



576-02785A-20

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to inmate conditional medical release;
creating s. 945.0911, F.S.; providing legislative
findings; establishing the conditional medical release
program within the Department of Corrections;
establishing a panel to consider specified matters;
defining terms; providing for program eligibility;
requiring any inmate who meets certain criteria to be
considered for conditional medical release; providing
that the inmate does not have a right to release or to
a certain medical evaluation; providing for program
eligibility; providing that an inmate may be released
on conditional medical release prior to serving 85
percent of his or her term of imprisonment; requiring
the department to identify eligible inmates; requiring
the department to refer an inmate to the panel for
consideration; providing for victim notification in
certain circumstances; requiring the panel to conduct
a hearing within a specified timeframe; specifying
requirements for the hearing; providing a review
process for an inmate who is denied release; providing
conditions for release; providing that an inmate who
is approved for conditional medical release must be
released from the department in a reasonable amount of
time; providing that an inmate is considered a medical
releasee upon release from the department into the
community; providing that a medical releasee remains



576-02785A-20

28 in the custody, supervision, and control of the
29 department and provides an exception; providing a
30 medical releasee is eligible to earn or lose gain-
31 time; prohibiting a medical releasee or his or her
32 community-based housing from being counted in the
33 prison system population and the prison capacity
34 figures, respectively; providing for the revocation of
35 a medical releasee's conditional medical release;
36 authorizing the medical releasee to be returned to the
37 department's custody if his or her medical or physical
38 condition improves; requiring a majority of the panel
39 members to agree on the appropriateness of revocation;
40 providing that gain-time is not forfeited for
41 revocation based on improvement in the medical
42 releasee's condition; providing a review process for a
43 medical releasee who has his or her release revoked;
44 authorizing the medical releasee to be recommitted if
45 he or she violates any conditions of the release;
46 requiring that the medical releasee be detained if a
47 violation is based on certain circumstances; requiring
48 that a majority of the panel members agree on the
49 appropriateness of revocation; requiring specified
50 medical releasees to be recommitted to the department
51 upon the revocation of the conditional medical
52 release; authorizing the forfeiture of gain-time if
53 the revocation is based on certain violations;
54 providing a review process for a medical releasee who
55 has his or her release revoked; requiring that the
56 medical releasee be given specified information in



576-02785A-20

57 certain instances; requiring the panel to provide a
58 written statement as to evidence relied on and reasons
59 for revocation; requiring the department to notify
60 certain persons within a specified time frame of an
61 inmate's diagnosis of a terminal medical condition;
62 requiring the department to allow a visit between an
63 inmate and certain persons within 7 days of a
64 diagnosis of a terminal medical condition; requiring
65 the department to initiate the conditional medical
66 release review process immediately upon an inmate's
67 diagnosis of a terminal medical condition; requiring
68 the inmate to consent to release of information in
69 certain circumstances; providing members of the panel
70 have sovereign immunity related to specified
71 decisions; providing rulemaking authority; repealing
72 s. 947.149, F.S., relating to conditional medical
73 release; amending ss. 316.1935, 775.084, 775.087,
74 784.07, 790.235, 794.0115, 893.135, 921.0024, 944.605,
75 944.70, 947.13, and 947.141, F.S.; conforming cross-
76 references to changes made by the act; providing an
77 effective date.

78

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

80

81 Section 1. Section 945.0911, Florida Statutes, is created
82 to read:

83 945.0911 Conditional medical release.—

84 (1) FINDINGS.—The Legislature finds that the number of
85 inmates with terminal medical conditions or who are suffering



576-02785A-20

86 from severe debilitating or incapacitating medical conditions
87 who are incarcerated in the state's prisons has grown
88 significantly in recent years. Further, the Legislature finds
89 that the condition of inmates who are terminally ill, or
90 suffering from a debilitating or incapacitating conditions may
91 be exacerbated by imprisonment due to the stress linked to
92 prison life. The Legislature also finds that recidivism rates
93 are greatly reduced with inmates suffering from such medical
94 conditions who are released into the community. Therefore, the
95 Legislature finds that it is of great public importance to find
96 a compassionate solution to the challenges presented by the
97 imprisonment of inmates who are terminally ill or are suffering
98 from a debilitating or incapacitating condition while also
99 ensuring that the public safety of Florida's communities remains
100 protected.

101 (2) CREATION.—There is established a conditional medical
102 release program within the department for the purpose of
103 determining whether release is appropriate for eligible inmates,
104 supervising the released inmates, and conducting revocation
105 hearings as provided for in this section. The establishment of
106 the conditional medical release program must include a panel of
107 at least three people appointed by the secretary or his or her
108 designee for the purpose of determining the appropriateness of
109 conditional medical release and conducting revocation hearings
110 on the inmate releases.

111 (3) DEFINITIONS.—As used in this section, the term:

112 (a) "Inmate with a debilitating illness" means an inmate
113 who is determined to be suffering from a significant terminal or
114 nonterminal condition, disease, or syndrome that has rendered



576-02785A-20

115 the inmate so physically or cognitively impaired, debilitated,
116 or incapacitated as to create a reasonable probability that the
117 inmate does not constitute a danger to himself or herself to
118 others.

119 (b) "Permanently incapacitated inmate" means an inmate who
120 has a condition caused by injury, disease, or illness which, to
121 a reasonable degree of medical certainty, renders the inmate
122 permanently and irreversibly physically incapacitated to the
123 extent that the inmate does not constitute a danger to himself
124 or herself or to others.

125 (c) "Terminally ill inmate" means an inmate who has a
126 condition caused by injury, disease, or illness that, to a
127 reasonable degree of medical certainty, renders the inmate
128 terminally ill to the extent that there can be no recovery,
129 death is expected within 12 months, and the inmate does not
130 constitute a danger to himself or herself or to others.

