

1           A bill to be entitled  
2       An act relating to parole for adolescent offenders;  
3       providing a short title; amending s. 947.16, F.S.;  
4       providing definitions; providing that an adolescent  
5       offender who was 15 years of age or younger when the  
6       offense was committed and who is sentenced to life or  
7       more than 10 years in prison is eligible for parole if  
8       the offender has been incarcerated for a minimum  
9       period and has not previously been convicted or  
10      adjudicated delinquent of or had adjudication withheld  
11      for certain offenses; requiring an initial eligibility  
12      interview to determine whether the adolescent offender  
13      has been sufficiently rehabilitated for parole;  
14      providing criteria for determining sufficient  
15      rehabilitation; providing eligibility for a re  
16      interview after a specified period for adolescent  
17      offenders denied parole; requiring that the adolescent  
18      offender be incarcerated in a facility that has a GED  
19      program; providing that if the adolescent offender is  
20      granted parole, the adolescent offender must  
21      participate in any available reentry program for 2  
22      years; defining the term "reentry program"; providing  
23      priority for certain programs; providing for  
24      eligibility for an initial eligibility interview for  
25      offenders in their 8th or subsequent year of  
26      incarceration on the effective date of the act;  
27      providing for retroactive application; providing an  
28      effective date.

29  
30 Be It Enacted by the Legislature of the State of Florida:

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32       Section 1. This act may be cited as the "Second Chance for  
33 Children in Prison Act."

34       Section 2. Section 947.16, Florida Statutes, is amended to  
35 read:

36       947.16 Eligibility for parole; initial parole interviews;  
37 powers and duties of commission; adolescent offender  
38 eligibility.

39       (1) Every person who has been convicted of a felony or who  
40 has been convicted of one or more misdemeanors and whose  
41 sentence or cumulative sentences total 12 months or more, who is  
42 confined in execution of the judgment of the court, and whose  
43 record during confinement or while under supervision is good,

44 shall, unless otherwise provided by law, be eligible for  
45 interview for parole consideration of her or his cumulative  
46 sentence structure as follows:

47 (a) An inmate who has been sentenced for an indeterminate  
48 term or a term of 3 years or less shall have an initial  
49 interview conducted by a hearing examiner within 8 months after  
50 the initial date of confinement in execution of the judgment.

51 (b) An inmate who has been sentenced for a minimum term in  
52 excess of 3 years but of less than 6 years shall have an initial  
53 interview conducted by a hearing examiner within 14 months after  
54 the initial date of confinement in execution of the judgment.

55 (c) An inmate who has been sentenced for a minimum term of  
56 6 or more years but other than for a life term shall have an  
57 initial interview conducted by a hearing examiner within 24  
58 months after the initial date of confinement in execution of the  
59 judgment.

60 (d) An inmate who has been sentenced for a term of life  
61 shall have an initial interview conducted by a hearing examiner  
62 within 5 years after the initial date of confinement in  
63 execution of the judgment.

64 (e) An inmate who has been convicted and sentenced under  
65 ss. 958.011-958.15, or any other inmate who has been determined  
66 by the department to be a youthful offender, shall be  
67 interviewed by a parole examiner within 8 months after the  
68 initial date of confinement in execution of the judgment.

69 (2)(a) As used in this subsection, the term:

70 1. "Adolescent offender" means an offender who was 15 years  
71 of age or younger at the time the criminal act was committed and  
72 who was sentenced to life or to a single or cumulative term of  
73 imprisonment of 10 years or more.

74 2. "Current offense" means the offense for which the  
75 adolescent offender is being considered for parole and any other  
76 crimes committed by the adolescent offender within 1 month  
77 before or after that offense, or for which sentences run  
78 concurrent to that offense.

