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LEGISLATIVE ACTION

Senate

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House

The Committee on Criminal Justice (Bracy) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 947.149, Florida Statutes, is amended to
read:

947.149 Conditional medical release.—

(1) The commission shall, in conjunction with the
department, establish the conditional medical release program.
An inmate is eligible for supervised ~~consideration for~~ release



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11 under the conditional medical release program when the inmate,
12 because of an existing medical or physical condition, is
13 determined by the department to be within one of the following
14 designations:

15 (a) "Inmate with a debilitating illness," which means an
16 inmate who is determined to be suffering from a significant and
17 permanent nonterminal condition, disease, or syndrome that has
18 rendered the inmate so physically or cognitively debilitated or
19 incapacitated as to create a reasonable probability that the
20 inmate does not constitute a danger to herself or himself or
21 others.

22 (b) ~~(a)~~ "Permanently incapacitated inmate," which means an
23 inmate who has a condition caused by injury, disease, or illness
24 which, to a reasonable degree of medical certainty, renders the
25 inmate permanently and irreversibly physically incapacitated to
26 the extent that the inmate does not constitute a danger to
27 herself or himself or others.

28 (c) ~~(b)~~ "Terminally ill inmate," which means an inmate who
29 has a condition caused by injury, disease, or illness which, to
30 a reasonable degree of medical certainty, renders the inmate
31 terminally ill to the extent that there can be no recovery and
32 death is imminent, so that the inmate does not constitute a
33 danger to herself or himself or others.

34 (2) PERMISSIVE CONDITIONAL MEDICAL RELEASE.—

35 (a) Notwithstanding any provision to the contrary, any
36 person qualifying for one of the three designations defined in
37 subsection (1) ~~determined eligible under this section~~ and
38 sentenced to the custody of the department may, upon referral by
39 the department, be considered for conditional medical release by



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40 the commission, in addition to any parole consideration for
41 which the inmate may be considered, except that conditional
42 medical release is not authorized for an inmate who is under
43 sentence of death. ~~No inmate has a right to conditional medical~~
44 ~~release or to a medical evaluation to determine eligibility for~~
45 ~~such release.~~

46 (b)(3) The authority and whether or not to grant
47 conditional medical release and establish additional conditions
48 of conditional medical release under this subsection rests
49 solely within the discretion of the commission, in accordance
50 with the provisions of this section, together with the authority
51 to approve the release plan to include necessary medical care
52 and attention.

53 (c) The department shall identify inmates who may be
54 eligible for conditional medical release based upon available
55 medical information and shall refer them to the commission for
56 consideration.

57 (d) In considering an inmate for conditional medical
58 release in accordance with this subsection, the commission may
59 require that additional medical evidence be produced or that
60 additional medical examinations be conducted, and may require
61 such other investigations to be made as may be warranted.

62 (3) MANDATORY CONDITIONAL MEDICAL RELEASE.-

63 (a) To be eligible for supervised release under this
64 subsection, an inmate qualifying for one of the three
65 designations defined in subsection (1) shall also be determined
66 by the department to meet all of the following criteria:

- 67 1. Has served at least 50 percent of his or her sentence.
68 2. Has no current or prior conviction for:



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- 69 a. A capital, life, or first degree felony.
70 b. A sexual offense, which means an offense specified in s.
71 775.21(4)(a)1. or s. 943.0435(1)(h)1.a.(I).
72 c. An offense involving a child.
73 3. Has not received a disciplinary report within the
74 previous 6 months.
75 4. Has never received a disciplinary report for a violent
76 act.
77 5. Has renounced any gang affiliation.
78 (b) Any person sentenced to the custody of the department
79 that is determined to be eligible for placement on conditional
80 medical release in accordance with this subsection must be
81 referred by the department to the commission. Upon receiving a
82 referral from the department, the commission shall verify the
83 eligibility of an inmate and, upon verification, such inmate
84 must be placed on conditional medical release.
85 (c) In verifying the inmate's eligibility for conditional
86 medical release, the commission shall review the information
87 provided by the department.
88 (d) The commission must finish its verification of an
89 inmate's eligibility within 60 days after the department refers
90 the inmate for conditional medical release.
91 (4) No inmate has a right to conditional medical release or
92 to a medical evaluation to determine eligibility for such
93 release.
94 (5) The department's referral of an inmate to the
95 commission for release under this section must include all of
96 the following information:
97 (a) The proposed conditional medical release plan.



