

Council Substitute for House Bill No. 245

An act relating to the Parole Commission; creating the “Parole Commission Reform Act of 2001”; amending s. 20.055, F.S.; deleting the requirement that the Parole Commission have an inspector general; amending s. 944.605, F.S.; requiring the Department of Corrections, rather than the Parole Commission or the Control Release Authority, to notify certain entities prior to inmate release; amending s. 947.04, F.S.; permitting Parole Commission staff to establish and maintain field offices within existing department facilities; amending s. 947.1405, F.S.; providing for deferral of conditional release supervision to probation or community control; providing for automatic revocation of conditional release supervision and forfeiture of gain-time under certain circumstances; providing for reversion to conditional release supervision under certain conditions; requiring the Department of Corrections to review an inmate’s program participation and other records prior to conditional release, to conduct a personal interview with the inmate, to forward the inmate’s release plan to the Parole Commission, and to make recommendations to the commission; authorizing the commission to impose requirements relating to curfews; correcting references; clarifying the requirement that the commission impose restrictions relating to contact with children; authorizing the commission to require electronic monitoring for certain releasees; authorizing the Parole Commission to adopt rules necessary to implement the Conditional Release Program Act; amending s. 947.24, F.S.; requiring the department to provide to the commission information for parole or release reviews; repealing s. 947.175, F.S., relating to notice to local agencies by the Parole Commission; repealing s. 947.177, F.S., relating to inmate release, notice by Department of Corrections, Control Release Authority, or Parole Commission; providing an effective date.

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

Section 1. This act may be cited as the “Parole Commission Reform Act of 2001.”

Section 2. Paragraph (a) of subsection (1) of section 20.055, Florida Statutes, is amended to read:

20.055 Agency inspectors general.—

(1) For the purposes of this section:

(a) “State agency” means each department created pursuant to this chapter, and also includes the Executive Office of the Governor, the Department of Military Affairs, ~~the Parole Commission~~, the Board of Regents, the Fish and Wildlife Conservation Commission, the Public Service Commission, and the state courts system.

Section 3. Subsections (1) and (3) of section 944.605, Florida Statutes, are amended, and subsections (5) and (6) are added to said section, to read:

944.605 Inmate release; notification.—

(1) Within 6 months before the release of an inmate from the custody of the Department of Corrections or a private correctional facility by expiration of sentence under s. 944.275, any release program provided by law, or parole under chapter 947, or as soon as possible if the offender is released earlier than anticipated, notification of such anticipated release date shall be made known by the Department of Corrections ~~appropriate agency~~ to the chief judge of the circuit in which the offender was sentenced, the appropriate state attorney, the original arresting law enforcement agency, the Department of Law Enforcement, and the sheriff as chief law enforcement officer of the county in which the inmate plans to reside. In addition, unless otherwise requested by the victim or the personal representative of the victim, the state attorney ~~or, the Department of Corrections, the Control Release Authority, or the Parole Commission,~~ whichever is appropriate, shall notify such person within 6 months before the inmate's release, or as soon as possible if the offender is released earlier than anticipated, when the name and address of such victim or representative of the victim has been furnished to the agency. The state attorney shall provide the latest address documented for the victim to the sheriff with the other documents required by law for the delivery of inmates to those agencies for service of sentence. ~~For the purposes of this section, the Parole Commission or the Control Release Authority is the appropriate agency for any type of release it grants, and the Department of Corrections is the appropriate agency for any type of release it authorizes.~~ This section does not imply any repeal or modification of any provision of law relating to notification of victims.

(3) If an inmate is to be released after having served one or more sentences for a conviction of robbery, sexual battery, home-invasion robbery, or carjacking, or an inmate to be released has a prior conviction for robbery, sexual battery, home-invasion robbery, or carjacking or similar offense, in this state or in another jurisdiction, and if such prior conviction information is contained in department records, the department ~~appropriate releasing agency~~ shall release to the sheriff of the county in which the inmate plans to reside, and, if the inmate plans to reside within a municipality, to the chief of police of that municipality, the following information, which must include, but need not be limited to:

- (a) Name;
- (b) Social security number;
- (c) Date of birth;
- (d) Race;
- (e) Sex;
- (f) Height;

- (g) Weight;
- (h) Hair and eye color;
- (i) Tattoos or other identifying marks;
- (j) Fingerprints; and
- (k) A digitized photograph as provided in subsection (2).

The department, ~~the Parole Commission, or the Control Release Authority~~ shall release the information specified in this subsection within 6 months prior to the discharge of the inmate from the custody of the department.

(5) The department shall, at least 10 days before the anticipated date of release on work release of an inmate, notify in writing the county law enforcement agency in the county in this state in which the inmate is scheduled to be released.

(6) Upon request of the victim, the personal representative of the victim, or the state attorney, the department shall notify the requesting person when an inmate has been approved for community work release within 30 days after the date of approval.