79 (b) Notwithstanding subsection (1) or any law to the  
80 contrary, an adolescent offender may be eligible for parole as  
81 provided in this subsection. An adolescent offender is  
82 ineligible under this subsection if she or he, before conviction  
83 of the current offense, was convicted or adjudicated delinquent  
84 of or had adjudication withheld for any violation of:

85 1. Section 782.04, entitled "Murder";

86 2. Section 784.041, entitled "Felony battery; domestic  
87 battery by strangulation";

88 3. Section 784.045, entitled "Aggravated battery";

89 4. Section 784.07, entitled "Assault or battery of law

90 enforcement officers, firefighters, emergency medical care  
91 providers, public transit employees or agents, or other  
92 specified officers; reclassification of offenses; minimum  
93 sentences";  
94 5.Section 784.08, entitled "Assault or battery on persons  
95 65 years of age or older; reclassification of offenses; minimum  
96 sentence";  
97 6.Section 787.01, entitled "Kidnapping; kidnapping of  
98 child under age 13, aggravating circumstances";  
99 7.Section 790.07, entitled "Persons engaged in criminal  
100 offense, having weapons";  
101 8.Section 794.011, entitled "Sexual battery";  
102 9.Section 812.133, entitled "Carjacking";  
103 10.Section 812.135, entitled "Home-invasion robbery";  
104 11.Section 827.03, entitled "Abuse, aggravated abuse, and  
105 neglect of a child; penalties"; or  
106 12.Section 828.12, entitled "Cruelty to animals."  
107 (c)Before an adolescent offender may be granted parole  
108 under this subsection, she or he must have an initial  
109 eligibility interview to determine whether she or he has been  
110 sufficiently rehabilitated while in the custody of the  
111 department to justify granting parole. The initial eligibility  
112 interview shall occur in the 8th year of incarceration. In order  
113 to determine if the adolescent offender has been sufficiently  
114 rehabilitated, she or he must have successfully completed the  
115 General Educational Development (GED) program, unless waived  
116 based on disability, and must have not received any approved  
117 disciplinary reports for a period of at least 2 years  
118 immediately prior to the current eligibility interview. The  
119 hearing examiner must also take into serious consideration the  
120 wishes of the victim, or the opinions of the victims next of  
121 kin, and must also consider whether:  
122 1.The adolescent offender was a principal to the criminal  
123 offense or an accomplice to the offense, was a relatively minor  
124 participant in the criminal offense, or acted under extreme  
125 duress or domination of another person.  
126 2.The adolescent offender has shown remorse for the  
127 criminal offense.  
128 3.The adolescent offenders age, maturity, and  
129 psychological development at the time of the offense affected  
130 her or his behavior.  
131 4.The adolescent offender, while in the custody of the  
132 department, has aided inmates suffering from catastrophic or  
133 terminal medical, mental, or physical conditions or has  
134 prevented risk or injury to staff, citizens, or other inmates.  
135 5.The adolescent offender has successfully completed

136 educational and self-rehabilitation programs.

137 6.The adolescent offender was a victim of sexual,  
138 physical, or emotional abuse.

139 (d)An adolescent offender who is not granted parole under  
140 this subsection after an initial eligibility interview is  
141 eligible for a reinterview 2 years after the date of the denial  
142 of the grant of parole and every 2 years thereafter.

143 (e)An adolescent offender must serve her or his sentence  
144 in a facility that has a General Educational Development (GED)  
145 program unless the adolescent offender has already successfully  
146 completed a GED program.

147 (f)If the adolescent offender is granted parole, the  
148 adolescent offender must participate in any available reentry  
149 program for 2 years. As used in this paragraph, the term  
150 "reentry program" means a program that promotes effective  
151 reintegration of offenders back into communities upon release  
152 and provides one or more of the following: vocational training,  
153 placement services, transitional housing, mentoring, or drug  
154 rehabilitation. Priority shall be given to those reentry  
155 programs that are residential, highly structured, self-reliant,  
156 and therapeutic communities.