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98 (b) Any relevant medical history, including current medical
99 prognosis.

100 (c) Criminal history. The criminal history must include all
101 of the following information:

102 1. The inmate's claim of innocence, if any.

103 2. The degree to which the inmate accepts responsibility
104 for his or her actions leading to the conviction of the crime.

105 3. How any claim of responsibility has affected the
106 inmate's feelings of remorse.

107 (d) Any history of substance abuse and mental health
108 issues, provided the inmate authorizes release when such
109 information is collected in accordance with 42 C.F.R. s. 2.

110 (e) Any disciplinary action taken against the inmate while
111 in prison.

112 (f) Any participation in prison work and other prison
113 programs.

114 (g) Any other information the department deems necessary.

115 (6)-(4) The conditional medical release term of an inmate
116 released on conditional medical release is for the remainder of
117 the inmate's sentence, without diminution of sentence for good
118 behavior. Supervision of the medical releasee must include a
119 release plan as proposed by the department and approved by the
120 commission and include periodic medical evaluations. Supervision
121 may also include electronic monitoring at intervals determined
122 by the commission at the time of release.

123 (7) (a)-(5)-(a) If it is discovered during the conditional
124 medical release that the medical or physical condition of the
125 medical releasee has improved to the extent that she or he would
126 no longer be eligible for conditional medical release under this



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127 section, the commission may order that the releasee be returned
128 to the custody of the department for a conditional medical
129 release revocation hearing, in accordance with s. 947.141. If
130 conditional medical release is revoked due to improvement in the
131 medical or physical condition of the releasee, she or he shall
132 serve the balance of her or his sentence with credit for the
133 time served on conditional medical release and without
134 forfeiture of any gain-time accrued prior to conditional medical
135 release. If the person whose conditional medical release is
136 revoked due to an improvement in medical or physical condition
137 would otherwise be eligible for parole or any other release
138 program, the person may be considered for such release program
139 pursuant to law.

140 (b) In addition to revocation of conditional medical
141 release pursuant to paragraph (a), conditional medical release
142 may also be revoked for violation of any condition of the
143 release established by the commission, in accordance with s.
144 947.141, and the releasee's gain-time may be forfeited pursuant
145 to s. 944.28(1).

146 (8)~~(6)~~ The department and the commission shall adopt rules
147 as necessary to implement the conditional medical release
148 program.

149 Section 2. For the purpose of incorporating the amendment
150 made by this act to section 947.149, Florida Statutes, in a
151 reference thereto, subsection (6) of section 316.1935, Florida
152 Statutes, is reenacted to read:

153 316.1935 Fleeing or attempting to elude a law enforcement
154 officer; aggravated fleeing or eluding.—

155 (6) Notwithstanding s. 948.01, no court may suspend, defer,



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156 or withhold adjudication of guilt or imposition of sentence for
157 any violation of this section. A person convicted and sentenced
158 to a mandatory minimum term of incarceration under paragraph
159 (3)(b) or paragraph (4)(b) is not eligible for statutory gain-
160 time under s. 944.275 or any form of discretionary early
161 release, other than pardon or executive clemency or conditional
162 medical release under s. 947.149, prior to serving the mandatory
163 minimum sentence.

164 Section 3. For the purpose of incorporating the amendment
165 made by this act to section 947.149, Florida Statutes, in a
166 reference thereto, paragraph (k) of subsection (4) of section
167 775.084, Florida Statutes, is reenacted to read:

168 775.084 Violent career criminals; habitual felony offenders
169 and habitual violent felony offenders; three-time violent felony
170 offenders; definitions; procedure; enhanced penalties or
171 mandatory minimum prison terms.—

172 (4)

173 (k)1. A defendant sentenced under this section as a
174 habitual felony offender, a habitual violent felony offender, or
175 a violent career criminal is eligible for gain-time granted by
176 the Department of Corrections as provided in s. 944.275(4)(b).

177 2. For an offense committed on or after October 1, 1995, a
178 defendant sentenced under this section as a violent career
179 criminal is not eligible for any form of discretionary early
180 release, other than pardon or executive clemency, or conditional
181 medical release granted pursuant to s. 947.149.

182 3. For an offense committed on or after July 1, 1999, a
183 defendant sentenced under this section as a three-time violent
184 felony offender shall be released only by expiration of sentence



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185 and shall not be eligible for parole, control release, or any
186 form of early release.

