

By Senator Perry

8-00565-22

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1 A bill to be entitled
2 An act relating to inmate conditional medical release;
3 creating s. 945.0911, F.S.; providing legislative
4 findings; establishing the conditional medical release
5 program within the Department of Corrections for
6 specified purposes; establishing a panel to consider
7 specified matters; defining terms; providing for
8 program eligibility; authorizing certain inmates be
9 released on conditional medical release before serving
10 85 percent of their term of imprisonment; requiring
11 that inmates who meet certain criteria be considered
12 for conditional medical release; providing that the
13 authority to grant conditional medical releases rests
14 solely with the department; specifying that inmates do
15 not have a right to conditional medical release or to
16 a certain medical evaluation; requiring the department
17 to identify eligible inmates; requiring the department
18 to refer such inmates to the panel for consideration;
19 providing for victim notification under specified
20 circumstances; requiring the panel to conduct a
21 hearing within specified timeframes; specifying
22 requirements for the hearing; requiring that inmates
23 approved for conditional medical release be released
24 from the department within a reasonable amount of
25 time; providing a review process for inmates denied
26 conditional medical release; providing that inmates
27 are considered medical releasees upon release from the
28 department into the community; requiring medical
29 releasees to comply with specified minimum conditions;

8-00565-22

2022784__

30 specifying that medical releasees are considered to be
31 in the custody, supervision, and control of the
32 department; specifying that the department does not
33 have a duty to provide medical care to a medical
34 releasee; providing that a medical releasee is
35 eligible to earn or lose gain-time; prohibiting a
36 medical releasee or his or her community-based housing
37 from being counted in the prison system population and
38 the prison capacity figures; authorizing the
39 department to terminate a medical releasee's
40 conditional medical release under specified
41 circumstances; authorizing the revocation of a medical
42 releasee's conditional medical release if certain
43 conditions are not met; authorizing the department to
44 order a medical releasee to be returned to the
45 department's custody for a revocation hearing or to
46 remain in the community pending such hearing;
47 authorizing a warrant to be issued for the arrest of a
48 medical releasee under certain circumstances;
49 authorizing a medical releasee to admit to the
50 allegation that his or her medical or physical
51 condition improved or to proceed to a revocation
52 hearing; requiring such hearing to be conducted by the
53 panel; requiring the director of inmate health
54 services to review certain evidence and make a
55 recommendation to the panel before such hearing;
56 requiring a majority of the panel members to agree
57 that revocation of medical release is appropriate;
58 requiring a medical releasee to be recommitted to the

8-00565-22

2022784__

59 department to serve the balance of his or her sentence
60 if a conditional medical release is revoked; providing
61 that gain-time is not forfeited for revocation based
62 on improvement in a medical releasee's condition;
63 providing a review process for a medical releasee who
64 has his or her release revoked; authorizing a
65 conditional medical release to be revoked if the
66 medical releasee violates any release conditions;
67 authorizing a warrant to be issued for the arrest of a
68 medical releasee if certain conditions are met;
69 authorizing a law enforcement or probation officer to
70 arrest a medical releasee without a warrant under
71 certain circumstances; requiring that a medical
72 releasee be detained without bond if a violation of
73 release is based on a new violation of law; requiring
74 the department to order that a medical releasee be
75 returned to its custody under certain circumstances;
76 authorizing a medical releasee to admit to the alleged
77 violation or to proceed to a revocation hearing;
78 requiring a majority of the panel members to agree
79 that revocation of medical release is appropriate;
80 requiring specified medical releasees to be
81 recommitted to the department upon the revocation of
82 the conditional medical release; authorizing the
83 forfeiture of gain-time; providing a review process
84 for a medical releasee who has his or her release
85 revoked; requiring that a medical releasee be given
86 specified information under certain circumstances;
87 requiring the panel to provide a written statement

8-00565-22

2022784__

88 specifying the evidence relied on and reasons for
89 revocation under certain circumstances; requiring a
90 medical releasee whose conditional medical release is
91 revoked and who is recommitted to the department to
92 comply with the 85 percent requirement upon
93 recommitment; requiring the department to perform
94 specified actions upon an inmate's diagnosis of a
95 terminal medical condition while in the custody of the
96 department; requiring an inmate to consent to release
97 of confidential information under certain
98 circumstances; providing that members of the panel
99 have sovereign immunity related to specified
100 decisions; requiring the department to adopt rules;
101 repealing s. 947.149, F.S., relating to conditional
102 medical release; amending ss. 316.1935, 775.084,
103 775.087, 784.07, 790.235, 794.0115, 893.135, 921.0024,
104 944.605, 944.70, 947.13, and 947.141, F.S.; conforming
105 provisions to changes made by the act; providing an
106 effective date.

107
108 Be It Enacted by the Legislature of the State of Florida:

109
110 Section 1. Section 945.0911, Florida Statutes, is created
111 to read:

112 945.0911 Conditional medical release.-

113 (1) FINDINGS.-The Legislature finds that the number of
114 inmates incarcerated in the state's prisons with terminal
115 medical conditions or who suffer from permanently incapacitating
116 medical conditions has grown significantly in recent years.