131 (4) ELIGIBILITY.—An inmate is eligible for consideration
132 for release under the conditional medical release program when
133 the inmate, because of an existing medical or physical
134 condition, is determined by the department to be an inmate with
135 a debilitating illness, a permanently incapacitated inmate, or a
136 terminally ill inmate. Notwithstanding any other provision of
137 law, an inmate who meets the above criteria may be released from
138 the custody of the department pursuant to this section prior to
139 satisfying 85 percent of his or her term of imprisonment.

140 (5) REFERRAL FOR CONSIDERATION.—

141 (a)1. Notwithstanding any provision to the contrary, any
142 inmate in the custody of the department who meets one or more of
143 the eligibility requirements under subsection (4) must be



576-02785A-20

144 considered for conditional medical release.

145 2. The authority to grant conditional medical release rests
146 solely with the department. An inmate does not have a right to
147 release or to a medical evaluation to determine eligibility for
148 release pursuant to this section.

149 (b) The department must identify inmates who may be
150 eligible for conditional medical release based upon available
151 medical information. In considering an inmate for conditional
152 medical release, the department may require additional medical
153 evidence, including examinations of the inmate, or any other
154 additional investigations the department deems necessary for
155 determining the appropriateness of the eligible inmate's
156 release.

157 (c) The department must refer an inmate to the panel
158 established under subsection (2) for review and determination of
159 conditional medical release upon his or her identification as
160 potentially eligible for release pursuant to this section.

161 (d) If the case that resulted in the inmate's commitment to
162 the department involved a victim, and the victim specifically
163 requested notification pursuant to s. 16, Art. I of the State
164 Constitution, the department must notify the victim of the
165 inmate's referral to the panel immediately upon identification
166 of the inmate as potentially eligible for release under this
167 section. Additionally, the victim must be afforded the right to
168 be heard regarding the release of the inmate.

169 (6) DETERMINATION OF RELEASE.—

170 (a) Within 45 days after receiving the referral, the panel
171 established in subsection (2) must conduct a hearing to
172 determine whether conditional medical release is appropriate for



576-02785A-20

173 the inmate. Before the hearing, the director of inmate health
174 services or his or her designee must review any relevant
175 information, including, but not limited to, medical evidence,
176 and provide the panel with a recommendation regarding the
177 appropriateness of releasing the inmate pursuant to this
178 section.

179 (b) A majority of the panel members must agree that the
180 inmate is appropriate for release pursuant to this section. If
181 conditional medical release is approved, the inmate must be
182 released by the department to the community within a reasonable
183 amount of time with necessary release conditions imposed
184 pursuant to subsection (7). An inmate who is granted conditional
185 medical release is considered a medical releasee upon release to
186 the community.

187 (c)1. An inmate who is denied conditional medical release
188 by the panel may have the decision reviewed by the department's
189 general counsel and chief medical officer, who must make a
190 recommendation to the secretary. The secretary must review all
191 relevant information and make a final decision about the
192 appropriateness of conditional medical release pursuant to this
193 section. The decision of the secretary is a final administrative
194 decision not subject to appeal.

195 2. An inmate that requests to have the decision reviewed in
196 accordance with this paragraph must do so in a manner prescribed
197 in rule. An inmate who is denied conditional medical release may
198 be subsequently reconsidered for such release in a manner
199 prescribed by department rule.

200 (7) RELEASE CONDITIONS.—

201 (a) An inmate granted release pursuant to this section is



576-02785A-20

202 released for a period equal to the length of time remaining on
203 his or her term of imprisonment on the date the release is
204 granted. Such inmate is considered a medical releasee upon
205 release from the department into the community. The medical
206 releasee must comply with all reasonable conditions of release
207 the department imposes, which must include, at a minimum:

208 1. Periodic medical evaluations at intervals determined by
209 the department at the time of release.

210 2. Supervision by an officer trained to handle special
211 offender caseloads.

212 3. Active electronic monitoring, if such monitoring is
213 determined to be necessary to ensure the safety of the public
214 and the medical releasee's compliance with release conditions.

215 4. Any conditions of community control provided for in s.
216 948.101.

217 5. Any other conditions the department deems appropriate to
218 ensure the safety of the community and compliance by the medical
219 releasee.

220 (b) A medical releasee is considered to be in the custody,
221 supervision, and control of the department, which, for purposes
222 of this section does not create a duty for the department to
223 provide the medical releasee with medical care upon release into
224 the community. The medical releasee remains eligible to earn or
225 lose gain-time in accordance with s. 944.275 and department
226 rule. The medical releasee may not be counted in the prison
227 system population, and the medical releasee's approved
228 community-based housing location may not be counted in the
229 capacity figures for the prison system.

230 (8) REVOCATION HEARING AND RECOMMITMENT.—



576-02785A-20

231 (a)1. If the medical releasee's supervision officer or a
232 duly authorized representative of the department discovers that
233 the medical or physical condition of the medical releasee has
234 improved to the extent that she or he would no longer be
235 eligible for release under this section, then the conditional
236 medical release may be revoked. The department may order, as
237 prescribed by department rule, that the medical releasee be
238 returned to the custody of the department for a conditional
239 medical release revocation hearing or may allow the medical
240 releasee to remain in the community pending the revocation
241 hearing. If the department elects to order the medical releasee
242 to be returned to custody pending the revocation hearing, the
243 officer or duly authorized representative may cause a warrant to
244 be issued for the arrest of the medical releasee.

245 2. A medical releasee may admit to the allegation of
246 improved medical or physical condition or may elect to proceed
247 to a revocation hearing. The revocation hearing must be
248 conducted by the panel established in subsection (2). Before a
249 revocation hearing pursuant to this paragraph, the director of
250 inmate health services or his or her designee must review any
251 medical evidence pertaining to the medical releasee and provide
252 the panel with a recommendation regarding the medical releasee's
253 improvement and current medical or physical condition.