157 (3)(2)The following special types of cases shall have  
158 their initial parole interview as follows:

159 (a)An initial interview may be postponed for a period not  
160 to exceed 90 days. ~~The~~ ~~Such~~ postponement shall be for good  
161 cause, which shall include, but ~~is~~ need not be limited to, the  
162 need for the department to obtain a presentence or postsentence  
163 investigation report or a probation or parole or mandatory  
164 conditional release violation report. The reason for  
165 postponement shall be noted in writing and included in the  
166 official record. ~~A~~ ~~No~~ postponement for good cause may not shall  
167 result in an initial interview being conducted later than 90  
168 days after the inmates initially scheduled initial interview.

169 (b)An initial interview may be deferred for any inmate who  
170 is out to court. Such deferral may shall not result in an  
171 initial interview being conducted later than 90 days after the  
172 department provides written notice to the commission that the  
173 inmate has been returned from court.

174 (c)An initial interview may be deferred for any inmate  
175 confined in any appropriate treatment facility within the state,  
176 public or private, by virtue of transfer from the department  
177 under any applicable law. ~~The~~ ~~Such~~ deferral may shall not result  
178 in an initial interview being conducted later than 90 days after  
179 the department provides written notice to the commission that  
180 the inmate has been returned to the department.

181 (d)An inmate designated a mentally disordered sex offender

182 shall have an initial interview conducted within 90 days after  
183 of receiving written notification by the department to the  
184 commission of the need for such interview and that the inmates  
185 file contains all investigative reports deemed necessary by the  
186 commission to conduct such interview.

187 (e) Any inmate who has been determined to be an  
188 incapacitated person pursuant to s. 744.331 shall have an  
189 initial interview conducted within 90 days after the date the  
190 commission is provided with written notice that the inmate has  
191 been restored to capacity by the court.

192 (f) An initial interview may be held at the discretion of  
193 the commission after the entry of a commission order to revoke  
194 parole or mandatory conditional release.

195 (g) For purposes of determining eligibility for parole  
196 interview and release, the mandatory minimum portion of a  
197 concurrent sentence will begin on the date the sentence begins  
198 to run as provided in s. 921.161. The mandatory minimum portions  
199 of consecutive sentences must shall be served at the beginning  
200 of the maximum sentence as established by the Department of  
201 Corrections. Each mandatory minimum portion of consecutive  
202 sentences must shall be served consecutively; except provided,  
203 that in no case shall a sentence may not begin to run before the  
204 date of imposition. The commission shall conduct an initial  
205 interview for an inmate serving a mandatory minimum sentence  
206 according to the following schedule:

207 1. An inmate serving a mandatory term of 7 years or less  
208 shall have an initial interview no sooner than 6 months before  
209 ~~prior to~~ the expiration of the mandatory minimum portion of the  
210 sentence.

211 2. An inmate serving a mandatory term in excess of 7 years  
212 but of less than 15 years shall have an initial interview no  
213 sooner than 12 months before ~~prior to~~ the expiration of the  
214 mandatory minimum portion of the sentence.

215 3. An inmate serving a mandatory term of 15 years or more  
216 shall have an initial interview no sooner than 18 months before  
217 ~~prior to~~ the expiration of the mandatory minimum portion of the  
218 sentence.

219 (h) If an inmate is serving a sentence imposed by a county  
220 or circuit court of this state concurrently with a sentence  
221 imposed by a court of another state or of the United States, and  
222 if the department has designated the correctional institution of  
223 the other jurisdiction as the place for reception and  
224 confinement of such person, the inmate so released to another  
225 jurisdiction is shall be eligible for consideration for parole,  
226 except that the commission shall determine the presumptive  
227 parole release date and the effective parole release date by

228 requesting such persons record file from the receiving  
229 jurisdiction. Upon receiving ~~the such~~ records, the commission  
230 panel assigned by the chair shall determine such release dates  
231 based on the relevant information in that file. The commission  
232 may concur with the parole release decision of the jurisdiction  
233 granting parole and accepting supervision. Section ~~The~~  
234 ~~provisions of s. 947.174~~ does ~~de~~ not apply to an inmate serving  
235 a concurrent sentence in another jurisdiction pursuant to s.  
236 921.16(2).