8-00565-22

2022784__

117 Further, the Legislature finds that such inmates' terminal
118 illnesses or permanently incapacitating conditions may be
119 exacerbated by imprisonment due to the stresses linked to prison
120 life. The Legislature also finds that recidivism rates are
121 greatly reduced for such inmates who are released into the
122 community. Therefore, the Legislature finds that it is of great
123 public importance to find a compassionate solution to the
124 challenges presented by the imprisonment of inmates who are
125 terminally ill or suffering from a permanently incapacitating
126 medical condition while also ensuring that the public safety of
127 Florida's communities remains protected.

128 (2) CREATION.—There is established a conditional medical
129 release program within the department for the purposes of
130 determining whether release is appropriate for eligible inmates,
131 supervising the released inmates, and conducting revocation
132 hearings as provided for in this section. The establishment of
133 the conditional medical release program must include a panel of
134 at least three people appointed by the secretary or his or her
135 designee to determine the appropriateness of conditional medical
136 release and conduct revocation hearings on such inmate releases.

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

138 (a) "Permanently incapacitated inmate" means an inmate who
139 has a condition caused by injury, disease, or illness which, to
140 a reasonable degree of medical certainty, renders the inmate
141 permanently and irreversibly physically incapacitated to the
142 extent that the inmate does not constitute a danger to himself
143 or herself or to others.

144 (b) "Terminally ill inmate" means an inmate who has a
145 condition caused by injury, disease, or illness which, to a

8-00565-22

2022784__

146 reasonable degree of medical certainty, renders the inmate
147 terminally ill to the extent that there can be no recovery,
148 death is expected within 6 months, and the inmate does not
149 constitute a danger to himself or herself or to others.

150 (4) ELIGIBILITY.—An inmate is eligible for consideration
151 for release under the conditional medical release program when
152 the department determines the inmate to be permanently
153 incapacitated or terminally ill because of an existing medical
154 or physical condition. Notwithstanding any other law, an inmate
155 who meets this eligibility criteria may be released from the
156 custody of the department pursuant to this section before
157 serving 85 percent of his or her term of imprisonment.

158 (5) REFERRAL FOR CONSIDERATION.—

159 (a)1. Notwithstanding any law to the contrary, any inmate
160 in the custody of the department who meets one or more of the
161 eligibility requirements under subsection (4) must be considered
162 for conditional medical release.

163 2. The authority to grant conditional medical release rests
164 solely with the department. An inmate does not have a right to
165 conditional medical release or to a medical evaluation to
166 determine eligibility for release pursuant to this section.

167 (b) The department shall identify inmates who may be
168 eligible for conditional medical release based upon available
169 medical information. In considering an inmate for conditional
170 medical release, the department may require additional medical
171 evidence, including examinations of the inmate, or any other
172 additional investigations the department deems necessary for
173 determining the appropriateness of an eligible inmate's release.

174 (c) The department shall refer an inmate to the panel

8-00565-22

2022784__

175 established under subsection (2) for review and determination of
176 conditional medical release upon his or her identification as
177 potentially eligible for release pursuant to this section.

178 (d) If the case that resulted in the inmate's commitment to
179 the department involved a victim, and the victim specifically
180 requested notification pursuant to s. 16, Art. I of the State
181 Constitution, the department must notify the victim of the
182 inmate's referral to the panel upon identification of the inmate
183 as potentially eligible for release under this section.
184 Additionally, the victim must be afforded the right to be heard
185 regarding the release of the inmate.

186 (6) DETERMINATION OF RELEASE.—

187 (a) Upon department referral, the panel established in
188 subsection (2) must conduct a hearing to determine whether
189 conditional medical release is appropriate for the inmate.
190 Before the hearing, the director of inmate health services or
191 his or her designee shall review any relevant information,
192 including, but not limited to, medical evidence, and provide the
193 panel with a recommendation regarding the appropriateness of
194 releasing the inmate pursuant to this section. The panel must
195 conduct such hearing:

196 1. By April 1, 2023, if the inmate is immediately eligible
197 for consideration for the conditional medical release program
198 upon this section taking effect on October 1, 2022.

199 2. By July 1, 2023, if the inmate becomes eligible for
200 consideration for the conditional medical release program after
201 October 1, 2022, but before July 1, 2023.

202 3. Within 45 days after receiving the referral if the
203 inmate becomes eligible for conditional medical release any time

8-00565-22

2022784__

204 on or after July 1, 2023.

205 (b) A majority of the panel members must agree that the
206 inmate is eligible for release pursuant to this section. If
207 conditional medical release is approved, the inmate must be
208 released by the department to the community within a reasonable
209 amount of time with necessary release conditions imposed
210 pursuant to subsection (7).

211 (c)1. An inmate denied conditional medical release by the
212 panel may elect to have the decision reviewed by the
213 department's general counsel and chief medical officer, who must
214 make a recommendation to the secretary. The secretary shall
215 review all relevant information and make a final decision about
216 the inmate's eligibility for conditional medical release
217 pursuant to this section. The secretary's decision is a final
218 administrative decision not subject to appeal.