254 3. A majority of the panel members must agree that
255 revocation is appropriate for the medical releasee's conditional
256 medical release to be revoked. If conditional medical release is
257 revoked due to improvement in his or her medical or physical
258 condition, the medical releasee must be recommitted to the
259 department to serve the balance of his or her sentence in an



576-02785A-20

260 institution designated by the department with credit for the
261 time served on conditional medical release and without
262 forfeiture of any gain-time accrued before recommitment. If the
263 medical releasee whose conditional medical release is revoked
264 due to an improvement in her or his medical or physical
265 condition would otherwise be eligible for parole or any other
266 release program, he or she may be considered for such release
267 program pursuant to law.

268 4. A medical releasee whose conditional medical release is
269 revoked pursuant to this paragraph may have the decision
270 reviewed by the department's general counsel and chief medical
271 officer, who must make a recommendation to the secretary. The
272 secretary must review all relevant information and make a final
273 decision about the appropriateness of the revocation of
274 conditional medical release pursuant to this paragraph. The
275 decision of the secretary is a final administrative decision not
276 subject to appeal.

277 (b)1. The medical releasee's conditional medical release
278 may also be revoked for violation of any release conditions the
279 department establishes, including, but not limited to, a new
280 violation of law. The department may terminate the medical
281 releasee's conditional medical release and return him or her to
282 the same or another institution designated by the department.

283 2. If a duly authorized representative of the department
284 has reasonable grounds to believe that a medical releasee has
285 violated the conditions of his or her release in a material
286 respect, such representative may cause a warrant to be issued
287 for the arrest of the medical releasee. A law enforcement
288 officer or a probation officer may arrest the medical releasee



576-02785A-20

289 without a warrant in accordance with s. 948.06, if there are
290 reasonable grounds to believe he or she has violated the terms
291 and conditions of his or her conditional medical release. The
292 law enforcement officer must report the medical releasee's
293 alleged violations to the supervising probation office or the
294 department's emergency action center for initiation of
295 revocation proceedings as prescribed by the department by rule.

296 3. If the basis of the violation of release conditions is
297 related to a new violation of law, the medical releasee must be
298 detained without bond until his or her initial appearance at
299 which a judicial determination of probable cause is made. If the
300 judge determines that there was no probable cause for the
301 arrest, the medical releasee may be released. If the judge
302 determines that there was probable cause for the arrest, the
303 judge's determination also constitutes reasonable grounds to
304 believe that the medical releasee violated the conditions of the
305 conditional medical release.

306 4. The department must order that the medical releasee
307 subject to revocation under this paragraph be returned to
308 department custody for a conditional medical release revocation
309 hearing. A medical releasee may admit to the alleged violation
310 of the conditions of conditional medical release or may elect to
311 proceed to a revocation hearing.

312 5. A majority of the panel members must agree that
313 revocation is appropriate for the medical releasee's conditional
314 medical release to be revoked. If conditional medical release is
315 revoked pursuant to this paragraph, the medical releasee must
316 serve the balance of his or her sentence in an institution
317 designated by the department with credit for the actual time



576-02785A-20

318 served on conditional medical release. The releasee's gain-time
319 accrued before recommitment may be forfeited pursuant to s.
320 944.28(1). If the medical releasee whose conditional medical
321 release is revoked subject to this paragraph would otherwise be
322 eligible for parole or any other release program, he or she may
323 be considered for such release program pursuant to law.

324 6. A medical releasee whose conditional medical release has
325 been revoked pursuant to this paragraph may have the revocation
326 reviewed by the department's general counsel, who must make a
327 recommendation to the secretary. The secretary must review all
328 relevant information and make a final decision about the
329 appropriateness of the revocation of conditional medical release
330 pursuant to this paragraph. The decision of the secretary is a
331 final administrative decision not subject to appeal.

332 (c)1. If the medical releasee subject to revocation under
333 paragraph (a) or paragraph (b) elects to proceed with a hearing,
334 the medical releasee must be informed orally and in writing of
335 the following:

336 a. The alleged basis for the pending revocation proceeding
337 against the releasee.

338 b. The releasee's right to be represented by counsel.
339 However, this sub-subparagraph does not create a right to
340 publicly funded legal counsel.

341 c. The releasee's right to be heard in person.

342 d. The releasee's right to secure, present, and compel the
343 attendance of witnesses relevant to the proceeding.

344 e. The releasee's right to produce documents on his or her
345 own behalf.

346 f. The releasee's right of access to all evidence used to



576-02785A-20

347 support the revocation proceeding against the releasee and to
348 confront and cross-examine adverse witnesses.

349 g. The releasee's right to waive the hearing.

350 2. If the panel approves the revocation of the medical
351 releasee's conditional medical release, the panel must provide a
352 written statement as to evidence relied on and reasons for
353 revocation.

354 (d) A medical releasee whose conditional medical release is
355 revoked and is recommitted to the department under this
356 subsection must comply with the 85 percent requirement in
357 accordance with ss. 921.002 and 944.275 upon recommitment.

358 (9) SPECIAL REQUIREMENTS UPON AN INMATE'S DIAGNOSIS OF A
359 TERMINAL CONDITION.—

360 (a) If an inmate is diagnosed with a terminal medical
361 condition that makes him or her eligible for consideration for
362 release under paragraph (3)(c) while in the custody of the
363 department, subject to confidentiality requirements, the
364 department must:

365 1. Notify the inmate's family or next of kin, and attorney,
366 if applicable, of such diagnosis within 72 hours of the
367 diagnosis.

