

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 169 Parole Eligibility

**SPONSOR(S):** Criminal Justice & Public Safety Subcommittee, Hart and Chambliss

**TIED BILLS:** IDEN./SIM. BILLS: SB 1168

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice & Public Safety Subcommittee	18 Y, 0 N, As CS	Petruzzelli	Hall
2) Justice Appropriations Subcommittee	13 Y, 0 N	Smith	Keith
3) Judiciary Committee			

### SUMMARY ANALYSIS

Parole is a form of 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 Review (FCOR) is the three-member body that administers parole in Florida. FCOR's powers and duties, as it relates to parole, include:

- Determining which 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.

Section 947.002, F.S., sets forth the Legislature's intent that objective parole criteria should be designed to give primary weight to the seriousness of an offender's present criminal offense and past criminal record and that an offender's prior record is the best predictor when considering his or her risk of recidivism.

CS/HB 169 amends s. 947.002, F.S., to revise legislative intent relating to parole to additionally require FCOR to consider an inmate's institutional achievements, disciplinary report, and all indications of risk to the public in its decision to parole an inmate from the incarceration portion of the inmate's sentence.

The bill creates s. 947.136, F.S., to require FCOR to partner with the Department of Corrections (DOC) to jointly administer a voluntary long-term inmate program to prepare parole-eligible inmates for reintegration into the community. The program must provide evidence-based programming to inmates who are within three years of their presumptive parole release date established by FCOR.

To participate in the program, inmates must be referred by FCOR and must be serving a parole-eligible sentence and must not have factors which would preclude placement at an institution operating a long-term inmate program. To successfully complete the program, the bill requires a participant to, at a minimum:

- Complete at least 250 hours of community service projects, as approved by DOC;
- Participate in at least 100 hours of enrichment programs, as defined by rule; and
- Complete an evidence-based curriculum, which addresses topics including anger management, criminal thinking, educational and vocational needs, family relationships, lifestyle and wellness, substance abuse treatment, and victim impact.

An inmate who fails to perform the duties and assignments as instructed may be removed from the program. Upon successful completion of the program, an inmate shall be awarded a certificate of completion. Successful completion does not guarantee that an inmate will be paroled.

The bill would have an insignificant fiscal impact on state government. The bill requires FCOR and DOC to administer the long-term inmate program using existing resources, however, to the extent the program results in more inmates being paroled, the bill may have an insignificant positive fiscal impact on DOC.

The bill provides an effective date of July 1, 2022.

### FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives .

STORAGE NAME: h0169c.JUA

DATE: 2/15/2022

# I. SUBSTANTIVE ANALYSIS

## A. EFFECT OF PROPOSED CHANGES:

### Background

#### Parole

Parole is a form of 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 Review (FCOR) is the three-member body that administers parole in Florida.<sup>1</sup> The powers and duties of FCOR, as they relate 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.<sup>2</sup>

FCOR has established objective criteria used to guide its parole decisions, including setting a presumptive parole date for eligible offenders.<sup>3</sup> Section 947.002, F.S., sets forth the Legislature's intent that objective parole criteria should be designed to give primary weight to the seriousness of an offender's present criminal offense and past criminal record and that an offender's prior record is the best predictor when considering his or her risk of recidivism. The presumptive parole date of an inmate, which is the tentative date an eligible offender may be released, can change pursuant to FCOR deciding to modify the terms of parole or suspend the parole release.<sup>4</sup>

In deciding whether to grant parole, 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.<sup>5</sup> 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.<sup>6</sup>

If FCOR grants an inmate parole, it must determine the inmate's conditions of release.<sup>7</sup> FCOR has adopted standard conditions of parole in rule; however, FCOR has authority to impose special conditions of parole.<sup>8</sup> Payment of any debt due and owing to the state, as well as any payment of attorney fees and costs due and owed to the state must be a condition of parole, as well as the payment of any other fines, fees, restitution, or other court-ordered costs.<sup>9</sup>

FCOR must provide the inmate with a certified copy of the terms and conditions of his or her parole upon authorizing an effective parole release date.<sup>10</sup> If a parolee violates the terms of parole, he or she may be subject to arrest and returned to prison to serve out the term for which the parolee was sentenced.<sup>11</sup> 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 or reasonable grounds to believe that the parolee has committed such violation exists.<sup>12</sup> If probable cause or reasonable grounds is found, a final revocation hearing is convened to determine if

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<sup>1</sup> S. 947.01, F.S.

