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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/29/2016	.	
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The Committee on Fiscal Policy (Clemens) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

784.078 Battery of facility employee by throwing, tossing,  
or expelling certain fluids or materials.—

(2)

(b) "Employee" includes any person who is a commission



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11 ~~investigator parole examiner~~ with the Florida Commission on  
12 Offender Review.

13 Section 2. Paragraph (a) of subsection (1) of section  
14 800.09, Florida Statutes, is amended to read:

15 800.09 Lewd or lascivious exhibition in the presence of an  
16 employee.—

17 (1) As used in this section, the term:

18 (a) "Employee" means any person employed by or performing  
19 contractual services for a public or private entity operating a  
20 facility or any person employed by or performing contractual  
21 services for the corporation operating the prison industry  
22 enhancement programs or the correctional work programs under  
23 part II of chapter 946. The term also includes any person who is  
24 a commission investigator ~~parole examiner~~ with the Florida  
25 Commission on Offender Review.

26 Section 3. Subsection (4) of section 947.002, Florida  
27 Statutes, is amended to read:

28 947.002 Intent.—

29 (4) Commission investigators ~~Hearing examiners~~ are assigned  
30 on the basis of caseload needs as determined by the chair.

31 Section 4. Section 947.02, Florida Statutes, is amended to  
32 read:

33 947.02 Florida Commission on Offender Review; members,  
34 appointment.—

35 (1) ~~Except as provided in s. 947.021,~~ The members of the  
36 Florida Commission on Offender Review shall be appointed by the  
37 Governor and Cabinet from a list of eligible applicants  
38 submitted by a commissioner ~~parole~~ qualifications committee. The  
39 appointments of members of the commission shall be certified to



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40 the Senate by the Governor and Cabinet for confirmation, and the  
41 membership of the commission shall include representation from  
42 minority persons as defined in s. 288.703.

43 (2) A commissioner ~~parole~~ qualifications committee shall  
44 consist of five persons who are appointed by the Governor and  
45 Cabinet. One member shall be designated as chair by the Governor  
46 and Cabinet. The committee shall provide for statewide  
47 advertisement and the receiving of applications for any position  
48 or positions on the commission and shall devise a plan for the  
49 determination of the qualifications of the applicants by  
50 investigations and comprehensive evaluations, including, but not  
51 limited to, investigation and evaluation of the character,  
52 habits, and philosophy of each applicant. Each commissioner  
53 ~~parole~~ qualifications committee shall exist for 2 years. If  
54 additional vacancies on the commission occur during this 2-year  
55 period, the committee may advertise and accept additional  
56 applications; however, all previously submitted applications  
57 shall be considered along with the new applications according to  
58 the previously established plan for the evaluation of the  
59 qualifications of applicants.

60 (3) Within 90 days before an anticipated vacancy by  
61 expiration of term pursuant to s. 947.03 or upon any other  
62 vacancy, the Governor and Cabinet shall appoint a commissioner  
63 ~~parole~~ qualifications committee if one has not been appointed  
64 during the previous 2 years. The committee shall consider  
65 applications for the commission seat, including the application  
66 of an incumbent commissioner if he or she applies, according to  
67 subsection (2). The committee shall submit a list of three  
68 eligible applicants, which may include the incumbent if the



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69 committee so decides, without recommendation, to the Governor  
70 and Cabinet for appointment to the commission. In the case of an  
71 unexpired term, the appointment must be for the remainder of the  
72 unexpired term and until a successor is appointed and qualified.  
73 If more than one seat is vacant, the committee shall submit a  
74 list of eligible applicants, without recommendation, containing  
75 a number of names equal to three times the number of vacant  
76 seats; however, the names submitted may not be distinguished by  
77 seat, and each submitted applicant shall be considered eligible  
78 for each vacancy.

79 (4) Upon receiving a list of eligible persons from the  
80 commissioner parole qualifications committee, the Governor and  
81 Cabinet may reject the list. If the list is rejected, the  
82 committee shall reinitiate the application and examination  
83 procedure according to subsection (2).

84 (5) Section 120.525 and chapters 119 and 286 apply to all  
85 activities and proceedings of a commissioner parole  
86 qualifications committee.