219 2. An inmate who requests to have the decision reviewed in
220 accordance with this paragraph must do so in a manner prescribed
221 by rule. An inmate denied conditional medical release may
222 subsequently be reconsidered for such release in a manner
223 prescribed by department rule.

224 (7) RELEASE CONDITIONS.—

225 (a) An inmate granted release pursuant to this section is
226 released for a period equal to the length of time remaining on
227 his or her term of imprisonment on the date the release is
228 granted. Such inmate is considered a medical releasee upon
229 release from the department into the community. The medical
230 releasee must comply with all reasonable conditions of release
231 the department imposes which, at a minimum, must include all of
232 the following:

8-00565-22

2022784__

233 1. Periodic medical evaluations at intervals determined by
234 the department at the time of release.

235 2. Supervision by an officer trained to handle special
236 offender caseloads.

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

240 4. Any conditions of community control provided for in s.
241 948.101.

242 5. Any other conditions the department deems appropriate to
243 ensure the safety of the community and compliance by the medical
244 releasee.

245 (b) A medical releasee is considered to be in the custody,
246 supervision, and control of the department, which, for purposes
247 of this section, does not create a duty for the department to
248 provide the medical releasee with medical care upon release into
249 the community. The medical releasee remains eligible to earn or
250 lose gain-time in accordance with s. 944.275 and department
251 rule. The medical releasee may not be counted in the prison
252 system population, and the medical releasee's approved
253 community-based housing location may not be counted in the
254 capacity figures for the prison system.

255 (8) REVOCATION HEARING AND RECOMMITMENT.—

256 (a) The department may terminate a medical releasee's
257 conditional medical release and return him or her to the same
258 institution or another designated by the department.

259 (b)1. If a medical releasee's supervising officer or a duly
260 authorized representative of the department discovers that the
261 medical or physical condition of the medical releasee has

8-00565-22

2022784__

262 improved to the extent that he or she would no longer be
263 eligible for release under this section, the medical releasee's
264 conditional medical release may be revoked. The department may
265 order, as prescribed by department rule, that the medical
266 releasee be returned to the department's custody for a
267 conditional medical release revocation hearing or may allow the
268 medical releasee to remain in the community pending the
269 revocation hearing. If the department elects to order the
270 medical releasee to be returned to custody pending the
271 revocation hearing, the supervising officer or duly authorized
272 representative may cause a warrant to be issued for the arrest
273 of the medical releasee.

274 2. A medical releasee may admit to the allegation of
275 improved medical or physical condition or may elect to proceed
276 to a revocation hearing. The revocation hearing must be
277 conducted by the panel established in subsection (2). Before a
278 revocation hearing pursuant to this paragraph, the director of
279 inmate health services or his or her designee shall review any
280 medical evidence pertaining to the medical releasee and make a
281 recommendation to the panel regarding the medical releasee's
282 current medical or physical condition.

283 3. A majority of the panel members must agree that
284 revocation is appropriate for a medical releasee's conditional
285 medical release to be revoked. If conditional medical release is
286 revoked due to improvement in the releasee's medical or physical
287 condition, he or she must be recommitted to the department to
288 serve the balance of his or her sentence in an institution
289 designated by the department with credit for the time served on
290 conditional medical release and without forfeiture of any gain-

8-00565-22

2022784__

291 time accrued before recommitment. If a medical releasee whose
292 conditional medical release is revoked due to an improvement in
293 his or her medical or physical condition would otherwise be
294 eligible for parole or any other release program, he or she may
295 be considered for such release program pursuant to law.

296 4. A medical releasee whose conditional medical release is
297 revoked pursuant to this paragraph may elect to have the
298 decision reviewed by the department's general counsel and chief
299 medical officer, who shall make a recommendation to the
300 secretary. The secretary shall review all relevant information
301 and make a final decision about the revocation of conditional
302 medical release pursuant to this paragraph. The decision of the
303 secretary is a final administrative decision not subject to
304 appeal.

305 (c)1. The medical releasee's conditional medical release
306 may also be revoked for violation of any release conditions
307 established by the department, including, but not limited to, a
308 new violation of law.

309 2. If a duly authorized representative of the department
310 has reasonable grounds to believe that a medical releasee has
311 violated the conditions of his or her release in a material
312 respect, such representative may cause a warrant to be issued
313 for the arrest of the medical releasee. A law enforcement
314 officer or a probation officer may arrest a medical releasee
315 without a warrant in accordance with s. 948.06 if there are
316 reasonable grounds to believe he or she has violated the terms
317 and conditions of his or her conditional medical release. The
318 law enforcement or probation officer must report the medical
319 releasee's alleged violations to the supervising probation

8-00565-22

2022784__

320 office or the department's emergency action center for
321 initiation of revocation proceedings as prescribed by department
322 rule.

