

By Senator Smith

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A bill to be entitled
An act relating to conditional geriatric release;
creating s. 947.148, F.S.; requiring the Florida
Commission on Offender Review, in conjunction with the
Department of Corrections, to establish the
conditional geriatric release program; specifying
eligibility for the program; authorizing persons
sentenced to the custody of the department to apply to
the commission to be considered for conditional
geriatric release within a specified time before
reaching eligibility; specifying that a person does
not have a right to conditional geriatric release;
requiring the commission to consider any evidence
relevant to public safety; authorizing the commission
to consider the continued cost to the department to
house the inmate; specifying that the commission has
the sole discretion to determine whether to grant
conditional geriatric release; authorizing the
revocation of conditional geriatric release for
violations of any conditions of release; requiring
rulemaking; amending ss. 947.13 and 947.141, F.S.;
conforming provisions to changes made by the act;
providing an effective date.

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

Section 1. Section 947.148, Florida Statutes, is created to
read:

947.148 Conditional geriatric release.—

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(1) The commission shall, in conjunction with the department, establish the conditional geriatric release program. A person in the department's custody is eligible for consideration for release under the conditional geriatric release program when he or she is 65 years of age or older, has served a minimum of 15 years of his or her sentence in the department's custody, and is not under a sentence of death.

(2) Notwithstanding any provision to the contrary, a person sentenced to the custody of the department may apply to the commission to be considered for conditional geriatric release up to 2 years before reaching eligibility. The commission may grant a request for conditional geriatric release before the person reaches eligibility status, but a person may not be released until the date he or she becomes eligible.

(3) A person does not have a right to conditional geriatric release.

(4) In determining whether to grant release under this section, the commission shall consider any evidence relevant to public safety, including, but not limited to, all of the following:

(a) The underlying offense.

(b) An inmate's criminal history record.

(c) An inmate's disciplinary record while incarcerated.

(d) Indications of rehabilitation.

(e) An inmate's physical and mental health, including his or her mobility.

(f) An inmate's prospects and support system upon release.

The commission may also consider the continued cost to the

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department to house the inmate; however, no such consideration can outweigh public safety threats.

(5) The authority to determine whether to grant conditional geriatric release and establish additional conditions of conditional geriatric release rests solely within the discretion of the commission, in accordance with this section.

(6) The conditional geriatric release term of an inmate released under this section is for the remainder of the inmate's sentence, without diminution of sentence for good behavior.

(7) Conditional geriatric release may be revoked in accordance with s. 947.141 for a violation of any condition of the release established by the commission, and the releasee's gain-time may be forfeited pursuant to s. 944.28(1).

(8) The department and the commission shall adopt rules to administer this section.

Section 2. Paragraph (h) of subsection (1) of section 947.13, Florida Statutes, is amended to read:

947.13 Powers and duties of commission.—

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

(h) Determining what persons will be released on conditional geriatric release under s. 947.148, conditional medical release under s. 947.149, establishing the conditions of conditional geriatric release or conditional medical release, and determining whether a person has violated the conditions of conditional geriatric release or conditional medical release and taking action with respect to such a violation.

Section 3. Section 947.141, Florida Statutes, is amended to read:

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88 947.141 Violations of conditional release, control release,
89 conditional geriatric release, or conditional medical release or
90 addiction-recovery supervision.—

91 (1) If a member of the commission or a duly authorized
92 representative of the commission has reasonable grounds to
93 believe that an offender who is on release supervision under s.
94 947.1405, s. 947.146, s. 947.148, s. 947.149, or s. 944.4731 has
95 violated the terms and conditions of the release in a material
96 respect, such member or representative may cause a warrant to be
97 issued for the arrest of the releasee; if the offender was found
98 to be a sexual predator, the warrant must be issued.

