

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB JDC 14-01 Renaming the Parole Commission

SPONSOR(S): Judiciary Committee and Baxley

TIED BILLS: **IDEN./SIM. BILLS:** SB 1636

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Judiciary Committee	18 Y, 0 N	Westcott	Havlicak

SUMMARY ANALYSIS

The Parole Commission (Commission) is a constitutionally authorized decision-making body that serves as a quasi-judicial body. The Florida Constitution provides that there may be created by law a parole and probation commission with the power to supervise persons on probation and grant paroles of conditional releases to persons under sentences for crime. In 1941, the Commission was created by law to administer parole. Since that time, the administration of conditional release, conditional medical release, control release, and addiction recovery has been placed under the Commission. The Commission also acts as the investigative arm of the Governor and Cabinet, sitting as the Board of Executive Clemency (Clemency Board), in clemency matters. The Commission was established as the Florida Parole and Probation Commission, but was later renamed the Florida Parole Commission.

The bill changes the name of the Parole Commission to the Florida Commission on Offender Review to more accurately reflect the roles of the commission.

The bill may have an insignificant negative impact on state expenditures, but according to the Parole Commission this impact will be absorbed by existing funds. The bill does not appear to have any impact on local government expenditures or revenues.

The bill is effective July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Parole Commission (Commission) is a constitutionally authorized decision-making body that serves as a quasi-judicial body.¹ The Florida Constitution² provides that there may be created by law a parole and probation commission with the power to supervise persons on probation and grant paroles of conditional releases to persons under sentences for crime.³ In 1941, the Commission was created by law to administer parole.⁴ Since that time, the administration of conditional release, conditional medical release, control release, and addiction recovery has been placed under the Commission.⁵ The Commission also acts as the investigative arm of the Governor and Cabinet, sitting as the Board of Executive Clemency (Clemency Board), in clemency matters.⁶ The Commission was established as the Florida Parole and Probation Commission in 1941⁷, but the name was changed to the Florida Parole Commission in 1989.⁸

Parole

Parole is the release of an inmate, prior to the expiration of the inmate's court-imposed sentence, with a period of supervision to be successfully completed by compliance with the conditions and terms of the release agreement ordered by the Commission.⁹ The decision of the Commission to parole an inmate is considered an act of grace of the State and should not a right.¹⁰ The Parole Commission administers parole.¹¹ It allows an inmate who has been granted parole to serve the remainder of his or her prison sentence outside the confines of the institution.¹² Once released, the parolee is subject to conditions of supervision, and if those conditions are violated, the Commission may return the parolee to prison.¹³ Parole has experienced a number of changes over the years. In 1978, the Florida Legislature enacted "Objective Parole Guidelines," which required the Commission to develop and implement rules and criteria upon which parole decisions were to be made.¹⁴ These criteria were based on risk assessment and combined historical Commission decision-making experience with individual case elements. The most significant change, however, came in 1983. In that year, sentencing guidelines were enacted, thereby effectively abolishing parole for those offenders who were sentenced for crimes committed on or after October 1, 1983.¹⁵

Currently, all inmates who committed a capital felony murder prior to May 25, 1994, and all inmates who committed all other capital felonies, including sexual battery prior to October 1, 1995, are also

¹ *Annual Report Florida Parole Commission 2011*, Available at <https://fpc.state.fl.us/PDFs/FPCannualreport2001011.pdf> (last visited March 3, 2014).

² FLA. CONST. art. IV, s. 8.

³ Section 20.32, F.S.

⁴ *Supra* note 1, at 17.

⁵ *Id.* at 17-19.

⁶ *Id.* at 29.

⁷ *Id.* at 17.

⁸ Chapter 88-122, L.O.F.

⁹ *Supra* note 1, at 80.

¹⁰ *Id.* at 76.

¹¹ See chs. 947, 948, and 949, F.S.

¹² *Supra* note 1, at 30.

¹³ *Id.*

¹⁴ *Id.* at 18.