323 3. If the violation of release conditions is related to a
324 new violation of law, the medical releasee must be detained
325 without bond until his or her initial appearance, at which time
326 a judicial determination of probable cause is made. If the judge
327 determines that there was no probable cause for the arrest, the
328 medical releasee may be released. A judicial determination of
329 probable cause also constitutes reasonable grounds to believe
330 that the medical releasee violated the conditions of the
331 conditional medical release.

332 4. The department shall order that a medical releasee,
333 whose conditional medical release is subject to revocation under
334 this paragraph, be returned to department custody for a
335 conditional medical release revocation hearing. A medical
336 releasee may admit to the alleged violation of the conditions of
337 conditional medical release or may elect to proceed to a
338 revocation hearing. The revocation hearing must be conducted by
339 the panel established in subsection (2).

340 5. A majority of the panel members must agree that
341 revocation is appropriate for the medical releasee's conditional
342 medical release to be revoked. If conditional medical release is
343 revoked pursuant to this paragraph, the medical releasee must
344 serve the balance of his or her sentence in an institution
345 designated by the department with credit for the actual time
346 served on conditional medical release. The medical releasee's
347 gain-time accrued before recommitment may be forfeited pursuant
348 to s. 944.28(1). If the medical releasee whose conditional

8-00565-22

2022784__

349 medical release is revoked subject to this paragraph would
350 otherwise be eligible for parole or any other release program,
351 he or she may be considered for such release program pursuant to
352 law.

353 6. A medical releasee whose conditional medical release has
354 been revoked pursuant to this paragraph may elect to have the
355 revocation reviewed by the department's general counsel, who
356 must make a recommendation to the secretary. The secretary shall
357 review all relevant information and make a final decision about
358 the revocation of conditional medical release pursuant to this
359 paragraph. The decision of the secretary is a final
360 administrative decision not subject to appeal.

361 (d)1. If the medical releasee subject to revocation under
362 paragraph (b) or paragraph (c) elects to proceed with a hearing,
363 he or she must be informed orally and in writing of all of the
364 following:

365 a. The alleged basis for the pending revocation proceeding.

366 b. The releasee's right to be represented by counsel.

367 However, this sub-subparagraph does not create a right to
368 publicly funded legal counsel.

369 c. The releasee's right to be heard either in person or by
370 electronic audiovisual means at the discretion of the
371 department.

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

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

376 f. The releasee's right of access to all evidence used to
377 support the revocation proceeding and to confront and cross-

8-00565-22

2022784__

378 examine adverse witnesses.

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

380 2. If the panel approves the revocation of the medical
381 releasee's conditional medical release under paragraph (a) or
382 paragraph (b), the panel must provide a written statement
383 specifying the evidence relied on and reasons for revocation.

384 (e) A medical releasee whose conditional medical release is
385 revoked and who is recommitted to the department under this
386 subsection must comply with the 85 percent requirement in
387 accordance with ss. 921.002 and 944.275 upon recommitment.

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

390 (a) If an inmate is diagnosed with a terminal medical
391 condition that makes him or her eligible for consideration for
392 release while in the custody of the department, subject to
393 confidentiality requirements, the department must do all of the
394 following:

395 1. Notify the inmate's family or next of kin and attorney,
396 if applicable, of such diagnosis within 72 hours after the
397 diagnosis is made.

398 2. Provide the inmate's family, including extended family,
399 an opportunity to visit the inmate in person within 7 days after
400 the diagnosis is made.

401 3. Initiate a review for conditional medical release as
402 provided for in this section immediately upon making the
403 diagnosis.

404 (b) If the inmate has mental and physical capacity, he or
405 she must consent to the release of confidential information in
406 order for the department to comply with the notification

8-00565-22

2022784__

407 requirements required in this subsection.

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

414 (11) RULEMAKING AUTHORITY.—The department shall adopt rules
415 to implement this section.

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

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

419 316.1935 Fleeing or attempting to elude a law enforcement
420 officer; aggravated fleeing or eluding.—

421 (6) Notwithstanding s. 948.01, a court may not ~~no court may~~
422 suspend, defer, or withhold adjudication of guilt or imposition
423 of sentence for any violation of this section. A person
424 convicted and sentenced to a mandatory minimum term of
425 incarceration under paragraph (3)(b) or paragraph (4)(b) is not
426 eligible for statutory gain-time under s. 944.275 or any form of
427 discretionary early release, other than pardon or executive
428 clemency or conditional medical release under s. 945.0911 ~~s.~~
429 ~~947.149~~, prior to serving the mandatory minimum sentence.