368 2. Provide the inmate's family, including extended family,
369 with an opportunity to visit the inmate in person within 7 days
370 upon such diagnosis.

371 3. Initiate a review for conditional medical release as
372 provided for in this section immediately upon such diagnosis.

373 (b) If the inmate has mental and physical capacity, he or
374 she must consent to release of confidential information for the
375 department to comply with the notification requirements required



576-02785A-20

376 in this subsection.

377 (10) SOVEREIGN IMMUNITY.—Unless otherwise provided by law
378 and in accordance with s. 13, Art. X of the State Constitution,
379 members of the panel established in subsection (2) who are
380 involved with decisions that grant or revoke conditional medical
381 release are provided immunity from liability for actions that
382 directly relate to such decisions.

383 (11) RULEMAKING AUTHORITY.—The department may adopt rules
384 as necessary to implement this section.

385 Section 2. Section 947.149, Florida Statutes, is repealed.

386 Section 3. Subsection (6) of section 316.1935, Florida
387 Statutes, is amended to read:

388 316.1935 Fleeing or attempting to elude a law enforcement
389 officer; aggravated fleeing or eluding.—

390 (6) Notwithstanding s. 948.01, no court may suspend, defer,
391 or withhold adjudication of guilt or imposition of sentence for
392 any violation of this section. A person convicted and sentenced
393 to a mandatory minimum term of incarceration under paragraph
394 (3) (b) or paragraph (4) (b) is not eligible for statutory gain-
395 time under s. 944.275 or any form of discretionary early
396 release, other than pardon or executive clemency or conditional
397 medical release under s. 945.0911 ~~s. 947.149~~, prior to serving
398 the mandatory minimum sentence.

399 Section 4. Paragraph (k) of subsection (4) of section
400 775.084, Florida Statutes, is amended to read:

401 775.084 Violent career criminals; habitual felony offenders
402 and habitual violent felony offenders; three-time violent felony
403 offenders; definitions; procedure; enhanced penalties or
404 mandatory minimum prison terms.—



576-02785A-20

405 (4)
406 (k)1. A defendant sentenced under this section as a
407 habitual felony offender, a habitual violent felony offender, or
408 a violent career criminal is eligible for gain-time granted by
409 the Department of Corrections as provided in s. 944.275(4)(b).

410 2. For an offense committed on or after October 1, 1995, a
411 defendant sentenced under this section as a violent career
412 criminal is not eligible for any form of discretionary early
413 release, other than pardon or executive clemency, or conditional
414 medical release granted pursuant to s. 945.0911 ~~s. 947.149~~.

415 3. For an offense committed on or after July 1, 1999, a
416 defendant sentenced under this section as a three-time violent
417 felony offender shall be released only by expiration of sentence
418 and shall not be eligible for parole, control release, or any
419 form of early release.

420 Section 5. Paragraph (b) of subsection (2) and paragraph
421 (b) of subsection (3) of section 775.087, Florida Statutes, are
422 amended to read:

423 775.087 Possession or use of weapon; aggravated battery;
424 felony reclassification; minimum sentence.—

425 (2)
426 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph
427 (a)3. does not prevent a court from imposing a longer sentence
428 of incarceration as authorized by law in addition to the minimum
429 mandatory sentence, or from imposing a sentence of death
430 pursuant to other applicable law. Subparagraph (a)1.,
431 subparagraph (a)2., or subparagraph (a)3. does not authorize a
432 court to impose a lesser sentence than otherwise required by
433 law.



576-02785A-20

434
435 Notwithstanding s. 948.01, adjudication of guilt or imposition
436 of sentence shall not be suspended, deferred, or withheld, and
437 the defendant is not eligible for statutory gain-time under s.
438 944.275 or any form of discretionary early release, other than
439 pardon or executive clemency, or conditional medical release
440 under s. 945.0911 ~~s. 947.149~~, prior to serving the minimum
441 sentence.

442 (3)

443 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph
444 (a)3. does not prevent a court from imposing a longer sentence
445 of incarceration as authorized by law in addition to the minimum
446 mandatory sentence, or from imposing a sentence of death
447 pursuant to other applicable law. Subparagraph (a)1.,
448 subparagraph (a)2., or subparagraph (a)3. does not authorize a
449 court to impose a lesser sentence than otherwise required by
450 law.

451
452 Notwithstanding s. 948.01, adjudication of guilt or imposition
453 of sentence shall not be suspended, deferred, or withheld, and
454 the defendant is not eligible for statutory gain-time under s.
455 944.275 or any form of discretionary early release, other than
456 pardon or executive clemency, or conditional medical release
457 under s. 945.0911 ~~s. 947.149~~, prior to serving the minimum
458 sentence.

459 Section 6. Subsection (3) of section 784.07, Florida
460 Statutes, is amended to read:

461 784.07 Assault or battery of law enforcement officers,
462 firefighters, emergency medical care providers, public transit



576-02785A-20

463 employees or agents, or other specified officers;
464 reclassification of offenses; minimum sentences.—

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

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

471 (b) A semiautomatic firearm and its high-capacity
472 detachable box magazine, as defined in s. 775.087(3), or a
473 machine gun as defined in s. 790.001, shall be sentenced to a
474 minimum term of imprisonment of 8 years.

475
476 Notwithstanding s. 948.01, adjudication of guilt or imposition
477 of sentence shall not be suspended, deferred, or withheld, and
478 the defendant is not eligible for statutory gain-time under s.
479 944.275 or any form of discretionary early release, other than
480 pardon or executive clemency, or conditional medical release
481 under s. 945.0911 ~~s. 947.149~~, prior to serving the minimum
482 sentence.

