer program it seeks to establish. The bill requires the FCOR to partner with the DOC to create the program and adopt rules regarding the program’s availability. However, the bill is unclear regarding the DOC’s rulemaking authority as it relates to the implementation and operation of the program. Further, it is unclear by the bill’s language if the program is to be available to all inmates or limited to parole-eligible inmates.

³³ *Supra* note 4 at 4.

VIII. Statutes Affected:

This bill substantially amends section 947.002 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