187 Section 4. For the purpose of incorporating the amendment
188 made by this act to section 947.149, Florida Statutes, in a
189 reference thereto, paragraph (b) of subsection (2) and paragraph
190 (b) of subsection (3) of section 775.087, Florida Statutes, is
191 reenacted to read:

192 775.087 Possession or use of weapon; aggravated battery;
193 felony reclassification; minimum sentence.—

194 (2)

195 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph
196 (a)3. does not prevent a court from imposing a longer sentence
197 of incarceration as authorized by law in addition to the minimum
198 mandatory sentence, or from imposing a sentence of death
199 pursuant to other applicable law. Subparagraph (a)1.,
200 subparagraph (a)2., or subparagraph (a)3. does not authorize a
201 court to impose a lesser sentence than otherwise required by
202 law.

203

204 Notwithstanding s. 948.01, adjudication of guilt or imposition
205 of sentence shall not be suspended, deferred, or withheld, and
206 the defendant is not eligible for statutory gain-time under s.
207 944.275 or any form of discretionary early release, other than
208 pardon or executive clemency, or conditional medical release
209 under s. 947.149, prior to serving the minimum sentence.

210 (3)

211 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph
212 (a)3. does not prevent a court from imposing a longer sentence
213 of incarceration as authorized by law in addition to the minimum



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214 mandatory sentence, or from imposing a sentence of death
215 pursuant to other applicable law. Subparagraph (a)1.,
216 subparagraph (a)2., or subparagraph (a)3. does not authorize a
217 court to impose a lesser sentence than otherwise required by
218 law.

219
220 Notwithstanding s. 948.01, adjudication of guilt or imposition
221 of sentence shall not be suspended, deferred, or withheld, and
222 the defendant is not eligible for statutory gain-time under s.
223 944.275 or any form of discretionary early release, other than
224 pardon or executive clemency, or conditional medical release
225 under s. 947.149, prior to serving the minimum sentence.

226 Section 5. For the purpose of incorporating the amendment
227 made by this act to section 947.149, Florida Statutes, in a
228 reference thereto, subsection (3) of section 784.07, Florida
229 Statutes, is reenacted to read:

230 784.07 Assault or battery of law enforcement officers,
231 firefighters, emergency medical care providers, public transit
232 employees or agents, or other specified officers;
233 reclassification of offenses; minimum sentences.—

234 (3) Any person who is convicted of a battery under
235 paragraph (2)(b) and, during the commission of the offense, such
236 person possessed:

237 (a) A "firearm" or "destructive device" as those terms are
238 defined in s. 790.001, shall be sentenced to a minimum term of
239 imprisonment of 3 years.

240 (b) A semiautomatic firearm and its high-capacity
241 detachable box magazine, as defined in s. 775.087(3), or a
242 machine gun as defined in s. 790.001, shall be sentenced to a



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243 minimum term of imprisonment of 8 years.

244

245 Notwithstanding s. 948.01, adjudication of guilt or imposition
246 of sentence shall not be suspended, deferred, or withheld, and
247 the defendant is not eligible for statutory gain-time under s.
248 944.275 or any form of discretionary early release, other than
249 pardon or executive clemency, or conditional medical release
250 under s. 947.149, prior to serving the minimum sentence.

251 Section 6. For the purpose of incorporating the amendment
252 made by this act to section 947.149, Florida Statutes, in a
253 reference thereto, subsection (1) of section 790.235, Florida
254 Statutes, is reenacted to read:

255 790.235 Possession of firearm or ammunition by violent
256 career criminal unlawful; penalty.—

257 (1) Any person who meets the violent career criminal
258 criteria under s. 775.084(1)(d), regardless of whether such
259 person is or has previously been sentenced as a violent career
260 criminal, who owns or has in his or her care, custody,
261 possession, or control any firearm, ammunition, or electric
262 weapon or device, or carries a concealed weapon, including a
263 tear gas gun or chemical weapon or device, commits a felony of
264 the first degree, punishable as provided in s. 775.082, s.
265 775.083, or s. 775.084. A person convicted of a violation of
266 this section shall be sentenced to a mandatory minimum of 15
267 years' imprisonment; however, if the person would be sentenced
268 to a longer term of imprisonment under s. 775.084(4)(d), the
269 person must be sentenced under that provision. A person
270 convicted of a violation of this section is not eligible for any
271 form of discretionary early release, other than pardon,



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272 executive clemency, or conditional medical release under s.
273 947.149.