483 Section 7. Subsection (1) of section 790.235, Florida
484 Statutes, is amended to read:

485 790.235 Possession of firearm or ammunition by violent
486 career criminal unlawful; penalty.—

487 (1) Any person who meets the violent career criminal
488 criteria under s. 775.084(1)(d), regardless of whether such
489 person is or has previously been sentenced as a violent career
490 criminal, who owns or has in his or her care, custody,
491 possession, or control any firearm, ammunition, or electric



576-02785A-20

492 weapon or device, or carries a concealed weapon, including a
493 tear gas gun or chemical weapon or device, commits a felony of
494 the first degree, punishable as provided in s. 775.082, s.
495 775.083, or s. 775.084. A person convicted of a violation of
496 this section shall be sentenced to a mandatory minimum of 15
497 years' imprisonment; however, if the person would be sentenced
498 to a longer term of imprisonment under s. 775.084(4)(d), the
499 person must be sentenced under that provision. A person
500 convicted of a violation of this section is not eligible for any
501 form of discretionary early release, other than pardon,
502 executive clemency, or conditional medical release under s.
503 945.0911 ~~s. 947.149~~.

504 Section 8. Subsection (7) of section 794.0115, Florida
505 Statutes, is amended to read:

506 794.0115 Dangerous sexual felony offender; mandatory
507 sentencing.—

508 (7) A defendant sentenced to a mandatory minimum term of
509 imprisonment under this section is not eligible for statutory
510 gain-time under s. 944.275 or any form of discretionary early
511 release, other than pardon or executive clemency, or conditional
512 medical release under s. 945.0911 ~~s. 947.149~~, before serving the
513 minimum sentence.

514 Section 9. Paragraphs (b), (c), and (g) of subsection (1)
515 and subsection (3) of section 893.135, Florida Statutes, are
516 amended to read:

517 893.135 Trafficking; mandatory sentences; suspension or
518 reduction of sentences; conspiracy to engage in trafficking.—

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



576-02785A-20

521 (b)1. Any person who knowingly sells, purchases,
522 manufactures, delivers, or brings into this state, or who is
523 knowingly in actual or constructive possession of, 28 grams or
524 more of cocaine, as described in s. 893.03(2)(a)4., or of any
525 mixture containing cocaine, but less than 150 kilograms of
526 cocaine or any such mixture, commits a felony of the first
527 degree, which felony shall be known as "trafficking in cocaine,"
528 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
529 If the quantity involved:

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

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

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

541 2. Any person who knowingly sells, purchases, manufactures,
542 delivers, or brings into this state, or who is knowingly in
543 actual or constructive possession of, 150 kilograms or more of
544 cocaine, as described in s. 893.03(2)(a)4., commits the first
545 degree felony of trafficking in cocaine. A person who has been
546 convicted of the first degree felony of trafficking in cocaine
547 under this subparagraph shall be punished by life imprisonment
548 and is ineligible for any form of discretionary early release
549 except pardon or executive clemency or conditional medical



576-02785A-20

550 release under s. 945.0911 ~~s. 947.149~~. However, if the court
551 determines that, in addition to committing any act specified in
552 this paragraph:

553 a. The person intentionally killed an individual or
554 counseled, commanded, induced, procured, or caused the
555 intentional killing of an individual and such killing was the
556 result; or

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

559
560 such person commits the capital felony of trafficking in
561 cocaine, punishable as provided in ss. 775.082 and 921.142. Any
562 person sentenced for a capital felony under this paragraph shall
563 also be sentenced to pay the maximum fine provided under
564 subparagraph 1.

565 3. Any person who knowingly brings into this state 300
566 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
567 and who knows that the probable result of such importation would
568 be the death of any person, commits capital importation of
569 cocaine, a capital felony punishable as provided in ss. 775.082
570 and 921.142. Any person sentenced for a capital felony under
571 this paragraph shall also be sentenced to pay the maximum fine
572 provided under subparagraph 1.

573 (c)1. A person who knowingly sells, purchases,
574 manufactures, delivers, or brings into this state, or who is
575 knowingly in actual or constructive possession of, 4 grams or
576 more of any morphine, opium, hydromorphone, or any salt,
577 derivative, isomer, or salt of an isomer thereof, including
578 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or



576-02785A-20

579 (3) (c) 4., or 4 grams or more of any mixture containing any such
580 substance, but less than 30 kilograms of such substance or
581 mixture, commits a felony of the first degree, which felony
582 shall be known as "trafficking in illegal drugs," punishable as
583 provided in s. 775.082, s. 775.083, or s. 775.084. If the
584 quantity involved:

585 a. Is 4 grams or more, but less than 14 grams, such person
586 shall be sentenced to a mandatory minimum term of imprisonment
587 of 3 years and shall be ordered to pay a fine of \$50,000.

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

591 c. Is 28 grams or more, but less than 30 kilograms, such
592 person shall be sentenced to a mandatory minimum term of
593 imprisonment of 25 years and shall be ordered to pay a fine of
594 \$500,000.

595 2. A person who knowingly sells, purchases, manufactures,
596 delivers, or brings into this state, or who is knowingly in
597 actual or constructive possession of, 28 grams or more of
598 hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as
599 described in s. 893.03(2)(a)1.g., or any salt thereof, or 28
600 grams or more of any mixture containing any such substance,
601 commits a felony of the first degree, which felony shall be
602 known as "trafficking in hydrocodone," punishable as provided in
603 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

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

607 b. Is 50 grams or more, but less than 100 grams, such



576-02785A-20

608 person shall be sentenced to a mandatory minimum term of
609 imprisonment of 7 years and shall be ordered to pay a fine of
610 \$100,000.

611 c. Is 100 grams or more, but less than 300 grams, such
612 person shall be sentenced to a mandatory minimum term of
613 imprisonment of 15 years and shall be ordered to pay a fine of
614 \$500,000.

