

CHAPTER 2013-119

House Bill No. 685

An act relating to parole interview dates for certain inmates; amending ss. 947.16, 947.174, and 947.1745, F.S.; extending from 2 years to 7 years the period between parole interview dates for inmates convicted of committing specified crimes; requiring a periodic parole interview for an inmate convicted of kidnapping or attempted kidnapping or robbery, burglary of a dwelling, burglary of a structure or conveyance, or breaking and entering, or the attempt thereof of any of these crimes, in which a human being is present and a sexual act is attempted or completed; reenacting s. 947.165(1), F.S., relating to objective parole guidelines, to incorporate the amendment made by this act to s. 947.1745, F.S., in a reference thereto; providing an effective date.

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

Section 1. Paragraph (g) of subsection (4) of section 947.16, Florida Statutes, is 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.

(g) The decision of the original sentencing judge or, in her or his absence, the chief judge of the circuit to vacate any parole release order as provided in this section 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. Convicted of kidnapping or attempted kidnapping;

4. Convicted of robbery, burglary of a dwelling, burglary of a structure or conveyance, or breaking and entering, or the attempt thereof of any of these crimes, in which a human being is present and a sexual act is attempted or completed; or

~~5.3.~~ Sentenced to a 25-year minimum mandatory sentence previously provided in s. 775.082,

shall be reinterviewed once within 7 years after the date of receipt of the vacated release order and once every 7 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 ~~an any~~ inmate who is within 7 years of his or her tentative release date, the commission may establish a reinterview date before ~~prior to~~ the 7-year schedule.

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

947.174 Subsequent interviews.—

(1)

(b) For any inmate convicted of murder ~~or~~, attempted murder~~;~~, sexual battery~~;~~ or attempted sexual battery~~;~~ kidnapping or attempted kidnapping; or robbery, burglary of a dwelling, burglary of a structure or conveyance, or breaking and entering, or the attempt thereof of any of these crimes, in which a human being is present and a sexual act is attempted or completed, or any inmate 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 7 years after the date of the initial interview, a hearing examiner shall schedule an interview for review of the presumptive parole release date. The interview shall take place once within 7 years after the initial interview and once every 7 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

an any inmate who is within 7 years of his or her tentative release date, the commission may establish an interview date before the 7-year schedule.

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:

- (a) Convicted of murder or attempted murder;
- (b) Convicted of sexual battery or attempted sexual battery; or
- (c) Convicted of kidnapping or attempted kidnapping;

(d) Convicted of robbery, burglary of a dwelling, burglary of a structure or conveyance, or breaking and entering, or the attempt thereof of any of these crimes, in which a human being is present and a sexual act is attempted or completed; or

~~(e)~~(e) 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 7 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 an any inmate who is within 7 years of his or her release date, the commission may schedule a subsequent review before ~~prior to~~ the 7-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. For the purpose of incorporating the amendment made by this act to section 947.1745, Florida Statutes, in a reference thereto, subsection (1) of section 947.165, Florida Statutes, is reenacted to read:

947.165 Objective parole guidelines.—

(1) The commission shall develop and implement objective parole guidelines which shall be the criteria upon which parole decisions are made. The objective parole guidelines shall be developed according to an acceptable research method and shall be based on the seriousness of offense and the likelihood of favorable parole outcome. The guidelines shall require the commission to aggravate or aggregate each consecutive sentence in establishing the presumptive parole release date. Factors used in arriving at the salient factor score and the severity of offense behavior category shall not be applied as aggravating circumstances. If the sentencing judge files a written objection to the parole release of an inmate as provided for in s. 947.1745(6), such objection may be used by the commission as a basis to extend the presumptive parole release date.

Section 5. This act shall take effect July 1, 2013.

Approved by the Governor June 5, 2013.

Filed in Office Secretary of State June 5, 2013.