87 Section 5. Section 947.021, Florida Statutes, is repealed.

88 Section 6. Section 947.10, Florida Statutes, is amended to  
89 read:

90 947.10 Business and political activity upon part of members  
91 and full-time employees of commission.—No member of the  
92 commission and no full-time employee thereof shall, during her  
93 or his service upon or under the commission, engage in any other  
94 business or profession or hold any other public office, nor  
95 shall she or he serve as the representative of any political  
96 party, or any political executive committee or other political  
97 governing body thereof, or as an executive officer or employee



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98 of any political committee, organization, or association or be  
99 engaged on the behalf of any candidate for public office in the  
100 solicitation of votes or otherwise. ~~However, this shall not be~~  
101 ~~deemed to exclude the appointment of the Secretary of~~  
102 ~~Corrections to the commission under the terms and conditions set~~  
103 ~~forth in this chapter.~~

104 Section 7. Subsections (1) and (2) of section 947.172,  
105 Florida Statutes, are amended to read:

106 947.172 Establishment of presumptive parole release date.—

107 (1) The commission investigator ~~hearing examiner~~ shall  
108 conduct an initial interview in accordance with the provisions  
109 of s. 947.16. This interview shall include introduction and  
110 explanation of the objective parole guidelines as they relate to  
111 presumptive and effective parole release dates and an  
112 explanation of the institutional conduct record and satisfactory  
113 release plan for parole supervision as each relates to parole  
114 release.

115 (2) Based on the objective parole guidelines and any other  
116 competent evidence relevant to aggravating and mitigating  
117 circumstances, the commission investigator ~~hearing examiner~~  
118 shall, within 10 days after the interview, recommend in writing  
119 to a panel of no fewer than two commissioners appointed by the  
120 chair a presumptive parole release date for the inmate. ~~The~~  
121 ~~chair shall assign cases to such panels on a random basis,~~  
122 ~~without regard to the inmate or to the commissioners sitting on~~  
123 ~~the panel.~~ If the recommended presumptive parole release date  
124 falls outside the matrix time ranges as determined by the  
125 objective parole guidelines, the commission investigator ~~hearing~~  
126 ~~examiner~~ shall include with the recommendation a statement in



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127 writing as to the reasons for the decision, specifying  
128 individual particularities. If a panel fails to reach a decision  
129 on a recommended presumptive parole release date, the chair or  
130 any other commissioner designated by the chair shall cast the  
131 deciding vote. Within 90 days after the date of the initial  
132 interview, the inmate shall be notified in writing of the  
133 decision as to the inmate's presumptive parole release date.

134 Section 8. Subsection (1) and paragraph (e) of subsection  
135 (4) of section 947.16, Florida Statutes, is amended to read:

136 947.16 Eligibility for parole; initial parole interviews;  
137 powers and duties of commission.-

138 (1) Every person who has been convicted of a felony or who  
139 has been convicted of one or more misdemeanors and whose  
140 sentence or cumulative sentences total 12 months or more, who is  
141 confined in execution of the judgment of the court, and whose  
142 record during confinement or while under supervision is good,  
143 shall, unless otherwise provided by law, be eligible for  
144 interview for parole consideration of her or his cumulative  
145 sentence structure as follows:

146 (a) An inmate who has been sentenced for an indeterminate  
147 term or a term of 3 years or less shall have an initial  
148 interview conducted by a commission investigator ~~hearing~~  
149 ~~examiner~~ within 8 months after the initial date of confinement  
150 in execution of the judgment.

151 (b) An inmate who has been sentenced for a minimum term in  
152 excess of 3 years but of less than 6 years shall have an initial  
153 interview conducted by a commission investigator ~~hearing~~  
154 ~~examiner~~ within 14 months after the initial date of confinement  
155 in execution of the judgment.



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156 (c) An inmate who has been sentenced for a minimum term of  
157 6 or more years but other than for a life term shall have an  
158 initial interview conducted by a commission investigator ~~hearing~~  
159 ~~examiner~~ within 24 months after the initial date of confinement  
160 in execution of the judgment.

161 (d) An inmate who has been sentenced for a term of life  
162 shall have an initial interview conducted by a commission  
163 investigator ~~hearing examiner~~ within 5 years after the initial  
164 date of confinement in execution of the judgment.

165 (e) An inmate who has been convicted and sentenced under  
166 ss. 958.011-958.15, or any other inmate who has been determined  
167 by the department to be a youthful offender, shall be  
168 interviewed by a commission investigator ~~parole examiner~~ within  
169 8 months after the initial date of confinement in execution of  
170 the judgment.