¹⁵ *Id.* at 19.

parole eligible.¹⁶ There are approximately 5,107 inmates who are still eligible for parole consideration and numerous offenders who are still under parole supervision.¹⁷

Conditional Release

In 1988, the Florida Legislature created the Conditional Release Program and placed it under the administration of the Commission¹⁸ (see chs. 947, 948, and 960, F.S.). Conditional Release requires mandatory post-prison supervision for inmates who are sentenced for certain violent crimes and who have served a prior felony commitment, or who are sentenced as a habitual offender, violent habitual offender, violent career criminal, or sexual predator. Unlike parole, conditional release is not discretionary release. Upon release from prison, inmates who are subject to conditional release are supervised for a period of time equal to the gain-time that they received in prison. These offenders are subject to strict conditions of supervision set by the Commission and this supervision can be revoked and the releasee returned to prison if the Commission determines that a violation of supervision has occurred.

Control Release

In 1989, the Florida Legislature created the Control Release Authority.¹⁹ This program was a prison population management system administered by the Commission to keep the prison population at its lawful capacity.²⁰ The Commission does not currently review the inmate population for discretionary release under this authority as there are sufficient prison beds for the current prison population.²¹ There are, however, a small number of control releasees who are still under supervision.²² The Commission is responsible for monitoring the progress of these releasees and conducting revocation hearings when alleged violations are reported.²³

Conditional Medical Release

In 1992, the Florida Legislature created Conditional Medical Release.²⁴ This is a discretionary release that allows the Commission to release inmates on supervision who are “terminally ill” or “permanently incapacitated” and who are not a danger to others.²⁵

Addiction Recovery Supervision Program

In 2001, the Legislature created the Addiction Recovery Supervision Program and placed it under the Commission’s administration.²⁶ This program requires mandatory post prison supervision for offenders who are released from a state correctional facility, were convicted of a crime committed on or after July 1, 2001, have a history of substance abuse or addiction or have participated in any drug treatment, and have not been convicted of a disqualifying offense.²⁷ The law requires the Commission to set the terms and conditions of supervision and to revoke that supervision if the offender fails to comply with them.²⁸ As of July 1, 2013 there were 295 parolees in this program.²⁹

Clemency

¹⁶ *Id.* at 30.

¹⁷ *Florida Parole Commission Annual Report 2013*, Available at <https://fpc.state.fl.us/PDFs/FPCannualreport201213.pdf> (last visited March 3, 2014).

¹⁸ *Id.* at 7; see also chs. 947 and 948, F.S.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.* at 4.

²⁵ *Id.*

²⁶ *Id.* at 7.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

Clemency is a constitutionally authorized process that provides the means through which convicted felons may seek restoration of their civil rights and may be considered for relief from punishment.³⁰ The Office of Executive Clemency was created in 1975 to process applications for executive clemency requiring approval of the Governor and Cabinet who sit collectively as the Executive Clemency Board.³¹

In addition to processing requests for restoration of civil rights, applications for alien status, full pardons, remission of fines, waiver requests, commutations of sentence and specific authority to own, possess or use firearms, the office also provides verification and/or certification of restoration of civil rights and other forms of clemency granted, to law enforcement agencies, state attorneys, public defenders, licensing agencies, and supervisors of elections.³²

The Parole Commission primarily processes clemency applications and reviews certain inmates under their purview. There is confusion over the role of the Parole Commission because its name does not depict the duties actually prescribed by law.

Victim Services

The Victim Services' section provides direct, personal service to crime victims and their families.³³ Staff attempt to locate all victims of parole eligible inmates and persons seeking clemency to inform them of their right to be heard and participate in the clemency or parole process.³⁴ Victims are also informed of their right to be notified by the Department of Corrections of an inmate's movement within the prison system or escape.³⁵