274 Section 7. For the purpose of incorporating the amendment
275 made by this act to section 947.149, Florida Statutes, in a
276 reference thereto, subsection (7) of section 794.0115, Florida
277 Statutes, is reenacted to read:

278 794.0115 Dangerous sexual felony offender; mandatory
279 sentencing.—

280 (7) A defendant sentenced to a mandatory minimum term of
281 imprisonment under this section is not eligible for statutory
282 gain-time under s. 944.275 or any form of discretionary early
283 release, other than pardon or executive clemency, or conditional
284 medical release under s. 947.149, before serving the minimum
285 sentence.

286 Section 8. For the purpose of incorporating the amendment
287 made by this act to section 947.149, Florida Statutes, in a
288 reference thereto, paragraphs (b), (c), and (g) of subsection
289 (1) and subsection (3) of section 893.135, Florida Statutes, are
290 reenacted to read:

291 893.135 Trafficking; mandatory sentences; suspension or
292 reduction of sentences; conspiracy to engage in trafficking.—

293 (1) Except as authorized in this chapter or in chapter 499
294 and notwithstanding the provisions of s. 893.13:

295 (b)1. Any person who knowingly sells, purchases,
296 manufactures, delivers, or brings into this state, or who is
297 knowingly in actual or constructive possession of, 28 grams or
298 more of cocaine, as described in s. 893.03(2)(a)4., or of any
299 mixture containing cocaine, but less than 150 kilograms of
300 cocaine or any such mixture, commits a felony of the first



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301 degree, which felony shall be known as "trafficking in cocaine,"
302 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

303 If the quantity involved:

304 a. Is 28 grams or more, but less than 200 grams, such
305 person shall be sentenced to a mandatory minimum term of
306 imprisonment of 3 years, and the defendant shall be ordered to
307 pay a fine of \$50,000.

308 b. Is 200 grams or more, but less than 400 grams, such
309 person shall be sentenced to a mandatory minimum term of
310 imprisonment of 7 years, and the defendant shall be ordered to
311 pay a fine of \$100,000.

312 c. Is 400 grams or more, but less than 150 kilograms, such
313 person shall be sentenced to a mandatory minimum term of
314 imprisonment of 15 calendar years and pay a fine of \$250,000.

315 2. Any person who knowingly sells, purchases, manufactures,
316 delivers, or brings into this state, or who is knowingly in
317 actual or constructive possession of, 150 kilograms or more of
318 cocaine, as described in s. 893.03(2)(a)4., commits the first
319 degree felony of trafficking in cocaine. A person who has been
320 convicted of the first degree felony of trafficking in cocaine
321 under this subparagraph shall be punished by life imprisonment
322 and is ineligible for any form of discretionary early release
323 except pardon or executive clemency or conditional medical
324 release under s. 947.149. However, if the court determines that,
325 in addition to committing any act specified in this paragraph:

326 a. The person intentionally killed an individual or
327 counseled, commanded, induced, procured, or caused the
328 intentional killing of an individual and such killing was the
329 result; or



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330 b. The person's conduct in committing that act led to a
331 natural, though not inevitable, lethal result,
332
333 such person commits the capital felony of trafficking in
334 cocaine, punishable as provided in ss. 775.082 and 921.142. Any
335 person sentenced for a capital felony under this paragraph shall
336 also be sentenced to pay the maximum fine provided under
337 subparagraph 1.

338 3. Any person who knowingly brings into this state 300
339 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
340 and who knows that the probable result of such importation would
341 be the death of any person, commits capital importation of
342 cocaine, a capital felony punishable as provided in ss. 775.082
343 and 921.142. Any person sentenced for a capital felony under
344 this paragraph shall also be sentenced to pay the maximum fine
345 provided under subparagraph 1.

346 (c)1. A person who knowingly sells, purchases,
347 manufactures, delivers, or brings into this state, or who is
348 knowingly in actual or constructive possession of, 4 grams or
349 more of any morphine, opium, hydromorphone, or any salt,
350 derivative, isomer, or salt of an isomer thereof, including
351 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
352 (3)(c)4., or 4 grams or more of any mixture containing any such
353 substance, but less than 30 kilograms of such substance or
354 mixture, commits a felony of the first degree, which felony
355 shall be known as "trafficking in illegal drugs," punishable as
356 provided in s. 775.082, s. 775.083, or s. 775.084. If the
357 quantity involved:

358 a. Is 4 grams or more, but less than 14 grams, such person



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359 shall be sentenced to a mandatory minimum term of imprisonment
360 of 3 years and shall be ordered to pay a fine of \$50,000.