Section 4. Subsection (4) of section 947.04, Florida Statutes, is amended to read:

947.04 Organization of commission; officers; offices.—

(4) The commission may establish and maintain field offices within existing administration buildings at facilities and institutions operated by the department in centrally and conveniently located places in Florida. Headquarters shall be located in Tallahassee. The business of the commission shall be transacted anywhere in the state as provided in s. 947.06. The commission shall keep its official records and papers at the headquarters, which it shall furnish and equip.

Section 5. Subsections (2), (3), (5), (6), and (7) of section 947.1405, Florida Statutes, are amended, and subsection (9) is added to said section, to read:

947.1405 Conditional release program.—

(2) Any inmate who:

(a) Is convicted of a crime committed on or after October 1, 1988, and before January 1, 1994, and any inmate who is convicted of a crime committed on or after January 1, 1994, which crime is or was contained in category 1, category 2, category 3, or category 4 of Rule 3.701 and Rule 3.988, Florida Rules of Criminal Procedure (1993), and who has served at least one prior felony commitment at a state or federal correctional institution;

(b) Is sentenced as a habitual or violent habitual offender or a violent career criminal pursuant to s. 775.084; or

(c) Is found to be a sexual predator under s. 775.21 or former s. 775.23,

shall, upon reaching the tentative release date or provisional release date, whichever is earlier, as established by the Department of Corrections, be released under supervision subject to specified terms and conditions, including payment of the cost of supervision pursuant to s. 948.09. Such supervision shall be applicable to all sentences within the overall term of sentences if an inmate's overall term of sentences includes one or more sentences that are eligible for conditional release supervision as provided herein. Effective July 1, 1994, and applicable for offenses committed on or after that date, the commission may require, as a condition of conditional release, that the releasee make payment of the debt due and owing to a county or municipal detention facility under s. 951.032 for medical care, treatment, hospitalization, or transportation received by the releasee while in that detention facility. The commission, in determining whether to order such repayment and the amount of such repayment, shall consider the amount of the debt, whether there was any fault of the institution for the medical expenses incurred, the financial resources of the releasee, the present and potential future financial needs and earning ability of the releasee, and dependents, and other appropriate factors. If any inmate placed on conditional release supervision is also subject to probation or community control, resulting from a probationary or community control split sentence within the overall term of sentences, the Department of Corrections shall supervise such person according to the conditions imposed by the court and the commission shall defer to such supervision. If the court revokes probation or community control and resentences the offender to a term of incarceration, such revocation also constitutes a sufficient basis for the revocation of the conditional release supervision on any nonprobationary or noncommunity control sentence without further hearing by the commission. If any such supervision on any nonprobationary or noncommunity control sentence is revoked, such revocation may result in a forfeiture of all gain-time, and the commission may revoke the resulting deferred conditional release supervision or take other action it considers appropriate. If the term of conditional release supervision exceeds that of the probation or community control then, upon expiration of the probation or community control, authority for the supervision shall revert to the commission and the supervision shall be subject to the conditions imposed by the commission. If an inmate has received a term of probation or community control supervision to be served after release from incarceration, the period of probation or community control must be substituted for the conditional release supervision. A panel of no fewer than two commissioners shall establish the terms and conditions of any such release. If the offense was a controlled substance violation, the conditions shall include a requirement that the offender submit to random substance abuse testing intermittently throughout the term of conditional release supervision, upon the direction of the correctional probation officer as defined in s. 943.10(3). The commission shall also determine whether the terms and conditions of such release have been violated and whether such violation warrants revocation of the conditional release.

(3) As part of the conditional release process, the commission, through review and consideration of information provided by the department, shall determine:

- (a) The amount of reparation or restitution.
- (b) The consequences of the offense as reported by the aggrieved party.
- (c) The aggrieved party's fear of the inmate or concerns about the release of the inmate.

(5) Within 180 days prior to the tentative release date or provisional release date, whichever is earlier, a representative of the department ~~commission shall interview the inmate. The commission representative shall~~ review the inmate's program participation, disciplinary record, psychological and medical records, criminal records, and any other information pertinent to the impending release. The department shall gather and compile information necessary for the commission to make the determinations set forth in subsection (3). A department ~~commission~~ representative shall conduct a personal interview with the inmate for the purpose of determining the details of the inmate's release plan, including the inmate's planned residence and employment. The department representative shall forward the inmate's release plan to the commission and recommend to the commission the terms and conditions of the conditional release. The results of the interview must be forwarded to the commission in writing.

(6) ~~Upon receipt of notice as required under s. 947.175, The commission shall review the recommendations of the department, and such other information as it deems relevant, and may~~ conduct a review of the inmate's record for the purpose of establishing the terms and conditions of the conditional release. The commission may impose any special conditions it considers warranted from its review of the release plan and recommendation record. If the commission determines that the inmate is eligible for release under this section, the commission shall enter an order establishing the length of supervision and the conditions attendant thereto. However, an inmate who has been convicted of a violation of chapter 794 or found by the court to be a sexual predator is subject to the maximum level of supervision provided, with the mandatory conditions as required in subsection (7), and that supervision shall continue through the end of the releasee's original court-imposed sentence. The length of supervision must not exceed the maximum penalty imposed by the court.