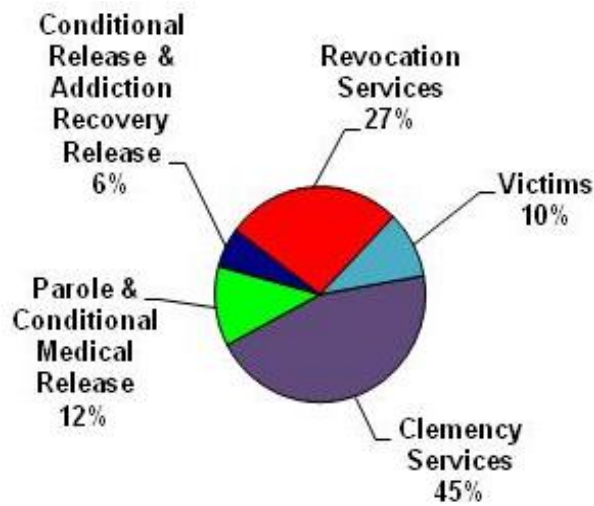
Revocations

The Revocations Section reviews all violation reports, prepares arrest warrants, updates the National Crime Information Center/Florida Crime Information Center databases (NCIC/FCIC), responds to requests from law enforcement agencies, coordinates the extradition of violators, and performs functions relating to the docketing and processing of cases for Commission action involving review of supervision and violations of supervision.³⁶

The violation process begins when law enforcement or the Department of Corrections notifies the Commission that a releasee has violated one or more conditions of his/her supervision.³⁷ The Revocations Section is responsible for reviewing these reported violations and preparing a warrant for a Commissioner's signature.³⁸ The Commission may issue a warrant for the arrest of any offender when reasonable grounds exist to believe the releasee has violated any of the conditions of supervision.³⁹

Using the responsibilities discussed above, the chart below reflects the commission's current workload.⁴⁰

³⁰ *Id.*
³¹ *Id.*
³² *Id.*
³³ *Id.* at 6.
³⁴ *Id.*
³⁵ *Id.*
³⁶ *Florida Parole Commission Annual Report 2012, Available at <https://fpc.state.fl.us/PDFs/FPCAnnualreport201112.pdf> (last visited March 3, 2014).*
³⁷ *Id.* at 28.
³⁸ *Id.*
³⁹ *Id.*
⁴⁰ *Supra* note 1, at 9.
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Effect of Bill

The bill renames the “Florida Parole Commission,” as the Florida Commission on Offender Review.” The name change more accurately reflects the commission’s current role.

B. SECTION DIRECTORY:

Section 1 provides legislative intent.

Section 2 directs the Division of Law Revision and Information to rename ch. 947, F.S.

Section 3 amends s. 20.315, F.S. relating to the Department of Corrections.

Section 4 amends s. 20.32, F.S., relating to Florida Parole Commission.

Section 5 amends s. 23.21, F.S., relating to definitions.

Section 6 amends s. 98.093 relating to duty of officials to furnish information relating to deceased persons, persons adjudicated mentally incapacitated, and persons convicted of a felony.

Section 7 amends s. 186.005, F.S., relating to designation of departmental planning officer.

Section 8 amends s. 255.502, F.S., relating to definitions.

Section 9 amends s. 322.16, F.S., relating to license restrictions.

Section 10 amends s. 394.926, F.S., relating to notice to victims of release of persons committed as sexually violent predators; notice to Department of Corrections and Florida Parole Commission.

Section 11 amends s. 394.927, F.S., relating to escape while in lawful custody; notice to victim; notice to the Department of Corrections and Parole Commission.

Section 12 amends s. 633.304, F.S., relating to fire suppression equipment; license to install or maintain.

Section 13 amends s. 775.089, F.S., relating to restitution.

Section 14 amends s. 775.16, F.S., relating to drug offenses; additional penalties.

Section 15 amends s. 784.07, F.S., relating to assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents, or other specified officers.

Section 16 amends s. 784.078, F.S., relating to battery of a facility employee by throwing, tossing, or expelling certain fluids or materials.

Section 17 amends s. 800.09, F.S., relating to lewd or lascivious exhibition in the presence of an employee.

Section 18 amends s. 843.01, F.S., relating to resisting an officer with violence to his or her person.

