

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2270

SPONSOR: Criminal Justice Committee and Senator Cowin

SUBJECT: Parole Violations

DATE: March 5, 2002                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ	Favorable/CS
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The committee substitute amends s. 947.141, F.S., to require law enforcement officers (LEOs) to arrest offenders on release supervision without a warrant if the officer has probable cause to believe that the releasee has committed a felony in violation of the terms or conditions of release. The CS amends s. 947.22, F.S., to require LEOs to arrest parolees without a warrant if the officer has probable cause to believe that the parolee has violated the terms or conditions of parole.

This CS substantially amends the following sections of the Florida Statutes: 947.141 and 947.22.

**II. Present Situation:**

Section 947.141, F.S., controls the process to be used when a person is arrested for a violation of the conditions of release supervision for offenders who are on conditional release (s. 947.1405, F.S.), control release (s. 947.146, F.S.), conditional medical release (s. 947.149, F.S.), or addiction-recovery supervision (s. 944.4731, F.S.). At the first stage of the process, the offender may be arrested as the result of committing a felony. For releasees who are arrested for committing a felony, s. 947.141, F.S., provides for detention without bond while a warrant is prepared by the Parole Commission. In other cases, a releasee may be arrested pursuant to a warrant issued by a member of the parole commission or an authorized representative who has reasonable grounds (interpreted as probable cause) to believe that the releasee violated the terms or conditions of release in a material respect.

Section 947.22, F.S., provides for issuance of a warrant to arrest a parolee if a member of the parole commission or an authorized representative has reasonable grounds (probable cause) to believe that the parolee violated the terms or conditions of parole in a material respect. The statute also provides that a parole or probation officer has authority to make a warrantless arrest

of a parolee, conditional releasee, or control releasee when he or she has reasonable grounds (probable cause) to believe that the offender violated the terms or conditions of parole or release in a material respect. If arrest without warrant is made, the revocation process proceeds just as if a warrant had been issued.

The courts have interpreted the “reasonable grounds” standard as synonymous with “probable cause,” which is consistent with requirements of the Fourth Amendment to the United States Constitution. Probable cause is defined as the existence of facts and circumstances known to the officer that warrant a prudent man in believing that the offense has been committed.

### **III. Effect of Proposed Changes:**

The CS would require a law enforcement officer to arrest an offender who is on conditional release, control release, conditional medical release, or addiction-recovery supervision if the officer has probable cause to believe that the releasee has committed a felony offense in violation of his or her conditions of release. If such an arrest is made, the Parole Commission would not have to issue a warrant for revocation of parole or release.

The CS would require a LEO to arrest and take into custody any parolee whom the officer has probable cause to believe has violated the terms or conditions of parole. This will give LEOs the same authority as probation and parole officers to arrest parole violators. However, the statute does not require that the law enforcement officer believe that the violation is material, and the LEO would be required to make the arrest and take the parolee into custody. Probation and parole officers have discretion to make a warrantless arrest if they have reasonable grounds (probable cause) to believe that the parolee has violated the terms of his or her parole in a material respect.

Following a warrantless arrest of a parolee, proceedings would be had just as if the offender had been arrested pursuant to a warrant issued by a parole commissioner or authorized representative.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The CS could have an undetermined fiscal impact on local detention facilities if more offenders are taken into custody as a result of violations of conditions of release or parole. However, most releasees who violate the conditions of their release by committing a felony would already be taken into custody under current law for committing the underlying felony offense. Also, as of January 2002, Florida probation and parole officers were supervising or monitoring 2322 Florida or other state parolees (excluding absconders, who are already subject to arrest pursuant to an arrest warrant). The number of parolees taken into custody as a result of the CS should not rise significantly assuming that: (1) the current parole violation rate of approximately 211 violations per 1000 cases only increases moderately; and (2) many parole violators who would be taken into custody under the CS would also be taken into custody under current law due to committing a felony or for other reasons.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

According to the sponsor, SB 2270 was prompted by the tragic and senseless murders of several citizens in the Leesburg area during Christmastime of 2001. Upon apprehending the suspect, it was determined that on December 10<sup>th</sup> he had been stopped by police for riding a bicycle without a headlight. Incident to the stop, he was arrested for the misdemeanor offense of possessing 1.7 grams of marijuana. As is the practice for arrests for possession of a small amount of marijuana, the suspect was given a court date but not taken to jail. The suspect had informed the officer that he was on probation (he was actually on control release supervision), but a routine check showed that there was no warrant or order to arrest him on the spot. The officer could have taken the suspect to jail following the arrest, but was not required to do so and was not expected to do so because the offense was considered to be minor.

**VIII. Amendments:**

None.