

## CHAPTER 97-289

### Senate Bill No. 258

An act relating to parole; amending ss. 947.16, 947.174, 947.1745, F.S., relating to eligibility for parole, parole interviews, and the establishment of a parole release date; providing for the Parole Commission to review the presumptive release dates of certain inmates less frequently; requiring the commission to make certain written findings; allowing the commission to establish earlier review dates for certain inmates who are within a designated time of their tentative release dates; providing an effective date.

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

Section 1. Paragraphs (c), (g), and (h) of subsection (4) of section 947.16, Florida Statutes, are amended to read:

947.16 Eligibility for parole; initial parole interviews; powers and duties of commission.—

(4) A person who has become eligible for an initial parole interview and who may, according to the objective parole guidelines of the commission, be granted parole shall be placed on parole in accordance with the provisions of this law; except that, in any case of a person convicted of murder, robbery, burglary of a dwelling or burglary of a structure or conveyance in which a human being is present, aggravated assault, aggravated battery, kidnapping, sexual battery or attempted sexual battery, incest or attempted incest, an unnatural and lascivious act or an attempted unnatural and lascivious act, lewd and lascivious behavior, assault or aggravated assault when a sexual act is completed or attempted, battery or aggravated battery when a sexual act is completed or attempted, arson, or any felony involving the use of a firearm or other deadly weapon or the use of intentional violence, at the time of sentencing the judge may enter an order retaining jurisdiction over the offender for review of a commission release order. This jurisdiction of the trial court judge is limited to the first one-third of the maximum sentence imposed. When any person is convicted of two or more felonies and concurrent sentences are imposed, then the jurisdiction of the trial court judge as provided herein applies to the first one-third of the maximum sentence imposed for the highest felony of which the person was convicted. When any person is convicted of two or more felonies and consecutive sentences are imposed, then the jurisdiction of the trial court judge as provided herein applies to one-third of the total consecutive sentences imposed.

(c) In such a case of retained jurisdiction, the commission, within 30 days after the entry of its release order, shall send notice of its release order to the original sentencing judge and to the appropriate state attorney. The release order shall be made contingent upon entry of an order by the appropriate circuit judge relinquishing jurisdiction as provided for in paragraphs (d) and (f) paragraph 5(d) and (f). If the original sentencing judge is no longer

in service, such notice shall be sent to the chief judge of the circuit in which the offender was sentenced. The chief judge may designate any circuit judge within the circuit to act in the place of the original sentencing judge. Such notice shall stay the time requirements of s. 947.1745.

(g) The decision of the original sentencing judge or, in his absence, the chief judge of the circuit to vacate any parole release order as provided in this section ~~act~~ is not appealable. Each inmate whose parole release order has been vacated by the court shall be reinterviewed within 2 years after the date of receipt of the vacated release order and every 2 years thereafter, or earlier by order of the court retaining jurisdiction. However, each inmate whose parole release order has been vacated by the court and who has been:

1. Convicted of murder or attempted murder;
2. Convicted of sexual battery or attempted sexual battery; or
3. Sentenced to a 25 year minimum mandatory sentence previously provided in s. 775.082,

shall be reinterviewed once within 5 years after the date of receipt of the vacated release order and once every 5 years thereafter, if the commission finds that it is not reasonable to expect that parole would be granted during the following years and states the bases for the finding in writing. For any inmate who is within 7 years of his or her tentative release date, the commission may establish a reinterview date prior to the 5-year schedule.

(h) An inmate whose parole release order has been vacated by the court may not be given a presumptive parole release date during the period of retention of jurisdiction by the court. During such period, a new effective parole release date may be authorized at the discretion of the commission without further interview unless an interview is requested by no fewer than two commissioners. Any such new effective parole release date must shall be reviewed in accordance with the provisions of paragraphs (c), (d), (e), (f), and (g).

Section 2. Subsection (1) of section 947.174, Florida Statutes, is amended to read:

947.174 Subsequent interviews.—

(1)(a) For any inmate, except an inmate convicted of an offense enumerated in paragraph (b), whose presumptive parole release date falls more than 2 years after the date of the initial interview, a hearing examiner shall schedule an interview for review of the presumptive parole release date. Such interview shall take place within 2 years after the initial interview and every 2 years thereafter.

(b) For any inmate convicted of murder, attempted murder, sexual battery, attempted sexual battery, or who has been sentenced to a 25 year minimum mandatory sentence previously provided in s. 775.082, and whose presumptive parole release date is more than 5 years after the date of the initial interview, a hearing examiner shall schedule an interview for review

of the presumptive parole release date. Such interview shall take place once within 5 years after the initial interview and once every 5 years thereafter if the commission finds that it is not reasonable to expect that parole will be granted at a hearing during the following years and states the bases for the finding in writing. For any inmate who is within 7 years of his or her tentative release date, the commission may establish an interview date prior to the 5-year schedule.

(c) Such interviews shall be limited to determining whether or not information has been gathered which might affect the presumptive parole release date. The provisions of this subsection shall not apply to an inmate serving a concurrent sentence in another jurisdiction pursuant to s. 921.16(2).

Section 3. Subsection (6) of section 947.1745, Florida Statutes, is amended to read:

947.1745 Establishment of effective parole release date.—If the inmate's institutional conduct has been satisfactory, the presumptive parole release date shall become the effective parole release date as follows:

(6) Within 90 days before the effective parole release date interview, the commission shall send written notice to the sentencing judge of any inmate who has been scheduled for an effective parole release date interview. If the sentencing judge is no longer serving, the notice must be sent to the chief judge of the circuit in which the offender was sentenced. The chief judge may designate any circuit judge within the circuit to act in the place of the sentencing judge. Within 30 days after receipt of the commission's notice, the sentencing judge, or the designee, shall send to the commission notice of objection to parole release, if the judge objects to such release. If there is objection by the judge, such objection may constitute good cause in exceptional circumstances as described in s. 947.173, and the commission may schedule a subsequent review within 2 years, extending the presumptive parole release date beyond that time. However, for an inmate who has been:

1. Convicted of murder or attempted murder;
2. Convicted of sexual battery or attempted sexual battery; or
3. Sentenced to a 25 year minimum mandatory sentence previously provided in s. 775.082,

the commission may schedule a subsequent review under this subsection once every 5 years, extending the presumptive parole release date beyond that time if the commission finds that it is not reasonable to expect that parole would be granted at a review during the following years and states the bases for the finding in writing. For any inmate who is within 7 years of his or her release date, the commission may schedule a subsequent review prior to the 5 year schedule. With any subsequent review the same procedure outlined above will be followed. If the judge remains silent with respect to parole release, the commission may authorize an effective parole release date. This subsection applies if the commission desires to consider the establishment of an effective release date without delivery of the effective parole

release date interview. Notice of the effective release date must be sent to the sentencing judge, and either the judge's response to the notice must be received or the time period allowed for such response must elapse before the commission may authorize an effective release date.

Section 4. This act shall take effect October 1, 1997, and shall apply to the setting of subsequent interview dates as authorized by section 947.16(4)(g), Florida Statutes, and section 947.174(1), Florida Statutes, and the setting of subsequent review dates as authorized by section 947.1745(6), Florida Statutes, on or after such effective date.

Became a law without the Governor's approval June 1, 1997.

Filed in Office Secretary of State May 30, 1997.