430 Section 4. Paragraph (k) of subsection (4) of section
431 775.084, Florida Statutes, is amended to read:

432 775.084 Violent career criminals; habitual felony offenders
433 and habitual violent felony offenders; three-time violent felony
434 offenders; definitions; procedure; enhanced penalties or
435 mandatory minimum prison terms.—

8-00565-22

2022784__

436 (4)

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

441 2. For an offense committed on or after October 1, 1995, a
442 defendant sentenced under this section as a violent career
443 criminal is not eligible for any form of discretionary early
444 release, other than pardon or executive clemency, or conditional
445 medical release under s. 945.0911 ~~granted pursuant to s.~~
446 ~~947.149.~~

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

452 Section 5. Paragraph (b) of subsection (2) and paragraph
453 (b) of subsection (3) of section 775.087, Florida Statutes, are
454 amended to read:

455 775.087 Possession or use of weapon; aggravated battery;
456 felony reclassification; minimum sentence.-

457 (2)

458 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph
459 (a)3. does not prevent a court from imposing a longer sentence
460 of incarceration as authorized by law in addition to the minimum
461 mandatory sentence, or from imposing a sentence of death
462 pursuant to other applicable law. Subparagraph (a)1.,
463 subparagraph (a)2., or subparagraph (a)3. does not authorize a
464 court to impose a lesser sentence than otherwise required by

8-00565-22

2022784__

465 law.

466
467 Notwithstanding s. 948.01, adjudication of guilt or imposition
468 of sentence may ~~shall~~ not be suspended, deferred, or withheld,
469 and the defendant is not eligible for statutory gain-time under
470 s. 944.275 or any form of discretionary early release, other
471 than pardon or executive clemency, or conditional medical
472 release under s. 945.0911 ~~s. 947.149~~, prior to serving the
473 minimum sentence.

474 (3)

475 (b) Subparagraph (a)1., subparagraph (a)2., or subparagraph
476 (a)3. does not prevent a court from imposing a longer sentence
477 of incarceration as authorized by law in addition to the minimum
478 mandatory sentence, or from imposing a sentence of death
479 pursuant to other applicable law. Subparagraph (a)1.,
480 subparagraph (a)2., or subparagraph (a)3. does not authorize a
481 court to impose a lesser sentence than otherwise required by
482 law.

483
484 Notwithstanding s. 948.01, adjudication of guilt or imposition
485 of sentence may ~~shall~~ not be suspended, deferred, or withheld,
486 and the defendant is not eligible for statutory gain-time under
487 s. 944.275 or any form of discretionary early release, other
488 than pardon or executive clemency, or conditional medical
489 release under s. 945.0911 ~~s. 947.149~~, prior to serving the
490 minimum sentence.

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

493 784.07 Assault or battery of law enforcement officers,

8-00565-22

2022784__

494 firefighters, emergency medical care providers, public transit
495 employees or agents, or other specified officers;
496 reclassification of offenses; minimum sentences.-

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

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

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

507
508 Notwithstanding s. 948.01, adjudication of guilt or imposition
509 of sentence may ~~shall~~ not be suspended, deferred, or withheld,
510 and the defendant is not eligible for statutory gain-time under
511 s. 944.275 or any form of discretionary early release, other
512 than pardon or executive clemency, or conditional medical
513 release under s. 945.0911 ~~s. 947.149~~, prior to serving the
514 minimum sentence.

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

517 790.235 Possession of firearm or ammunition by violent
518 career criminal unlawful; penalty.-

519 (1) Any person who meets the violent career criminal
520 criteria under s. 775.084(1)(d), regardless of whether such
521 person is or has previously been sentenced as a violent career
522 criminal, who owns or has in his or her care, custody,

8-00565-22

2022784__

523 possession, or control any firearm, ammunition, or electric
524 weapon or device, or carries a concealed weapon, including a
525 tear gas gun or chemical weapon or device, commits a felony of
526 the first degree, punishable as provided in s. 775.082, s.
527 775.083, or s. 775.084. A person convicted of a violation of
528 this section shall be sentenced to a mandatory minimum of 15
529 years' imprisonment; however, if the person would be sentenced
530 to a longer term of imprisonment under s. 775.084(4)(d), the
531 person must be sentenced under that provision. A person
532 convicted of a violation of this section is not eligible for any
533 form of discretionary early release, other than pardon,
534 executive clemency, or conditional medical release under s.
535 945.0911 ~~s. 947.149~~.

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

538 794.0115 Dangerous sexual felony offender; mandatory
539 sentencing.—

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

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

549 893.135 Trafficking; mandatory sentences; suspension or
550 reduction of sentences; conspiracy to engage in trafficking.—

551 (1) Except as authorized in this chapter or in chapter 499

8-00565-22

2022784__

552 and notwithstanding the provisions of s. 893.13:

553 (b)1. Any person who knowingly sells, purchases,
554 manufactures, delivers, or brings into this state, or who is
555 knowingly in actual or constructive possession of, 28 grams or
556 more of cocaine, as described in s. 893.03(2)(a)4., or of any
557 mixture containing cocaine, but less than 150 kilograms of
558 cocaine or any such mixture, commits a felony of the first
559 degree, which felony shall be known as "trafficking in cocaine,"
560 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
561 If the quantity involved:

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

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

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

573 2. Any person who knowingly sells, purchases, manufactures,
574 delivers, or brings into this state, or who is knowingly in
575 actual or constructive possession of, 150 kilograms or more of
576 cocaine, as described in s. 893.03(2)(a)4., commits the first
577 degree felony of trafficking in cocaine. A person who has been
578 convicted of the first degree felony of trafficking in cocaine
579 under this subparagraph shall be punished by life imprisonment
580 and is ineligible for any form of discretionary early release