237 ~~(4)(3)~~ Notwithstanding the provisions of ss. 775.021 and  
238 921.16, if an inmate has received a consecutive sentence or  
239 sentences imposed by a court or courts of this state, the inmate  
240 ~~is shall be~~ eligible for consideration for parole, unless  
241 otherwise expressly prohibited by law.

242 ~~(5)(4)~~ A person who has become eligible for an initial  
243 parole interview and who may, according to the objective parole  
244 guidelines of the commission, be granted parole shall be placed  
245 on parole in accordance with the provisions of this law; except  
246 that, in any case of a person convicted of murder, robbery,  
247 burglary of a dwelling or burglary of a structure or conveyance  
248 in which a human being is present, aggravated assault,  
249 aggravated battery, kidnapping, sexual battery or attempted  
250 sexual battery, incest or attempted incest, an unnatural and  
251 lascivious act or an attempted unnatural and lascivious act,  
252 lewd and lascivious behavior, assault or aggravated assault when  
253 a sexual act is completed or attempted, battery or aggravated  
254 battery when a sexual act is completed or attempted, arson, or  
255 any felony involving the use of a firearm or other deadly weapon  
256 or the use of intentional violence, at the time of sentencing  
257 the judge may enter an order retaining jurisdiction over the  
258 offender for review of a commission release order. This  
259 jurisdiction of the trial court judge is limited to the first  
260 one-third of the maximum sentence imposed. When any person is  
261 convicted of two or more felonies and concurrent sentences are  
262 imposed, ~~then~~ the jurisdiction of the trial court judge as  
263 provided herein applies to the first one-third of the maximum  
264 sentence imposed for the highest felony of which the person was  
265 convicted. When any person is convicted of two or more felonies  
266 and consecutive sentences are imposed, ~~then~~ the jurisdiction of  
267 the trial court judge as provided herein applies to one-third of  
268 the total consecutive sentences imposed.

269 (a) In retaining jurisdiction for the purposes of this act,  
270 the trial court judge shall state the justification with  
271 individual particularity, and such justification shall be made a  
272 part of the court record. A copy of such justification shall be  
273 delivered to the department together with the commitment issued

274 by the court pursuant to s. 944.16.

275 (b)Gain-time as provided for by law shall accrue, except  
276 that an offender over whom the trial court has retained  
277 jurisdiction as provided herein may ~~shall~~ not be released during  
278 the first one-third of her or his sentence by reason of gain  
279 time.

280 (c)In such a case of retained jurisdiction, the  
281 commission, within 30 days after the entry of its release order,  
282 shall send notice of its release order to the original  
283 sentencing judge and to the appropriate state attorney. The  
284 release order shall be made contingent upon entry of an order by  
285 the appropriate circuit judge relinquishing jurisdiction as  
286 provided for in paragraphs (d) and (f). If the original  
287 sentencing judge is no longer in service, such notice shall be  
288 sent to the chief judge of the circuit in which the offender was  
289 sentenced. The chief judge may designate any circuit judge  
290 within the circuit to act in the place of the original  
291 sentencing judge. Such notice shall stay the time requirements  
292 of s. 947.1745.

293 (d)Within 10 days after receipt of the notice provided for  
294 in paragraph (c), the original sentencing judge or her or his  
295 replacement shall notify the commission as to whether or not the  
296 court further desires to retain jurisdiction. If the original  
297 sentencing judge or her or his replacement does not so notify  
298 the commission within the 10-day period or notifies the  
299 commission that the court does not desire to retain  
300 jurisdiction, ~~then~~ the commission may dispose of the matter as  
301 it sees fit.