361 b. Is 14 grams or more, but less than 28 grams, such person
362 shall be sentenced to a mandatory minimum term of imprisonment
363 of 15 years and shall be ordered to pay a fine of \$100,000.

364 c. Is 28 grams or more, but less than 30 kilograms, such
365 person shall be sentenced to a mandatory minimum term of
366 imprisonment of 25 years and shall be ordered to pay a fine of
367 \$500,000.

368 2. A person who knowingly sells, purchases, manufactures,
369 delivers, or brings into this state, or who is knowingly in
370 actual or constructive possession of, 14 grams or more of
371 hydrocodone, as described in s. 893.03(2)(a)1.j., codeine, as
372 described in s. 893.03(2)(a)1.g., or any salt thereof, or 14
373 grams or more of any mixture containing any such substance,
374 commits a felony of the first degree, which felony shall be
375 known as "trafficking in hydrocodone," punishable as provided in
376 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

377 a. Is 14 grams or more, but less than 28 grams, such person
378 shall be sentenced to a mandatory minimum term of imprisonment
379 of 3 years and shall be ordered to pay a fine of \$50,000.

380 b. Is 28 grams or more, but less than 50 grams, such person
381 shall be sentenced to a mandatory minimum term of imprisonment
382 of 7 years and shall be ordered to pay a fine of \$100,000.

383 c. Is 50 grams or more, but less than 200 grams, such
384 person shall be sentenced to a mandatory minimum term of
385 imprisonment of 15 years and shall be ordered to pay a fine of
386 \$500,000.

387 d. Is 200 grams or more, but less than 30 kilograms, such



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388 person shall be sentenced to a mandatory minimum term of
389 imprisonment of 25 years and shall be ordered to pay a fine of
390 \$750,000.

391 3. A person who knowingly sells, purchases, manufactures,
392 delivers, or brings into this state, or who is knowingly in
393 actual or constructive possession of, 7 grams or more of
394 oxycodone, as described in s. 893.03(2)(a)1.o., or any salt
395 thereof, or 7 grams or more of any mixture containing any such
396 substance, commits a felony of the first degree, which felony
397 shall be known as "trafficking in oxycodone," punishable as
398 provided in s. 775.082, s. 775.083, or s. 775.084. If the
399 quantity involved:

400 a. Is 7 grams or more, but less than 14 grams, such person
401 shall be sentenced to a mandatory minimum term of imprisonment
402 of 3 years and shall be ordered to pay a fine of \$50,000.

403 b. Is 14 grams or more, but less than 25 grams, such person
404 shall be sentenced to a mandatory minimum term of imprisonment
405 of 7 years and shall be ordered to pay a fine of \$100,000.

406 c. Is 25 grams or more, but less than 100 grams, such
407 person shall be sentenced to a mandatory minimum term of
408 imprisonment of 15 years and shall be ordered to pay a fine of
409 \$500,000.

410 d. Is 100 grams or more, but less than 30 kilograms, such
411 person shall be sentenced to a mandatory minimum term of
412 imprisonment of 25 years and shall be ordered to pay a fine of
413 \$750,000.

414 4.a. A person who knowingly sells, purchases, manufactures,
415 delivers, or brings into this state, or who is knowingly in
416 actual or constructive possession of, 4 grams or more of:



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417 (I) Alfentanil, as described in s. 893.03(2)(b)1.;

418 (II) Carfentanil, as described in s. 893.03(2)(b)6.;

419 (III) Fentanyl, as described in s. 893.03(2)(b)9.;

420 (IV) Sufentanil, as described in s. 893.03(2)(b)29.;

421 (V) A fentanyl derivative, as described in s.

422 893.03(1)(a)62.;

423 (VI) A controlled substance analog, as described in s.

424 893.0356, of any substance described in sub-sub-subparagraphs

425 (I)-(V); or

426 (VII) A mixture containing any substance described in sub-

427 sub-subparagraphs (I)-(VI),

428

429 commits a felony of the first degree, which felony shall be

430 known as "trafficking in fentanyl," punishable as provided in s.

431 775.082, s. 775.083, or s. 775.084.

432 b. If the quantity involved under sub-subparagraph a.:

433 (I) Is 4 grams or more, but less than 14 grams, such person

434 shall be sentenced to a mandatory minimum term of imprisonment

435 of 3 years, and shall be ordered to pay a fine of \$50,000.