Section 19 amends s. 843.02, F.S., relating to resisting an officer without violence to his or her person.

Section 20 amends s. 843.08, F.S., relating to falsely personating an officer, etc.

Section 21 amends s. 893.11, F.S., relating to suspension and revocation of business and professional licenses.

Section 22 amends s. 921.16, F.S., relating to when sentences to be concurrent and when consecutive.

Section 23 amends s. 921.20, F.S., relating to classification summary; Florida Parole Commission.

Section 24 amends s. 921.21, F.S., relating to progress reports to Florida Parole Commission.

Section 25 amends s. 921.22, F.S., relating to determination of exact period of imprisonment by Florida Parole Commission.

Section 26 amends s. 940.03, F.S., relating to application for executive clemency.

Section 27 amends s. 940.05, F.S., relating to restoration of civil rights.

Section 28 amends s. 940.061, F.S., relating to informing persons about executive clemency and restoration of civil rights.

Section 29 amends s. 941.23, F.S., relating to application for issuance of requisition; by whom made; contents.

Section 30 amends s. 943.0311, F.S., relating to Chief of Domestic Security; duties of the department with respect to domestic security.

Section 31 amends s. 943.06, F.S., relating to the Criminal and Juvenile Justice Information Systems Council.

Section 32 amends s. 944.012, F.S., relating to legislative intent.

Section 33 amends s. 944.02, F.S., relating to definitions.

Section 34 amends s. 944.171, F.S., relating to housing of inmates.

Section 35 amends s. 944.4731, F.S., relating to the Addiction-Recovery Supervision Program.

Section 36 amends s. 945.091, F.S., relating to extension of the limits of confinement; restitution by employed inmates.

Section 37 amends s. 945.10, F.S., relating to confidential information.

Section 38 amends s. 945.47, F.S., relating to discharge of inmate from mental health treatment.

Section 39 amends s. 945.73, F.S., relating to inmate training program operation.

Section 40 amends s. 947.005, F.S., relating to definitions.

Section 41 amends s. 947.01, F.S., relating to the Florida Parole Commission; number of members.

Section 42 amends s. 947.02, F.S., relating to the Florida Parole Commission, appointment.

Section 43 amends s. 947.021, F.S., relating to the Florida Parole Commission; expedited appointments.

Section 44 amends s. 947.045, F.S., relating to Federal Grants Trust Fund.

Section 45 amends s. 947.141, F.S., relating to violations of conditional release, control release, or conditional medical release or addiction-recovery supervision.

Section 46 amends s. 947.146, F.S., relating to control release authority.

Section 47 amends s. 947.181, F.S., relating to fines, fees, restitution, or other costs ordered as a condition of parole.

Section 48 amends s. 947.185, F.S., relating to application for intellectual disability services as a condition of parole.

Section 49 amends s. 947.22, F.S., relating to authority to arrest parole violators with or without warrant.

Section 50 amends s. 948.09, F.S., relating to payment for cost of supervision and rehabilitation.

Section 51 amends s. 948.10, F.S., relating to community control programs.

Section 52 amends s. 949.05, F.S., relating to constitutionality.

Section 53 amends s. 951.29, F.S., relating to procedure for requesting restoration of civil rights of county prisoners convicted of felonies.

Section 54 amends s. 957.06, F.S., relating to powers and duties not delegable to contractor.

Section 55 amends s. 958.045, F.S., relating to youthful offender basic training program.

Section 56 amends s. 960.001, F.S., relating to guidelines for fair treatment of victims and witnesses in the criminal justice and juvenile justice systems.

Section 57 amends s. 960.17, F.S., relating to award constitutes debt owed to the state.

Section 58 amends s. 985.04, F.S., relating to oaths; records; confidential information.

Section 59 amends s. 985.045, F.S., relating to court records.

Section 60 provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

The bill may have an insignificant impact on state expenditures in the costs associated with changing signage, letterhead, etc.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any direct economic impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the commission to amend its rules to reflect the change in name. However, adequate rule-making authority exists under current law.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A.