171 (4) A person who has become eligible for an initial parole  
172 interview and who may, according to the objective parole  
173 guidelines of the commission, be granted parole shall be placed  
174 on parole in accordance with the provisions of this law; except  
175 that, in any case of a person convicted of murder, robbery,  
176 burglary of a dwelling or burglary of a structure or conveyance  
177 in which a human being is present, aggravated assault,  
178 aggravated battery, kidnapping, sexual battery or attempted  
179 sexual battery, incest or attempted incest, an unnatural and  
180 lascivious act or an attempted unnatural and lascivious act,  
181 lewd and lascivious behavior, assault or aggravated assault when  
182 a sexual act is completed or attempted, battery or aggravated  
183 battery when a sexual act is completed or attempted, arson, or  
184 any felony involving the use of a firearm or other deadly weapon



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185 or the use of intentional violence, at the time of sentencing  
186 the judge may enter an order retaining jurisdiction over the  
187 offender for review of a commission release order. This  
188 jurisdiction of the trial court judge is limited to the first  
189 one-third of the maximum sentence imposed. When any person is  
190 convicted of two or more felonies and concurrent sentences are  
191 imposed, then the jurisdiction of the trial court judge as  
192 provided herein applies to the first one-third of the maximum  
193 sentence imposed for the highest felony of which the person was  
194 convicted. When any person is convicted of two or more felonies  
195 and consecutive sentences are imposed, then the jurisdiction of  
196 the trial court judge as provided herein applies to one-third of  
197 the total consecutive sentences imposed.

198 (e) Upon receipt of notice of intent to retain jurisdiction  
199 from the original sentencing judge or her or his replacement,  
200 the commission shall, within 10 days, forward to the court its  
201 release order, the findings of fact, the commission  
202 investigator's ~~parole hearing examiner's~~ report and  
203 recommendation, and all supporting information upon which its  
204 release order was based.

205 Section 9. Subsections (1), (2), and (4) of section  
206 947.174, Florida Statutes, are amended to read:

207 947.174 Subsequent interviews.—

208 (1) (a) For any inmate, except an inmate convicted of an  
209 offense enumerated in paragraph (b), whose presumptive parole  
210 release date falls more than 2 years after the date of the  
211 initial interview, a commission investigator ~~hearing examiner~~  
212 shall schedule an interview for review of the presumptive parole  
213 release date. Such interview shall take place within 2 years





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214 after the initial interview and every 2 years thereafter.

215 (b) For any inmate convicted of murder or attempted murder;  
216 sexual battery or attempted sexual battery; kidnapping or  
217 attempted kidnapping; or robbery, burglary of a dwelling,  
218 burglary of a structure or conveyance, or breaking and entering,  
219 or the attempt thereof of any of these crimes, in which a human  
220 being is present and a sexual act is attempted or completed, or  
221 any inmate who has been sentenced to a 25-year minimum mandatory  
222 sentence previously provided in s. 775.082, and whose  
223 presumptive parole release date is more than 7 years after the  
224 date of the initial interview, a commission investigator ~~hearing~~  
225 ~~examiner~~ shall schedule an interview for review of the  
226 presumptive parole release date. The interview shall take place  
227 once within 7 years after the initial interview and once every 7  
228 years thereafter if the commission finds that it is not  
229 reasonable to expect that parole will be granted at a hearing  
230 during the following years and states the bases for the finding  
231 in writing. For an inmate who is within 7 years of his or her  
232 tentative release date, the commission may establish an  
233 interview date before the 7-year schedule.

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

239 (2) The commission, for good cause, may at any time request  
240 that a commission investigator ~~hearing examiner~~ conduct a  
241 subsequent hearing according to the procedures outlined in this  
242 section. Such request shall specify in writing the reasons for



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243 such review.

244 (4) The department or a commission investigator ~~hearing~~  
245 ~~examiner~~ may recommend that an inmate be placed in a work-  
246 release program prior to the last 18 months of her or his  
247 confinement before the presumptive parole release date. If the  
248 commission does not deny the recommendation within 30 days of  
249 the receipt of the recommendation, the inmate may be placed in  
250 such a program, and the department shall advise the commission  
251 of the fact prior to such placement.

252 Section 10. Subsection (1) of section 947.1745, Florida  
253 Statutes, is amended to read:

254 947.1745 Establishment of effective parole release date.—If  
255 the inmate's institutional conduct has been satisfactory, the  
256 presumptive parole release date shall become the effective  
257 parole release date as follows:

258 (1) Within 90 days before the presumptive parole release  
259 date, a commission investigator ~~hearing examiner~~ shall conduct a  
260 final interview with the inmate in order to establish an  
261 effective parole release date and parole release plan. If it is  
262 determined that the inmate's institutional conduct has been  
263 unsatisfactory, a statement to this effect shall be made in  
264 writing with particularity and shall be forwarded to a panel of  
265 no fewer than two commissioners appointed by the chair.