8-00565-22

2022784__

581 except pardon or executive clemency or conditional medical
582 release under s. 945.0911 ~~s. 947.149~~. However, if the court
583 determines that, in addition to committing any act specified in
584 this paragraph:

585 a. The person intentionally killed an individual or
586 counseled, commanded, induced, procured, or caused the
587 intentional killing of an individual and such killing was the
588 result; or

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

591
592 such person commits the capital felony of trafficking in
593 cocaine, punishable as provided in ss. 775.082 and 921.142. Any
594 person sentenced for a capital felony under this paragraph shall
595 also be sentenced to pay the maximum fine provided under
596 subparagraph 1.

597 3. Any person who knowingly brings into this state 300
598 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
599 and who knows that the probable result of such importation would
600 be the death of any person, commits capital importation of
601 cocaine, a capital felony punishable as provided in ss. 775.082
602 and 921.142. Any person sentenced for a capital felony under
603 this paragraph shall also be sentenced to pay the maximum fine
604 provided under subparagraph 1.

605 (c)1. A person who knowingly sells, purchases,
606 manufactures, delivers, or brings into this state, or who is
607 knowingly in actual or constructive possession of, 4 grams or
608 more of any morphine, opium, hydromorphone, or any salt,
609 derivative, isomer, or salt of an isomer thereof, including

8-00565-22

2022784__

610 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
611 (3)(c)4., or 4 grams or more of any mixture containing any such
612 substance, but less than 30 kilograms of such substance or
613 mixture, commits a felony of the first degree, which felony
614 shall be known as "trafficking in illegal drugs," punishable as
615 provided in s. 775.082, s. 775.083, or s. 775.084. If the
616 quantity involved:

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

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

623 c. Is 28 grams or more, but less than 30 kilograms, such
624 person shall be sentenced to a mandatory minimum term of
625 imprisonment of 25 years and shall be ordered to pay a fine of
626 \$500,000.

627 2. A person who knowingly sells, purchases, manufactures,
628 delivers, or brings into this state, or who is knowingly in
629 actual or constructive possession of, 28 grams or more of
630 hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as
631 described in s. 893.03(2)(a)1.g., or any salt thereof, or 28
632 grams or more of any mixture containing any such substance,
633 commits a felony of the first degree, which felony shall be
634 known as "trafficking in hydrocodone," punishable as provided in
635 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

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

8-00565-22

2022784__

639 b. Is 50 grams or more, but less than 100 grams, such
640 person shall be sentenced to a mandatory minimum term of
641 imprisonment of 7 years and shall be ordered to pay a fine of
642 \$100,000.

643 c. Is 100 grams or more, but less than 300 grams, such
644 person shall be sentenced to a mandatory minimum term of
645 imprisonment of 15 years and shall be ordered to pay a fine of
646 \$500,000.

647 d. Is 300 grams or more, but less than 30 kilograms, such
648 person shall be sentenced to a mandatory minimum term of
649 imprisonment of 25 years and shall be ordered to pay a fine of
650 \$750,000.

651 3. A person who knowingly sells, purchases, manufactures,
652 delivers, or brings into this state, or who is knowingly in
653 actual or constructive possession of, 7 grams or more of
654 oxycodone, as described in s. 893.03(2)(a)1.g., or any salt
655 thereof, or 7 grams or more of any mixture containing any such
656 substance, commits a felony of the first degree, which felony
657 shall be known as "trafficking in oxycodone," punishable as
658 provided in s. 775.082, s. 775.083, or s. 775.084. If the
659 quantity involved:

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

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

666 c. Is 25 grams or more, but less than 100 grams, such
667 person shall be sentenced to a mandatory minimum term of

8-00565-22

2022784__

668 imprisonment of 15 years and shall be ordered to pay a fine of
669 \$500,000.

670 d. Is 100 grams or more, but less than 30 kilograms, such
671 person shall be sentenced to a mandatory minimum term of
672 imprisonment of 25 years and shall be ordered to pay a fine of
673 \$750,000.

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

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

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

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

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

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

682 893.03(1)(a)62.;

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

684 893.0356, of any substance described in sub-sub-subparagraphs

685 (I)-(V); or

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

688
689 commits a felony of the first degree, which felony shall be
690 known as "trafficking in fentanyl," punishable as provided in s.
691 775.082, s. 775.083, or s. 775.084.

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

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

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

8-00565-22

2022784__

697 person shall be sentenced to a mandatory minimum term of
698 imprisonment of 15 years, and shall be ordered to pay a fine of
699 \$100,000.