615 d. Is 300 grams or more, but less than 30 kilograms, such
616 person shall be sentenced to a mandatory minimum term of
617 imprisonment of 25 years and shall be ordered to pay a fine of
618 \$750,000.

619 3. A person who knowingly sells, purchases, manufactures,
620 delivers, or brings into this state, or who is knowingly in
621 actual or constructive possession of, 7 grams or more of
622 oxycodone, as described in s. 893.03(2)(a)1.q., or any salt
623 thereof, or 7 grams or more of any mixture containing any such
624 substance, commits a felony of the first degree, which felony
625 shall be known as "trafficking in oxycodone," punishable as
626 provided in s. 775.082, s. 775.083, or s. 775.084. If the
627 quantity involved:

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

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

634 c. Is 25 grams or more, but less than 100 grams, such
635 person shall be sentenced to a mandatory minimum term of
636 imprisonment of 15 years and shall be ordered to pay a fine of



576-02785A-20

637 \$500,000.

638 d. Is 100 grams or more, but less than 30 kilograms, such
639 person shall be sentenced to a mandatory minimum term of
640 imprisonment of 25 years and shall be ordered to pay a fine of
641 \$750,000.

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

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

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

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

648 (IV) Sufentanil, as described in s. 893.03(2)(b)30.;

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

650 893.03(1)(a)62.;

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

652 893.0356, of any substance described in sub-sub-subparagraphs

653 (I)-(V); or

654 (VII) A mixture containing any substance described in sub-
655 sub-subparagraphs (I)-(VI),

656
657 commits a felony of the first degree, which felony shall be
658 known as "trafficking in fentanyl," punishable as provided in s.
659 775.082, s. 775.083, or s. 775.084.

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

661 (I) Is 4 grams or more, but less than 14 grams, such person
662 shall be sentenced to a mandatory minimum term of imprisonment
663 of 3 years, and shall be ordered to pay a fine of \$50,000.

664 (II) Is 14 grams or more, but less than 28 grams, such
665 person shall be sentenced to a mandatory minimum term of



576-02785A-20

666 imprisonment of 15 years, and shall be ordered to pay a fine of
667 \$100,000.

668 (III) Is 28 grams or more, such person shall be sentenced
669 to a mandatory minimum term of imprisonment of 25 years, and
670 shall be ordered to pay a fine of \$500,000.

671 5. A person who knowingly sells, purchases, manufactures,
672 delivers, or brings into this state, or who is knowingly in
673 actual or constructive possession of, 30 kilograms or more of
674 any morphine, opium, oxycodone, hydrocodone, codeine,
675 hydromorphone, or any salt, derivative, isomer, or salt of an
676 isomer thereof, including heroin, as described in s.
677 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
678 more of any mixture containing any such substance, commits the
679 first degree felony of trafficking in illegal drugs. A person
680 who has been convicted of the first degree felony of trafficking
681 in illegal drugs under this subparagraph shall be punished by
682 life imprisonment and is ineligible for any form of
683 discretionary early release except pardon or executive clemency
684 or conditional medical release under s. 945.0911 ~~s. 947.149~~.
685 However, if the court determines that, in addition to committing
686 any act specified in this paragraph:

687 a. The person intentionally killed an individual or
688 counseled, commanded, induced, procured, or caused the
689 intentional killing of an individual and such killing was the
690 result; or

691 b. The person's conduct in committing that act led to a
692 natural, though not inevitable, lethal result,
693
694 such person commits the capital felony of trafficking in illegal



576-02785A-20

695 drugs, punishable as provided in ss. 775.082 and 921.142. A
696 person sentenced for a capital felony under this paragraph shall
697 also be sentenced to pay the maximum fine provided under
698 subparagraph 1.

699 6. A person who knowingly brings into this state 60
700 kilograms or more of any morphine, opium, oxycodone,
701 hydrocodone, codeine, hydromorphone, or any salt, derivative,
702 isomer, or salt of an isomer thereof, including heroin, as
703 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or
704 60 kilograms or more of any mixture containing any such
705 substance, and who knows that the probable result of such
706 importation would be the death of a person, commits capital
707 importation of illegal drugs, a capital felony punishable as
708 provided in ss. 775.082 and 921.142. A person sentenced for a
709 capital felony under this paragraph shall also be sentenced to
710 pay the maximum fine provided under subparagraph 1.

711 (g)1. Any person who knowingly sells, purchases,
712 manufactures, delivers, or brings into this state, or who is
713 knowingly in actual or constructive possession of, 4 grams or
714 more of flunitrazepam or any mixture containing flunitrazepam as
715 described in s. 893.03(1)(a) commits a felony of the first
716 degree, which felony shall be known as "trafficking in
717 flunitrazepam," punishable as provided in s. 775.082, s.
718 775.083, or s. 775.084. If the quantity involved:

719 a. Is 4 grams or more but less than 14 grams, such person
720 shall be sentenced to a mandatory minimum term of imprisonment
721 of 3 years, and the defendant shall be ordered to pay a fine of
722 \$50,000.

723 b. Is 14 grams or more but less than 28 grams, such person



576-02785A-20

724 shall be sentenced to a mandatory minimum term of imprisonment
725 of 7 years, and the defendant shall be ordered to pay a fine of
726 \$100,000.