436 (II) Is 14 grams or more, but less than 28 grams, such

437 person shall be sentenced to a mandatory minimum term of

438 imprisonment of 15 years, and shall be ordered to pay a fine of

439 \$100,000.

440 (III) Is 28 grams or more, such person shall be sentenced

441 to a mandatory minimum term of imprisonment of 25 years, and

442 shall be ordered to pay a fine of \$500,000.

443 5. A person who knowingly sells, purchases, manufactures,

444 delivers, or brings into this state, or who is knowingly in

445 actual or constructive possession of, 30 kilograms or more of



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446 any morphine, opium, oxycodone, hydrocodone, codeine,
447 hydromorphone, or any salt, derivative, isomer, or salt of an
448 isomer thereof, including heroin, as described in s.
449 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
450 more of any mixture containing any such substance, commits the
451 first degree felony of trafficking in illegal drugs. A person
452 who has been convicted of the first degree felony of trafficking
453 in illegal drugs under this subparagraph shall be punished by
454 life imprisonment and is ineligible for any form of
455 discretionary early release except pardon or executive clemency
456 or conditional medical release under s. 947.149. However, if the
457 court determines that, in addition to committing any act
458 specified in this paragraph:

459 a. The person intentionally killed an individual or
460 counseled, commanded, induced, procured, or caused the
461 intentional killing of an individual and such killing was the
462 result; or

463 b. The person's conduct in committing that act led to a
464 natural, though not inevitable, lethal result,
465
466 such person commits the capital felony of trafficking in illegal
467 drugs, punishable as provided in ss. 775.082 and 921.142. A
468 person sentenced for a capital felony under this paragraph shall
469 also be sentenced to pay the maximum fine provided under
470 subparagraph 1.

471 6. A person who knowingly brings into this state 60
472 kilograms or more of any morphine, opium, oxycodone,
473 hydrocodone, codeine, hydromorphone, or any salt, derivative,
474 isomer, or salt of an isomer thereof, including heroin, as



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475 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or
476 60 kilograms or more of any mixture containing any such
477 substance, and who knows that the probable result of such
478 importation would be the death of a person, commits capital
479 importation of illegal drugs, a capital felony punishable as
480 provided in ss. 775.082 and 921.142. A person sentenced for a
481 capital felony under this paragraph shall also be sentenced to
482 pay the maximum fine provided under subparagraph 1.

483 (g)1. Any person who knowingly sells, purchases,
484 manufactures, delivers, or brings into this state, or who is
485 knowingly in actual or constructive possession of, 4 grams or
486 more of flunitrazepam or any mixture containing flunitrazepam as
487 described in s. 893.03(1)(a) commits a felony of the first
488 degree, which felony shall be known as "trafficking in
489 flunitrazepam," punishable as provided in s. 775.082, s.
490 775.083, or s. 775.084. If the quantity involved:

491 a. Is 4 grams or more but less than 14 grams, such person
492 shall be sentenced to a mandatory minimum term of imprisonment
493 of 3 years, and the defendant shall be ordered to pay a fine of
494 \$50,000.

495 b. Is 14 grams or more but less than 28 grams, such person
496 shall be sentenced to a mandatory minimum term of imprisonment
497 of 7 years, and the defendant shall be ordered to pay a fine of
498 \$100,000.

499 c. Is 28 grams or more but less than 30 kilograms, such
500 person shall be sentenced to a mandatory minimum term of
501 imprisonment of 25 calendar years and pay a fine of \$500,000.

502 2. Any person who knowingly sells, purchases, manufactures,
503 delivers, or brings into this state or who is knowingly in



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504 actual or constructive possession of 30 kilograms or more of
505 flunitrazepam or any mixture containing flunitrazepam as
506 described in s. 893.03(1)(a) commits the first degree felony of
507 trafficking in flunitrazepam. A person who has been convicted of
508 the first degree felony of trafficking in flunitrazepam under
509 this subparagraph shall be punished by life imprisonment and is
510 ineligible for any form of discretionary early release except
511 pardon or executive clemency or conditional medical release
512 under s. 947.149. However, if the court determines that, in
513 addition to committing any act specified in this paragraph:

514 a. The person intentionally killed an individual or
515 counseled, commanded, induced, procured, or caused the
516 intentional killing of an individual and such killing was the
517 result; or

518 b. The person's conduct in committing that act led to a
519 natural, though not inevitable, lethal result,

520

521 such person commits the capital felony of trafficking in
522 flunitrazepam, punishable as provided in ss. 775.082 and
523 921.142. Any person sentenced for a capital felony under this
524 paragraph shall also be sentenced to pay the maximum fine
525 provided under subparagraph 1.