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

703 5. A person who knowingly sells, purchases, manufactures,
704 delivers, or brings into this state, or who is knowingly in
705 actual or constructive possession of, 30 kilograms or more of
706 any morphine, opium, oxycodone, hydrocodone, codeine,
707 hydromorphone, or any salt, derivative, isomer, or salt of an
708 isomer thereof, including heroin, as described in s.
709 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
710 more of any mixture containing any such substance, commits the
711 first degree felony of trafficking in illegal drugs. A person
712 who has been convicted of the first degree felony of trafficking
713 in illegal drugs under this subparagraph shall be punished by
714 life imprisonment and is ineligible for any form of
715 discretionary early release except pardon or executive clemency
716 or conditional medical release under s. 945.0911 ~~s. 947.149~~.
717 However, if the court determines that, in addition to committing
718 any act specified in this paragraph:

719 a. The person intentionally killed an individual or
720 counseled, commanded, induced, procured, or caused the
721 intentional killing of an individual and such killing was the
722 result; or

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

725

8-00565-22

2022784__

726 such person commits the capital felony of trafficking in illegal
727 drugs, punishable as provided in ss. 775.082 and 921.142. A
728 person sentenced for a capital felony under this paragraph shall
729 also be sentenced to pay the maximum fine provided under
730 subparagraph 1.

731 6. A person who knowingly brings into this state 60
732 kilograms or more of any morphine, opium, oxycodone,
733 hydrocodone, codeine, hydromorphone, or any salt, derivative,
734 isomer, or salt of an isomer thereof, including heroin, as
735 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or
736 60 kilograms or more of any mixture containing any such
737 substance, and who knows that the probable result of such
738 importation would be the death of a person, commits capital
739 importation of illegal drugs, a capital felony punishable as
740 provided in ss. 775.082 and 921.142. A person sentenced for a
741 capital felony under this paragraph shall also be sentenced to
742 pay the maximum fine provided under subparagraph 1.

743 (g)1. Any person who knowingly sells, purchases,
744 manufactures, delivers, or brings into this state, or who is
745 knowingly in actual or constructive possession of, 4 grams or
746 more of flunitrazepam or any mixture containing flunitrazepam as
747 described in s. 893.03(1)(a) commits a felony of the first
748 degree, which felony shall be known as "trafficking in
749 flunitrazepam," punishable as provided in s. 775.082, s.
750 775.083, or s. 775.084. If the quantity involved:

751 a. Is 4 grams or more but less than 14 grams, such person
752 shall be sentenced to a mandatory minimum term of imprisonment
753 of 3 years, and the defendant shall be ordered to pay a fine of
754 \$50,000.

8-00565-22

2022784__

755 b. Is 14 grams or more but less than 28 grams, such person
756 shall be sentenced to a mandatory minimum term of imprisonment
757 of 7 years, and the defendant shall be ordered to pay a fine of
758 \$100,000.

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

762 2. Any person who knowingly sells, purchases, manufactures,
763 delivers, or brings into this state or who is knowingly in
764 actual or constructive possession of 30 kilograms or more of
765 flunitrazepam or any mixture containing flunitrazepam as
766 described in s. 893.03(1)(a) commits the first degree felony of
767 trafficking in flunitrazepam. A person who has been convicted of
768 the first degree felony of trafficking in flunitrazepam under
769 this subparagraph shall be punished by life imprisonment and is
770 ineligible for any form of discretionary early release except
771 pardon or executive clemency or conditional medical release
772 under s. 945.0911 ~~s. 947.149~~. However, if the court determines
773 that, in addition to committing any act specified in this
774 paragraph:

775 a. The person intentionally killed an individual or
776 counseled, commanded, induced, procured, or caused the
777 intentional killing of an individual and such killing was the
778 result; or

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

781

782 such person commits the capital felony of trafficking in
783 flunitrazepam, punishable as provided in ss. 775.082 and

8-00565-22

2022784__

784 921.142. Any person sentenced for a capital felony under this
785 paragraph shall also be sentenced to pay the maximum fine
786 provided under subparagraph 1.

787 (3) Notwithstanding the provisions of s. 948.01, with
788 respect to any person who is found to have violated this
789 section, adjudication of guilt or imposition of sentence shall
790 not be suspended, deferred, or withheld, nor shall such person
791 be eligible for parole prior to serving the mandatory minimum
792 term of imprisonment prescribed by this section. A person
793 sentenced to a mandatory minimum term of imprisonment under this
794 section is not eligible for any form of discretionary early
795 release, except pardon or executive clemency or conditional
796 medical release under s. 945.0911 ~~s. 947.149~~, prior to serving
797 the mandatory minimum term of imprisonment.