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

730 2. Any person who knowingly sells, purchases, manufactures,
731 delivers, or brings into this state or who is knowingly in
732 actual or constructive possession of 30 kilograms or more of
733 flunitrazepam or any mixture containing flunitrazepam as
734 described in s. 893.03(1)(a) commits the first degree felony of
735 trafficking in flunitrazepam. A person who has been convicted of
736 the first degree felony of trafficking in flunitrazepam under
737 this subparagraph shall be punished by life imprisonment and is
738 ineligible for any form of discretionary early release except
739 pardon or executive clemency or conditional medical release
740 under s. 945.0911 ~~s. 947.149~~. However, if the court determines
741 that, in addition to committing any act specified in this
742 paragraph:

743 a. The person intentionally killed an individual or
744 counseled, commanded, induced, procured, or caused the
745 intentional killing of an individual and such killing was the
746 result; or

747 b. The person's conduct in committing that act led to a
748 natural, though not inevitable, lethal result,
749
750 such person commits the capital felony of trafficking in
751 flunitrazepam, punishable as provided in ss. 775.082 and
752 921.142. Any person sentenced for a capital felony under this



576-02785A-20

753 paragraph shall also be sentenced to pay the maximum fine
754 provided under subparagraph 1.

755 (3) Notwithstanding the provisions of s. 948.01, with
756 respect to any person who is found to have violated this
757 section, adjudication of guilt or imposition of sentence shall
758 not be suspended, deferred, or withheld, nor shall such person
759 be eligible for parole prior to serving the mandatory minimum
760 term of imprisonment prescribed by this section. A person
761 sentenced to a mandatory minimum term of imprisonment under this
762 section is not eligible for any form of discretionary early
763 release, except pardon or executive clemency or conditional
764 medical release under s. 945.0911 ~~s. 947.149~~, prior to serving
765 the mandatory minimum term of imprisonment.

766 Section 10. Subsection (2) of section 921.0024, Florida
767 Statutes, is amended to read:

768 921.0024 Criminal Punishment Code; worksheet computations;
769 scoresheets.-

770 (2) The lowest permissible sentence is the minimum sentence
771 that may be imposed by the trial court, absent a valid reason
772 for departure. The lowest permissible sentence is any nonstate
773 prison sanction in which the total sentence points equals or is
774 less than 44 points, unless the court determines within its
775 discretion that a prison sentence, which may be up to the
776 statutory maximums for the offenses committed, is appropriate.
777 When the total sentence points exceeds 44 points, the lowest
778 permissible sentence in prison months shall be calculated by
779 subtracting 28 points from the total sentence points and
780 decreasing the remaining total by 25 percent. The total sentence
781 points shall be calculated only as a means of determining the



576-02785A-20

782 lowest permissible sentence. The permissible range for
783 sentencing shall be the lowest permissible sentence up to and
784 including the statutory maximum, as defined in s. 775.082, for
785 the primary offense and any additional offenses before the court
786 for sentencing. The sentencing court may impose such sentences
787 concurrently or consecutively. However, any sentence to state
788 prison must exceed 1 year. If the lowest permissible sentence
789 under the code exceeds the statutory maximum sentence as
790 provided in s. 775.082, the sentence required by the code must
791 be imposed. If the total sentence points are greater than or
792 equal to 363, the court may sentence the offender to life
793 imprisonment. An offender sentenced to life imprisonment under
794 this section is not eligible for any form of discretionary early
795 release, except executive clemency or conditional medical
796 release under s. 945.0911 ~~s. 947.149~~.

797 Section 11. Paragraph (b) of subsection (7) of section
798 944.605, Florida Statutes, is amended to read:

799 944.605 Inmate release; notification; identification card.-
800 (7)

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

802 1. The department determines have a valid driver license or
803 state identification card, except that the department shall
804 provide these inmates with a replacement state identification
805 card or replacement driver license, if necessary.

806 2. Have an active detainer, unless the department
807 determines that cancellation of the detainer is likely or that
808 the incarceration for which the detainer was issued will be less
809 than 12 months in duration.

810 3. Are released due to an emergency release or a



576-02785A-20

811 conditional medical release under s. 945.0911 ~~s. 947.149~~.

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

814 5. Are subject to sex offender residency restrictions, and
815 who, upon release under such restrictions, do not have a
816 qualifying address.

817 Section 12. Subsection (1) of section 944.70, Florida
818 Statutes, is amended to read:

819 944.70 Conditions for release from incarceration.—

820 (1) (a) A person who is convicted of a crime committed on or
821 after October 1, 1983, but before January 1, 1994, may be
822 released from incarceration only:

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

824 2. Upon expiration of the person's sentence as reduced by
825 accumulated gain-time;

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

827 4. Upon attaining the provisional release date;

828 5. Upon placement in a conditional release program pursuant
829 to s. 947.1405; or

830 6. Upon the granting of control release pursuant to s.
831 947.146.

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

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

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

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

838 4. Upon placement in a conditional release program pursuant
839 to s. 947.1405 or a conditional medical release program pursuant



576-02785A-20

840 to s. 945.0911 ~~s. 947.149~~; or

841 5. Upon the granting of control release, including
842 emergency control release, pursuant to s. 947.146.

843 Section 13. Paragraph (h) of subsection (1) of section
844 947.13, Florida Statutes, is amended to read:

845 947.13 Powers and duties of commission.—

846 (1) The commission shall have the powers and perform the
847 duties of:

848 ~~(h) Determining what persons will be released on~~
849 ~~conditional medical release under s. 947.149, establishing the~~
850 ~~conditions of conditional medical release, and determining~~
851 ~~whether a person has violated the conditions of conditional~~
852 ~~medical release and taking action with respect to such a~~
853 ~~violation.~~

854 Section 14. Section 947.141, Florida Statutes, is amended
855 to read:

856 947.141 Violations of conditional release, control release,
857 ~~or conditional medical release~~ or addiction-recovery
858 supervision.—

859 (1) If a member of the commission or a duly authorized
860 representative of the commission has reasonable grounds to
861 believe that an offender who is on release supervision under s.
862 947.1405, s. 947.146, ~~s. 947.149~~, or s. 944.4731 has violated
863 the terms and conditions of the release in a material respect,
864 such member or representative may cause a warrant to be issued
865 for the arrest of the releasee; if the offender was found to be
866 a sexual predator, the warrant must be issued.