302 (e)Upon receipt of notice of intent to retain jurisdiction  
303 from the original sentencing judge or her or his replacement,  
304 the commission shall, within 10 days, forward to the court its  
305 release order, the findings of fact, the parole hearing  
306 examiners report and recommendation, and all supporting  
307 information upon which its release order was based.

308 (f)Within 30 days after ~~of~~ receipt of the items listed in  
309 paragraph (e), the original sentencing judge or her or his  
310 replacement shall review the order, findings, and evidence; and,  
311 if the judge finds that the order of the commission is not based  
312 on competent substantial evidence or that the parole is not in  
313 the best interest of the community or the inmate, the court may  
314 vacate the release order. The judge or her or his replacement  
315 shall notify the commission of the decision of the court, and,  
316 if the release order is vacated, such notification shall contain  
317 the evidence relied on and the reasons for denial. A copy of  
318 such notice shall be sent to the inmate.

319 (g)The decision of the original sentencing judge or, in

320 her or his absence, the chief judge of the circuit to vacate any  
321 parole release order as provided in this section is not  
322 appealable. Each inmate whose parole release order has been  
323 vacated by the court shall be reinterviewed within 2 years after  
324 the date of receipt of the vacated release order and every 2  
325 years thereafter, or earlier by order of the court retaining  
326 jurisdiction. However, each inmate whose parole release order  
327 has been vacated by the court and who has been:

328       1.Convicted of murder or attempted murder;  
329       2.Convicted of sexual battery or attempted sexual battery;

330 or

331       3.Sentenced to a 25-year minimum mandatory sentence  
332 previously provided in s. 775.082,

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334 shall be reinterviewed once within 5 years after the date of  
335 receipt of the vacated release order and once every 5 years  
336 thereafter, if the commission finds that it is not reasonable to  
337 expect that parole would be granted during the following years  
338 and states the bases for the finding in writing. For any inmate  
339 who is within 7 years of his or her tentative release date, the  
340 commission may establish a reinterview date prior to the 5-year  
341 schedule.

342       (h)An inmate whose parole release order has been vacated  
343 by the court may not be given a presumptive parole release date  
344 during the period of retention of jurisdiction by the court.

345 During such period, a new effective parole release date may be  
346 authorized at the discretion of the commission without further  
347 interview unless an interview is requested by no fewer than two  
348 commissioners. Any such new effective parole release date must  
349 be reviewed in accordance with the provisions of paragraphs (c),  
350 (d), (e), (f), and (g).

351       ~~(6)(5)~~Within 90 days after any interview for parole, the  
352 inmate shall be advised of the presumptive parole release date.  
353 Subsequent to the establishment of the presumptive parole  
354 release date, the commission may, ~~at its discretion,~~ review the  
355 official record or conduct additional interviews with the  
356 inmate. However, the presumptive parole release date may not be  
357 changed except for reasons of institutional conduct or the  
358 acquisition of new information not available at the time of the  
359 initial interview.

360       ~~(7)(6)~~This section as amended by chapter 82-171, Laws of  
361 Florida, applies ~~shall apply~~ only to those persons convicted on  
362 or after the effective date of chapter 82-171; and this section  
363 as in effect before being amended by chapter 82-171 applies  
364 ~~shall apply~~ to any person convicted before the effective date of  
365 chapter 82-171.

366       Section 3. An adolescent offender, as defined in s.  
367 947.16(2)(a), Florida Statutes, as created by this act, who is  
368 in his or her 8th or subsequent year of incarceration on the  
369 effective date of this act must receive an initial eligibility  
370 interview as provided in s. 947.16(2)(c), Florida Statutes, as  
371 created by this act, if he or she is otherwise eligible.

372       Section 4. This act shall take effect upon becoming a law,  
373 and applies with respect to offenses committed before, on, or  
374 after that date.