99 (2) Upon the arrest on a felony charge of an offender who
100 is on release supervision under s. 947.1405, s. 947.146, s.
101 947.148, s. 947.149, or s. 944.4731, the offender must be
102 detained without bond until the initial appearance of the
103 offender at which a judicial determination of probable cause is
104 made. If the trial court judge determines that there was no
105 probable cause for the arrest, the offender may be released. If
106 the trial court judge determines that there was probable cause
107 for the arrest, such determination also constitutes reasonable
108 grounds to believe that the offender violated the conditions of
109 the release. Within 24 hours after the trial court judge's
110 finding of probable cause, the detention facility administrator
111 or designee shall notify the commission and the department of
112 the finding and transmit to each a facsimile copy of the
113 probable cause affidavit or the sworn offense report upon which
114 the trial court judge's probable cause determination is based.
115 The offender must continue to be detained without bond for a
116 period not exceeding 72 hours excluding weekends and holidays

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after the date of the probable cause determination, pending a decision by the commission whether to issue a warrant charging the offender with violation of the conditions of release. Upon the issuance of the commission's warrant, the offender must continue to be held in custody pending a revocation hearing held in accordance with this section.

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

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

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

(c) The releasee's right to be heard in person.

(d) The releasee's right to secure, present, and compel the attendance of witnesses relevant to the proceeding.

(e) The releasee's right to produce documents on the releasee's own behalf.

(f) The releasee's right of access to all evidence used against the releasee and to confront and cross-examine adverse witnesses.

(g) The releasee's right to waive the hearing.

(4) Within a reasonable time following the hearing, the commissioner or the commissioner's duly authorized

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representative who conducted the hearing shall make findings of fact in regard to the alleged violation. A panel of no fewer than two commissioners shall enter an order determining whether the charge of violation of conditional release, control release, conditional geriatric release, conditional medical release, or addiction-recovery supervision has been sustained based upon the findings of fact presented by the hearing commissioner or authorized representative. By such order, the panel may revoke conditional release, control release, conditional geriatric release, conditional medical release, or addiction-recovery supervision and thereby return the releasee to prison to serve the sentence imposed, reinstate the original order granting the release, or enter such other order as it considers proper. Effective for inmates whose offenses were committed on or after July 1, 1995, the panel may order the placement of a releasee, upon a finding of violation pursuant to this subsection, into a local detention facility as a condition of supervision.

(5) Effective for inmates whose offenses were committed on or after July 1, 1995, notwithstanding the provisions of ss. 775.08, former 921.001, 921.002, 921.187, 921.188, 944.02, and 951.23, or any other law to the contrary, by such order as provided in subsection (4), the panel, upon a finding of guilt, may, as a condition of continued supervision, place the releasee in a local detention facility for a period of incarceration not to exceed 22 months. Prior to the expiration of the term of incarceration, or upon recommendation of the chief correctional officer of that county, the commission shall cause inquiry into the inmate's release plan and custody status in the detention facility and consider whether to restore the inmate to

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175 supervision, modify the conditions of supervision, or enter an
176 order of revocation, thereby causing the return of the inmate to
177 prison to serve the sentence imposed. The provisions of this
178 section do not prohibit the panel from entering such other order
179 or conducting any investigation that it deems proper. The
180 commission may only place a person in a local detention facility
181 pursuant to this section if there is a contractual agreement
182 between the chief correctional officer of that county and the
183 Department of Corrections. The agreement must provide for a per
184 diem reimbursement for each person placed under this section,
185 which is payable by the Department of Corrections for the
186 duration of the offender's placement in the facility. This
187 section does not limit the commission's ability to place a
188 person in a local detention facility for less than 1 year.

189 (6) Whenever a conditional release, control release,
190 conditional geriatric release, conditional medical release, or
191 addiction-recovery supervision is revoked by a panel of no fewer
192 than two commissioners and the releasee is ordered to be
193 returned to prison, the releasee, by reason of the misconduct,
194 shall be deemed to have forfeited all gain-time or commutation
195 of time for good conduct, as provided for by law, earned up to
196 the date of release. However, if a conditional medical release
197 is revoked due to the improved medical or physical condition of
198 the releasee, the releasee shall not forfeit gain-time accrued
199 before the date of conditional medical release. This subsection
200 does not deprive the prisoner of the right to gain-time or
201 commutation of time for good conduct, as provided by law, from
202 the date of return to prison.

203 (7) If a law enforcement officer has probable cause to

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believe that an offender who is on release supervision under s.
947.1405, s. 947.146, s. 947.148, s. 947.149, or s. 944.4731 has
violated the terms and conditions of his or her release by
committing a felony offense, the officer shall arrest the
offender without a warrant, and a warrant need not be issued in
the case.

Section 4. This act shall take effect July 1, 2026.