<sup>2</sup> S. 947.13, F.S.

<sup>3</sup> S. 947.165, F.S. See also Rr. 23-21.007-21.011, F.A.C.

<sup>4</sup> *Id.*

<sup>5</sup> S. 947.18, F.S.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> R. 23-21.0165, F.A.C.

<sup>9</sup> *Id.* and s. 947.18, F.S.

<sup>10</sup> S. 947.19, F.S.

<sup>11</sup> S. 947.21, F.S.

<sup>12</sup> S. 947.23(1), F.S.

the parole violation charge is sustained.<sup>13</sup> Upon findings of fact, the commissioner(s) or duty authorized representative of the commission shall:

- Revoke parole and return the parolee to prison to serve the remainder of the sentence imposed;
- 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.<sup>14</sup>

### *Parole Eligible Inmates*

Florida eliminated parole in 1983, thus the only inmates 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 17, 1993.
- Any attempted murder of a law enforcement officer between October 1, 1988 and October 1, 1995.<sup>15</sup>

As of October 6, 2021, there were approximately 3,644 inmates serving parole-eligible sentences. However, roughly 558 (15%) of those inmates are also serving a parole-ineligible life sentence, which renders them disqualified for release on parole.<sup>16</sup> Of the remaining 3,086 eligible inmates, the overwhelming majority are males.<sup>17</sup>

As of June 1, 2021, there were 400 releasees on parole supervision.<sup>18</sup> In Fiscal Year 2020-2021, FCOR made 1,260 parole determinations and granted parole to 22 inmates.<sup>19</sup>

## Department of Corrections

### *Office of Programs and Re-Entry*

Within DOC, the Office of Programs and Re-Entry (Office) provides programming for productive learning, positively transforming behaviors, and teaching pro-social skills that assist with inmates with re-integration back into communities.<sup>20</sup> The Office operates through four sections:

- The Bureau of Program Development develops and implements technology used by institutions, community corrections, and community stakeholders to provide information about offenders.<sup>21</sup>
- The Bureau of Substance Use Treatment offers services and resources to facilitate successful reintegration from prison into the community and treats those with histories of dependency.<sup>22</sup>

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<sup>13</sup> S. 947.23(2), F.S.

<sup>14</sup> S. 947.23(2)–(6), F.S.

<sup>15</sup> Florida Department of Corrections, Agency Analysis of 2022 House Bill 169, p. 2 (Nov. 4, 2021).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> Florida Commission on Offender Review, Agency Analysis of 2022 House Bill 169, p. 2 (Nov. 9, 2021)

<sup>19</sup> *Id.*

<sup>20</sup> Florida Department of Corrections, *Office of Programs and Re-Entry*, <http://www.dc.state.fl.us/development/index.html> (last visited Feb. 8, 2022).

<sup>21</sup> Florida Department of Corrections, *Bureau of Program Development*, <http://www.dc.state.fl.us/development/applied.html> (last visited Feb. 8, 2022).

<sup>22</sup> Florida Department of Corrections, *Bureau of Substance Use Treatment*, <http://www.dc.state.fl.us/development/readiness.html> (last visited Feb. 11, 2022).

- 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.<sup>23</sup>
- Chaplaincy Services provides for the spiritual needs of inmates and coordinates religious education.<sup>24</sup>

### *Programs for Parole-Eligible Inmates*

Reentry and transition programs for long-term inmates housed in DOC are referred to as lifer's programs.<sup>25</sup> These programs offer life skills and other social, educational, and vocational courses to prepare inmates for successful reintegration into the community.<sup>26</sup> Generally, the programs include instruction on topics such as:

- Critical thinking;
- Problem solving;
- Substance abuse;
- Mental health;
- Conflict resolution; and
- Life planning and goal setting.<sup>27</sup>

FCOR may determine an inmate's suitability for a lifer's program and make a referral as a parole-eligible inmate approaches his or her presumptive parole release date.<sup>28</sup> Prior to October 2021, DOC operated a long-term inmate program at New River Correctional Institution<sup>29</sup> for parole-eligible males recommended for the program by FCOR.<sup>30</sup> The program required participants to:

- 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 may include activities such as art expression or creative writing; and
- Complete the available courses within each of the following paths:
  - Academic Path, which offered adult basic education and GED preparation;
  - Cognitive Path, which offered a cognitive-behavioral curriculum and included courses that addressed anger management, communication skills, and critical thinking;
  - Employment Path, which offered financial literacy, computer literacy, employability, and a 100-hour course that covered job readiness and life management skills; and
  - Wellness Path, which offered courses on parenting, lifestyle and wellness, and transition elements, and a men-only workshop that addressed sensitive topics of relationships, sexuality, and intimacy.<sup>31</sup>

### **Effect of Proposed Changes**

CS/HB 169 amends s. 947.002, F.S., to revise legislative intent relating to parole, to require FCOR to consider an inmate's institutional achievements, disciplinary report, and all indications of risk to the public in its decision to parole an inmate from the incarceration portion of the inmate's sentence.

The bill creates s. 947.136, F.S., to require FCOR to partner with the DOC to use existing resources to jointly administer a voluntary long-term inmate program to prepare parole-eligible inmates for

<sup>23</sup> Florida Department of Corrections, *Bureau of Education*, <http://www.dc.state.fl.us/development/programs.html> (last visited Feb. 10, 2022).

<sup>24</sup> Florida Department of Corrections, *Chaplaincy and Volunteer Services*, <http://www.dc.state.fl.us/development/chaplaincy.html> (last visited Feb. 10, 2022).

<sup>25</sup> Florida Commission on Offender Review, *Agency Analysis of 2022 House Bill 169*, p. 2 (Nov. 9, 2021)

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at p.2-3.

<sup>28</sup> *Id.* at p.3

<sup>29</sup> The New River Correctional Institution is now temporarily closed, and the Department is pursuing other options to maintain a long-term inmate program at another site.

<sup>30</sup> Florida Department of Corrections, *Agency Analysis of 2022 House Bill 169*, p. 2 (Nov. 4, 2021).

<sup>31</sup> Florida Department of Corrections, *Agency Analysis of 2021 Senate Bill 620*, p. 4 (Mar. 26, 2021).

reintegration into the community. The program must provide evidence-based programming to inmates who are within three years of their presumptive parole release date established by FCOR.

To participate in the program, inmates must be referred by FCOR, must be serving a parole-eligible sentence, and must not have factors identified in rule which would preclude placement at an institution operating a long-term inmate program. Inmates with a parole-eligible sentence who are also serving a parole-ineligible sentence may be considered for participation in the program on a case-by-case basis. However, priority for participation in the program shall be given to inmates with only parole-eligible sentences. To successfully complete the program, the bill requires a participant to, at a minimum:

- Complete at least 250 hours of community service projects, as approved by DOC;
- Participate in at least 100 hours of enrichment programs, as defined by rule;
- Complete an evidence-based curriculum, as provided in rule that, at a minimum, addresses:
  - Anger management;
  - Critical thinking;
  - Educational and vocational needs;
  - Family relationships;
  - Lifestyles and wellness;
  - Substance use disorder treatment; and
  - Victim impact.

An inmate who fails to perform the duties and assignments as instructed may be removed from the program. Upon successful completion of the program, an inmate shall be awarded a certificate of completion. Successful completion does not guarantee that an inmate will be paroled. Additionally, program participation may not extend the length of the inmate's sentence.

The bill provides an effective date of July 1, 2022.

**B. SECTION DIRECTORY:**

**Section 1:** Amends s. 947.002, F.S., relating to intent.

**Section 2:** Creates s. 947.136, F.S., relating to long-term inmate program.

**Section 3:** Provides an effective date of July 1, 2022.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

See *Fiscal Comments*.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

The bill would have an insignificant fiscal impact on state government. The bill requires FCOR and DOC to administer the long-term inmate program using existing resources, however, to the extent the program results in more inmates being paroled, the bill may have an insignificant positive fiscal impact on DOC.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

Not applicable. The bill does not appear to affect county or municipal governments.

**3. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

The bill grants FCOR and DOC rule-making authority necessary to implement the long-term inmate program created by the bill.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On February 8, 2022, the Criminal Justice & Public Safety Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Required FCOR and DOC to use existing resources to administer the long-term inmate program.
- Removed a requirement for the long-term inmate program to be offered to male and female inmates on an equal basis.
- Required priority for the long-term inmate program to be given to inmates serving only parole-eligible sentences.
- Made other technical and clarifying changes.

This analysis is drafted to the committee substitute passed by the Criminal Justice & Public Safety Subcommittee.