266 Section 11. Subsection (1) of section 947.22, Florida  
267 Statutes, is amended to read:

268 947.22 Authority to arrest parole violators with or without  
269 warrant.—

270 (1) If a member of the commission or a duly authorized  
271 representative of the commission has reasonable grounds to



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272 believe that a parolee has violated the terms and conditions of  
273 her or his parole in a material respect, such member or  
274 representative may issue a warrant for the arrest of such  
275 parolee. The warrant shall be returnable before a member of the  
276 commission or a duly authorized representative of the  
277 commission. The commission, a commissioner, or a commission  
278 investigator ~~parole examiner~~ with approval of the commission  
279 ~~parole examiner supervisor~~, may release the parolee on bail or  
280 her or his own recognizance, conditioned upon her or his  
281 appearance at any hearings noticed by the commission. If not  
282 released on bail or her or his own recognizance, the parolee  
283 shall be committed to jail pending hearings pursuant to s.  
284 947.23. The commission, at its election, may have the hearing  
285 conducted by one or more commissioners or by a duly authorized  
286 representative of the commission. Any parole and probation  
287 officer, any officer authorized to serve criminal process, or  
288 any peace officer of this state is authorized to execute the  
289 warrant.

290 Section 12. Effective July 1, 2016, paragraph (h) of  
291 subsection (1) of section 960.001, Florida Statutes, is amended  
292 to read:

293 960.001 Guidelines for fair treatment of victims and  
294 witnesses in the criminal justice and juvenile justice systems.-

295 (1) The Department of Legal Affairs, the state attorneys,  
296 the Department of Corrections, the Department of Juvenile  
297 Justice, the Florida Commission on Offender Review, the State  
298 Courts Administrator and circuit court administrators, the  
299 Department of Law Enforcement, and every sheriff's department,  
300 police department, or other law enforcement agency as defined in



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301 s. 943.10(4) shall develop and implement guidelines for the use  
302 of their respective agencies, which guidelines are consistent  
303 with the purposes of this act and s. 16(b), Art. I of the State  
304 Constitution and are designed to implement s. 16(b), Art. I of  
305 the State Constitution and to achieve the following objectives:

306 (h) *Return of property to victim.*—

307 1. A law enforcement agency ~~agencies~~ and the state attorney  
308 shall promptly return a victim's property held for evidentiary  
309 purposes unless there is a compelling law enforcement reason for  
310 retaining it. The trial or juvenile court exercising  
311 jurisdiction over the criminal or juvenile proceeding may enter  
312 appropriate orders to implement this subsection, including  
313 allowing photographs of the victim's property to be used as  
314 evidence at the criminal trial or the juvenile proceeding in  
315 place of the victim's property if no related substantial  
316 evidentiary issue ~~related thereto~~ is in dispute.

317 2. A law enforcement agency shall give a victim  
318 instructions that outline the process for a replevin action and  
319 the procedures specified in s. 539.001(15) for obtaining  
320 possession of the victim's property located in a pawnshop. If a  
321 law enforcement agency locates the property in the possession of  
322 a pawnbroker, the law enforcement agency shall promptly make  
323 reasonable efforts to provide the victim with the name and  
324 location of the pawnshop.

325 Section 13. Subsection (2) of section 20.32, Florida  
326 Statutes, is amended to read:

327 20.32 Florida Commission on Offender Review.—

328 (2) All powers, duties, and functions relating to the  
329 appointment of the Florida Commission on Offender Review as



330 provided in s. 947.02 ~~or s. 947.021~~ shall be exercised and  
331 performed by the Governor and Cabinet. ~~Except as provided in s.~~  
332 ~~947.021~~, Each appointment shall be made from among the first  
333 three eligible persons on the list of the persons eligible for  
334 said position.

335 Section 14. Except as otherwise expressly provided in this  
336 act, this act shall take effect upon becoming a law.

337  
338 ===== T I T L E A M E N D M E N T =====

339 And the title is amended as follows:

340 Delete everything before the enacting clause  
341 and insert:

342 A bill to be entitled  
343 An act relating to criminal justice; amending ss.  
344 784.078, 800.09, 947.002, and 947.02, F.S.; conforming  
345 provisions to changes made by chapter 2014-191, Laws  
346 of Florida; repealing s. 947.021, F.S., relating to  
347 expedited appointments to the Florida Commission on  
348 Offender Review; amending s. 947.10, F.S.; conforming  
349 provisions to changes made by chapter 2014-191, Laws  
350 of Florida; deleting an applicability provision;  
351 amending s. 947.172, F.S.; conforming provisions to  
352 changes made by chapter 2014-191, Laws of Florida;  
353 deleting a provision requiring the assigning of cases  
354 on a random basis; amending ss. 947.16, 947.174,  
355 947.1745, and 947.22, F.S.; conforming provisions to  
356 changes made by chapter 2014-191, Laws of Florida;  
357 amending s. 960.001, F.S.; requiring a law enforcement  
358 agency to provide specified instructions to a victim;



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359 requiring a law enforcement agency to promptly make  
360 reasonable efforts to provide the victim with  
361 specified information under certain circumstances;  
362 amending s. 20.32, F.S.; conforming provisions to  
363 changes made by the act; providing effective dates.