(7)(a) Any inmate who is convicted of a crime committed on or after October 1, 1995, or who has been previously convicted of a crime committed on or after October 1, 1995, in violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and is subject to conditional release supervision, shall have, in addition to any other conditions imposed, the following special conditions imposed by the commission:

1. A mandatory curfew from 10 p.m. to 6 a.m. The commission ~~court~~ may designate another 8-hour period if the offender's employment precludes the above specified time, and such alternative is recommended by the Department of Corrections. If the commission ~~court~~ determines that imposing a curfew would endanger the victim, the commission ~~court~~ may consider alternative sanctions.

2. If the victim was under the age of 18, a prohibition on living within 1,000 feet of a school, day care center, park, playground, or other place where children regularly congregate.

3. Active participation in and successful completion of a sex offender treatment program with therapists specifically trained to treat sex offenders, at the releasee's own expense. If a specially trained therapist is not available within a 50-mile radius of the releasee's residence, the offender shall participate in other appropriate therapy.

4. A prohibition on any contact with the victim, directly or indirectly, including through a third person, unless approved by the victim, the offender's therapist, and the sentencing court.

5. If the victim was under the age of 18, a prohibition against direct contact or association with children under the age of 18 until all of the following conditions are met:

a. Successful completion of a sex offender treatment program.

b. The adult person who is legally responsible for the welfare of the child has been advised of the nature of the crime.

c. Such adult person is present during all contact or association with the child.

~~d. Such adult person has been, until successful completion of a sex offender treatment program, on unsupervised contact with a child under the age of 18, unless authorized by the commission without another adult present who is responsible for the child's welfare, has been advised of the crime, and is approved by the commission.~~

6. If the victim was under age 18, a prohibition on working for pay or as a volunteer at any school, day care center, park, playground, or other place where children regularly congregate, as prescribed by the commission.

7. Unless otherwise indicated in the treatment plan provided by the sexual offender treatment program, a prohibition on viewing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material, including telephone, electronic media, computer programs, or computer services that are relevant to the offender's deviant behavior pattern.

8. A requirement that the releasee must submit two specimens of blood to the Florida Department of Law Enforcement to be registered with the DNA database.

9. A requirement that the releasee make restitution to the victim, as determined by the sentencing court or the commission, for all necessary medical and related professional services relating to physical, psychiatric, and psychological care.

10. Submission to a warrantless search by the community control or probation officer of the probationer's or community controllee's person, residence, or vehicle.

(b) For a releasee whose crime was committed on or after October 1, 1997, in violation of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and who is subject to conditional release supervision, in addition to any other provision of this subsection, the commission shall impose the following additional conditions of conditional release supervision:

1. As part of a treatment program, participation in a minimum of one annual polygraph examination to obtain information necessary for risk management and treatment and to reduce the sex offender's denial mechanisms. The polygraph examination must be conducted by a polygrapher trained specifically in the use of the polygraph for the monitoring of sex offenders, where available, and at the expense of the sex offender. The results of the polygraph examination shall not be used as evidence in a hearing to prove that a violation of supervision has occurred.

2. Maintenance of a driving log and a prohibition against driving a motor vehicle alone without the prior approval of the supervising officer.

3. A prohibition against obtaining or using a post office box without the prior approval of the supervising officer.

4. If there was sexual contact, a submission to, at the probationer's or community controllee's expense, an HIV test with the results to be released to the victim or the victim's parent or guardian.

5. ~~Electronic monitoring of any form when deemed necessary by the community control or probation officer and his or her supervisor, and ordered by the commission court at the recommendation of the Department of Corrections.~~

(9) The commission shall adopt rules pursuant to ss. 120.536(1) and 120.54 necessary to implement the provisions of the Conditional Release Program Act.

Section 6. Subsection (2) of section 947.24, Florida Statutes, is amended to read:

947.24 Discharge from parole supervision or release supervision.—

(2) The commission shall review the progress of each person who has been placed on parole, control release, or conditional release after 2 years of supervision in the community and biennially thereafter. The department shall provide to the commission the information necessary to conduct such a review. Such review must include consideration of whether to modify the reporting schedule, thereby authorizing the person under parole supervision or release supervision to submit reports quarterly, semiannually, or annually. The commission, after having retained jurisdiction of a person for a sufficient length of time to evidence satisfactory rehabilitation and cooperation, may further modify the terms and conditions of the person's parole, control release, or conditional release, may discharge the person from parole supervision or release supervision, may relieve the person from making further reports, or may permit the person to leave the state or country, upon finding that such action is in the best interests of the person and society.

Section 7. Sections 947.175 and 947.177, Florida Statutes, are repealed.

Section 8. This act shall take effect July 1, 2001.

Approved by the Governor May 31, 2001.

Filed in Office Secretary of State May 31, 2001.