526 (3) Notwithstanding the provisions of s. 948.01, with
527 respect to any person who is found to have violated this
528 section, adjudication of guilt or imposition of sentence shall
529 not be suspended, deferred, or withheld, nor shall such person
530 be eligible for parole prior to serving the mandatory minimum
531 term of imprisonment prescribed by this section. A person
532 sentenced to a mandatory minimum term of imprisonment under this



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533 section is not eligible for any form of discretionary early
534 release, except pardon or executive clemency or conditional
535 medical release under s. 947.149, prior to serving the mandatory
536 minimum term of imprisonment.

537 Section 9. For the purpose of incorporating the amendment
538 made by this act to section 947.149, Florida Statutes, in a
539 reference thereto, Subsection (2) of section 921.0024, Florida
540 Statutes, is reenacted to read:

541 921.0024 Criminal Punishment Code; worksheet computations;
542 scoresheets.-

543 (2) The lowest permissible sentence is the minimum sentence
544 that may be imposed by the trial court, absent a valid reason
545 for departure. The lowest permissible sentence is any nonstate
546 prison sanction in which the total sentence points equals or is
547 less than 44 points, unless the court determines within its
548 discretion that a prison sentence, which may be up to the
549 statutory maximums for the offenses committed, is appropriate.
550 When the total sentence points exceeds 44 points, the lowest
551 permissible sentence in prison months shall be calculated by
552 subtracting 28 points from the total sentence points and
553 decreasing the remaining total by 25 percent. The total sentence
554 points shall be calculated only as a means of determining the
555 lowest permissible sentence. The permissible range for
556 sentencing shall be the lowest permissible sentence up to and
557 including the statutory maximum, as defined in s. 775.082, for
558 the primary offense and any additional offenses before the court
559 for sentencing. The sentencing court may impose such sentences
560 concurrently or consecutively. However, any sentence to state
561 prison must exceed 1 year. If the lowest permissible sentence



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562 under the code exceeds the statutory maximum sentence as
563 provided in s. 775.082, the sentence required by the code must
564 be imposed. If the total sentence points are greater than or
565 equal to 363, the court may sentence the offender to life
566 imprisonment. An offender sentenced to life imprisonment under
567 this section is not eligible for any form of discretionary early
568 release, except executive clemency or conditional medical
569 release under s. 947.149.

570 Section 10. For the purpose of incorporating the amendment
571 made by this act to section 947.149, Florida Statutes, in a
572 reference thereto, paragraph (b) of subsection (7) of section
573 944.605, Florida Statutes, is reenacted to read:

574 944.605 Inmate release; notification; identification card.-
575 (7)

576 (b) Paragraph (a) does not apply to inmates who:

577 1. The department determines have a valid driver license or
578 state identification card, except that the department shall
579 provide these inmates with a replacement state identification
580 card or replacement driver license, if necessary.

581 2. Have an active detainer, unless the department
582 determines that cancellation of the detainer is likely or that
583 the incarceration for which the detainer was issued will be less
584 than 12 months in duration.

585 3. Are released due to an emergency release or a
586 conditional medical release under s. 947.149.

587 4. Are not in the physical custody of the department at or
588 within 180 days before release.

589 5. Are subject to sex offender residency restrictions, and
590 who, upon release under such restrictions, do not have a



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591 qualifying address.

592 Section 11. For the purpose of incorporating the amendment
593 made by this act to section 947.149, Florida Statutes, in a
594 reference thereto, paragraph (b) of subsection (1) of section
595 944.70, Florida Statutes, is reenacted to read:

596 944.70 Conditions for release from incarceration.—

597 (1)

598 (b) A person who is convicted of a crime committed on or
599 after January 1, 1994, may be released from incarceration only:

600 1. Upon expiration of the person's sentence;

601 2. Upon expiration of the person's sentence as reduced by
602 accumulated meritorious or incentive gain-time;

603 3. As directed by an executive order granting clemency;

604 4. Upon placement in a conditional release program pursuant
605 to s. 947.1405 or a conditional medical release program pursuant
606 to s. 947.149; or

607 5. Upon the granting of control release, including
608 emergency control release, pursuant to s. 947.146.