867 (2) Upon the arrest on a felony charge of an offender who
868 is on release supervision under s. 947.1405, s. 947.146, ~~s.~~



576-02785A-20

869 ~~947.149,~~ or s. 944.4731, the offender must be detained without
870 bond until the initial appearance of the offender at which a
871 judicial determination of probable cause is made. If the trial
872 court judge determines that there was no probable cause for the
873 arrest, the offender may be released. If the trial court judge
874 determines that there was probable cause for the arrest, such
875 determination also constitutes reasonable grounds to believe
876 that the offender violated the conditions of the release. Within
877 24 hours after the trial court judge's finding of probable
878 cause, the detention facility administrator or designee shall
879 notify the commission and the department of the finding and
880 transmit to each a facsimile copy of the probable cause
881 affidavit or the sworn offense report upon which the trial court
882 judge's probable cause determination is based. The offender must
883 continue to be detained without bond for a period not exceeding
884 72 hours excluding weekends and holidays after the date of the
885 probable cause determination, pending a decision by the
886 commission whether to issue a warrant charging the offender with
887 violation of the conditions of release. Upon the issuance of the
888 commission's warrant, the offender must continue to be held in
889 custody pending a revocation hearing held in accordance with
890 this section.

891 (3) Within 45 days after notice to the Florida Commission
892 on Offender Review of the arrest of a releasee charged with a
893 violation of the terms and conditions of conditional release,
894 control release, ~~conditional medical release,~~ or addiction-
895 recovery supervision, the releasee must be afforded a hearing
896 conducted by a commissioner or a duly authorized representative
897 thereof. If the releasee elects to proceed with a hearing, the



576-02785A-20

898 releasee must be informed orally and in writing of the
899 following:

900 (a) The alleged violation with which the releasee is
901 charged.

902 (b) The releasee's right to be represented by counsel.

903 (c) The releasee's right to be heard in person.

904 (d) The releasee's right to secure, present, and compel the
905 attendance of witnesses relevant to the proceeding.

906 (e) The releasee's right to produce documents on the
907 releasee's own behalf.

908 (f) The releasee's right of access to all evidence used
909 against the releasee and to confront and cross-examine adverse
910 witnesses.

911 (g) The releasee's right to waive the hearing.

912 (4) Within a reasonable time following the hearing, the
913 commissioner or the commissioner's duly authorized
914 representative who conducted the hearing shall make findings of
915 fact in regard to the alleged violation. A panel of no fewer
916 than two commissioners shall enter an order determining whether
917 the charge of violation of conditional release, control release,
918 ~~conditional medical release~~, or addiction-recovery supervision
919 has been sustained based upon the findings of fact presented by
920 the hearing commissioner or authorized representative. By such
921 order, the panel may revoke conditional release, control
922 release, ~~conditional medical release~~, or addiction-recovery
923 supervision and thereby return the releasee to prison to serve
924 the sentence imposed, reinstate the original order granting the
925 release, or enter such other order as it considers proper.
926 Effective for inmates whose offenses were committed on or after



576-02785A-20

927 July 1, 1995, the panel may order the placement of a releasee,
928 upon a finding of violation pursuant to this subsection, into a
929 local detention facility as a condition of supervision.

930 (5) Effective for inmates whose offenses were committed on
931 or after July 1, 1995, notwithstanding the provisions of ss.
932 775.08, former 921.001, 921.002, 921.187, 921.188, 944.02, and
933 951.23, or any other law to the contrary, by such order as
934 provided in subsection (4), the panel, upon a finding of guilt,
935 may, as a condition of continued supervision, place the releasee
936 in a local detention facility for a period of incarceration not
937 to exceed 22 months. Prior to the expiration of the term of
938 incarceration, or upon recommendation of the chief correctional
939 officer of that county, the commission shall cause inquiry into
940 the inmate's release plan and custody status in the detention
941 facility and consider whether to restore the inmate to
942 supervision, modify the conditions of supervision, or enter an
943 order of revocation, thereby causing the return of the inmate to
944 prison to serve the sentence imposed. The provisions of this
945 section do not prohibit the panel from entering such other order
946 or conducting any investigation that it deems proper. The
947 commission may only place a person in a local detention facility
948 pursuant to this section if there is a contractual agreement
949 between the chief correctional officer of that county and the
950 Department of Corrections. The agreement must provide for a per
951 diem reimbursement for each person placed under this section,
952 which is payable by the Department of Corrections for the
953 duration of the offender's placement in the facility. This
954 section does not limit the commission's ability to place a
955 person in a local detention facility for less than 1 year.



576-02785A-20

956 (6) Whenever a conditional release, control release,
957 ~~conditional medical release,~~ or addiction-recovery supervision
958 is revoked by a panel of no fewer than two commissioners and the
959 releasee is ordered to be returned to prison, the releasee, by
960 reason of the misconduct, shall be deemed to have forfeited all
961 gain-time or commutation of time for good conduct, as provided
962 for by law, earned up to the date of release. However, if a
963 conditional medical release is revoked due to the improved
964 medical or physical condition of the releasee, the releasee
965 shall not forfeit gain-time accrued before the date of
966 conditional medical release. This subsection does not deprive
967 the prisoner of the right to gain-time or commutation of time
968 for good conduct, as provided by law, from the date of return to
969 prison.

970 (7) If a law enforcement officer has probable cause to
971 believe that an offender who is on release supervision under s.
972 947.1405, s. 947.146, ~~s. 947.149,~~ or s. 944.4731 has violated
973 the terms and conditions of his or her release by committing a
974 felony offense, the officer shall arrest the offender without a
975 warrant, and a warrant need not be issued in the case.

976 Section 15. This act shall take effect October 1, 2020.