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

800 921.0024 Criminal Punishment Code; worksheet computations;
801 scoresheets.—

802 (2) The lowest permissible sentence is the minimum sentence
803 that may be imposed by the trial court, absent a valid reason
804 for departure. The lowest permissible sentence is any nonstate
805 prison sanction in which the total sentence points equals or is
806 less than 44 points, unless the court determines within its
807 discretion that a prison sentence, which may be up to the
808 statutory maximums for the offenses committed, is appropriate.
809 When the total sentence points exceeds 44 points, the lowest
810 permissible sentence in prison months shall be calculated by
811 subtracting 28 points from the total sentence points and
812 decreasing the remaining total by 25 percent. The total sentence

8-00565-22

2022784__

813 points shall be calculated only as a means of determining the
814 lowest permissible sentence. The permissible range for
815 sentencing shall be the lowest permissible sentence up to and
816 including the statutory maximum, as defined in s. 775.082, for
817 the primary offense and any additional offenses before the court
818 for sentencing. The sentencing court may impose such sentences
819 concurrently or consecutively. However, any sentence to state
820 prison must exceed 1 year. If the lowest permissible sentence
821 under the code exceeds the statutory maximum sentence as
822 provided in s. 775.082, the sentence required by the code must
823 be imposed. If the total sentence points are greater than or
824 equal to 363, the court may sentence the offender to life
825 imprisonment. An offender sentenced to life imprisonment under
826 this section is not eligible for any form of discretionary early
827 release, except executive clemency or conditional medical
828 release under s. 945.0911 ~~s. 947.149~~.

829 Section 11. Paragraph (b) of subsection (7) of section
830 944.605, Florida Statutes, is amended to read:

831 944.605 Inmate release; notification; identification card.-
832 (7)

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

834 1. The department determines have a valid driver license or
835 state identification card, except that the department shall
836 provide these inmates with a replacement state identification
837 card or replacement driver license, if necessary.

838 2. Have an active detainer, unless the department
839 determines that cancellation of the detainer is likely or that
840 the incarceration for which the detainer was issued will be less
841 than 12 months in duration.

8-00565-22

2022784__

842 3. Are released due to an emergency release or a
843 conditional medical release under s. 945.0911 ~~s. 947.149~~.

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

846 5. Are subject to sex offender residency restrictions, and
847 who, upon release under such restrictions, do not have a
848 qualifying address.

849 Section 12. Paragraph (b) of subsection (1) of section
850 944.70, Florida Statutes, is amended to read:

851 944.70 Conditions for release from incarceration.—

852 (1)

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

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

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

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

859 4. Upon placement in a conditional release program pursuant
860 to s. 947.1405 or a conditional medical release program pursuant
861 to s. 945.0911 ~~s. 947.149~~; or

862 5. Upon the granting of control release, including
863 emergency control release, pursuant to s. 947.146.

864 Section 13. Paragraph (h) of subsection (1) of section
865 947.13, Florida Statutes, is amended to read:

866 947.13 Powers and duties of commission.—

867 (1) The commission shall have the powers and perform the
868 duties of:

869 ~~(h) Determining what persons will be released on~~
870 ~~conditional medical release under s. 947.149, establishing the~~

8-00565-22

2022784__

871 ~~conditions of conditional medical release, and determining~~
872 ~~whether a person has violated the conditions of conditional~~
873 ~~medical release and taking action with respect to such a~~
874 ~~violation.~~

875 Section 14. Subsections (1), (2), and (7) of section
876 947.141, Florida Statutes, are amended to read:

877 947.141 Violations of conditional release, control release,
878 or conditional medical release or addiction-recovery
879 supervision.—

880 (1) If a member of the commission or a duly authorized
881 representative of the commission has reasonable grounds to
882 believe that an offender who is on release supervision under s.
883 945.0911, s. 947.1405, s. 947.146, ~~s. 947.149~~, or s. 944.4731
884 has violated the terms and conditions of the release in a
885 material respect, such member or representative may cause a
886 warrant to be issued for the arrest of the releasee; if the
887 offender was found to be a sexual predator, the warrant must be
888 issued.

889 (2) Upon the arrest on a felony charge of an offender who
890 is on release supervision under s. 945.0911, s. 947.1405, s.
891 947.146, ~~s. 947.149~~, or s. 944.4731, the offender must be
892 detained without bond until the initial appearance of the
893 offender at which a judicial determination of probable cause is
894 made. If the trial court judge determines that there was no
895 probable cause for the arrest, the offender may be released. If
896 the trial court judge determines that there was probable cause
897 for the arrest, such determination also constitutes reasonable
898 grounds to believe that the offender violated the conditions of
899 the release. Within 24 hours after the trial court judge's

8-00565-22

2022784__

900 finding of probable cause, the detention facility administrator
901 or designee shall notify the commission and the department of
902 the finding and transmit to each a facsimile copy of the
903 probable cause affidavit or the sworn offense report upon which
904 the trial court judge's probable cause determination is based.
905 The offender must continue to be detained without bond for a
906 period not exceeding 72 hours excluding weekends and holidays
907 after the date of the probable cause determination, pending a
908 decision by the commission whether to issue a warrant charging
909 the offender with violation of the conditions of release. Upon
910 the issuance of the commission's warrant, the offender must
911 continue to be held in custody pending a revocation hearing held
912 in accordance with this section.

913 (7) If a law enforcement officer has probable cause to
914 believe that an offender who is on release supervision under s.
915 945.0911, s. 947.1405, s. 947.146, ~~s. 947.149~~, or s. 944.4731
916 has violated the terms and conditions of his or her release by
917 committing a felony offense, the officer shall arrest the
918 offender without a warrant, and a warrant need not be issued in
919 the case.

920 Section 15. This act shall take effect October 1, 2022.