609 Section 12. For the purpose of incorporating the amendment
610 made by this act to section 947.149, Florida Statutes, in a
611 reference thereto, paragraph (h) of subsection (1) of section
612 947.13, Florida Statutes, is reenacted to read:

613 947.13 Powers and duties of commission.—

614 (1) The commission shall have the powers and perform the
615 duties of:

616 (h) Determining what persons will be released on
617 conditional medical release under s. 947.149, establishing the
618 conditions of conditional medical release, and determining
619 whether a person has violated the conditions of conditional



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620 medical release and taking action with respect to such a
621 violation.

622 Section 13. For the purpose of incorporating the amendment
623 made by this act to section 947.149, Florida Statutes, in a
624 reference thereto, Subsections (1), (2), and (7) of section
625 947.141, Florida Statutes, are reenacted to read:

626 947.141 Violations of conditional release, control release,
627 or conditional medical release or addiction-recovery
628 supervision.—

629 (1) If a member of the commission or a duly authorized
630 representative of the commission has reasonable grounds to
631 believe that an offender who is on release supervision under s.
632 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has violated
633 the terms and conditions of the release in a material respect,
634 such member or representative may cause a warrant to be issued
635 for the arrest of the releasee; if the offender was found to be
636 a sexual predator, the warrant must be issued.

637 (2) Upon the arrest on a felony charge of an offender who
638 is on release supervision under s. 947.1405, s. 947.146, s.
639 947.149, or s. 944.4731, the offender must be detained without
640 bond until the initial appearance of the offender at which a
641 judicial determination of probable cause is made. If the trial
642 court judge determines that there was no probable cause for the
643 arrest, the offender may be released. If the trial court judge
644 determines that there was probable cause for the arrest, such
645 determination also constitutes reasonable grounds to believe
646 that the offender violated the conditions of the release. Within
647 24 hours after the trial court judge's finding of probable
648 cause, the detention facility administrator or designee shall



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649 notify the commission and the department of the finding and
650 transmit to each a facsimile copy of the probable cause
651 affidavit or the sworn offense report upon which the trial court
652 judge's probable cause determination is based. The offender must
653 continue to be detained without bond for a period not exceeding
654 72 hours excluding weekends and holidays after the date of the
655 probable cause determination, pending a decision by the
656 commission whether to issue a warrant charging the offender with
657 violation of the conditions of release. Upon the issuance of the
658 commission's warrant, the offender must continue to be held in
659 custody pending a revocation hearing held in accordance with
660 this section.

661 (7) If a law enforcement officer has probable cause to
662 believe that an offender who is on release supervision under s.
663 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has violated
664 the terms and conditions of his or her release by committing a
665 felony offense, the officer shall arrest the offender without a
666 warrant, and a warrant need not be issued in the case.

667 Section 14. This act shall take effect October 1, 2018.

668
669 ===== T I T L E A M E N D M E N T =====

670 And the title is amended as follows:

671 Delete everything before the enacting clause
672 and insert:

673 A bill to be entitled
674 An act relating to conditional medical release;
675 amending s. 947.149, F.S.; defining the term "inmate
676 with a debilitating illness"; expanding eligibility
677 for conditional medical release to include inmates



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678 with debilitating illnesses; creating permissive
679 conditional medical release; requiring the Department
680 of Corrections to refer eligible inmates; authorizing
681 the Florida Commission on Offender Review to release
682 eligible inmates; creating mandatory conditional
683 medical release; providing criteria for eligibility;
684 requiring the department to refer an eligible inmate
685 to the commission; requiring that certain inmates
686 whose eligibility is verified by the commission be
687 placed on conditional medical release; requiring that
688 the department's referral for release include certain
689 information; requiring the commission to review the
690 information and verify an inmate's eligibility within
691 a certain timeframe; authorizing electronic monitoring
692 for an inmate on conditional medical release;
693 reenacting ss. 316.1935(6), 775.084(4)(k),
694 775.087(2)(b) and(3)(b), 784.07(3), 790.235(1),
695 794.0115(7), 893.135(1)(b), (c), and (g) and (3),
696 921.0024(2), 944.605(7)(b), 944.70(1)(b),
697 947.13(1)(h), and 947.141(1), (2), and (7), F.S., all
698 relating to authorized conditional medical release
699 granted under s. 947.149, F.S., to incorporate the
700 amendment made to s. 947.149, F.S., in references
701 thereto; providing an effective date.