

RESOLUTION NO. 46-2010

A RESOLUTION OF THE TOWN OF MALABAR, BREVARD COUNTY, RELATING TO THE ELDERLY REHABILITATED INMATE PROGRAM PROVIDED FOR IN FLORIDA SENATE BILL 484 AND HOUSE BILL 1515; MAKING FINDINGS; RECOMMENDING DISAPPROVAL OF THE LEGISLATION IN ITS PRESENT FORM OR PROVIDING FOR SUBSTANTIAL AMENDMENT; PROVIDING FOR DISTRIBUTION OF THIS RESOLUTION; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR ADOPTION.

**WHEREAS**, Senate Bill 484 and House Bill 1515 are identical measures which provide for the creation of the Elderly Rehabilitated Inmate Program;

**WHEREAS**, the legislation provides that the Elderly Rehabilitated Inmate Program would permit any inmate serving a penalty of incarceration to petition the Florida Parole Commission for early release, if the inmate:

- 1) Has served at least 25 consecutive years of his sentence in the state prison system;
- 2) Is at least 50 years of age; and
- 3) Is serving a penalty other than death;

**WHEREAS**, pursuant to the proposed legislation, an inmate may file only one petition seeking to participate in the Elderly Rehabilitated Inmate Program, and the victim of the crime for which the inmate is incarcerated is to be notified of the filing of the inmate's petition;

**WHEREAS**, as a part of the inmate's petition, documentation of the inmate's relevant medical history, including current medical prognosis; and the inmate's prison experience and criminal history must be included with the petition;

**WHEREAS**, the criminal history must include any claim of innocence, the degree to which the inmate accepts responsibility for his or her acts leading to the conviction of the crime, and how the claim of responsibility has affected the inmate's feelings of remorse;

**WHEREAS**, the Florida Parole Commission *may* approve an inmate for participation in the Elderly Rehabilitated Inmate Program, if the inmate demonstrates:

(a) Successful participation in programs designed to restore the inmate as a useful and productive person in the community upon release or, if such programs are not available, the inmate demonstrates an attempt to be a useful and productive person in the community upon release; and

(b) Genuine reform and changed behavior over a period of years; and

(c) Remorse for actions that have caused pain and suffering to the victims of his or her offenses; and

(d) An ability to socialize with others in an acceptable manner; and

(e) A renunciation of criminal activity and gang affiliation if the inmate was a member of a gang;

**WHEREAS**, the Town Council of Malabar finds that releasing inmates serving sentences of more than 25 years for serious crimes is not justified unless the inmate is truly elderly;

**WHEREAS**, the Town Council of Malabar finds that inmates of 50 years of age are not truly "elderly,"

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF MALABAR THAT:**

**SECTION 1.** The SB-484 and HB-1515 should be disapproved in its present form or amended to provide a more realistic age of an "elderly" inmate. Age 50 simply is not an "elderly" inmate. Additionally, the program should not be implemented until the program has undergone a significant pilot program demonstrating that the program will not release dangerous or recidivist criminals on the streets of Florida. Victim participation in any program approved must be an absolute minimum requirement.

**SECTION 2.** The Town Clerk is directed to forward copies of this resolution to the Brevard County Legislative Delegation, Senator Chris Smith, State Representatives James Bush, III, Darryl Rouson, and Betty Reed, and to all Brevard municipalities.

**SECTION 3.** This Resolution shall become effective immediately upon its adoption.

This Resolution was moved for adoption by Council Member Borton. This motion was seconded by Council Member Vail and, upon being put to vote, the vote was as follows:

Council Member Nancy Borton  
Council Member Brian Vail  
Council Member Steven (Steve) Rivet  
Council Member Jeffrey (Jeff) McKnight  
Council Member Marisa Acquaviva

Aye  
Aye  
Aye  
Aye  
Aye

This Resolution was then declared to be duly passed and adopted this 19<sup>th</sup> day of April, 2010.

TOWN OF MALABAR

By:

Thomas M. Eschenberg  
Mayor, Thomas M. Eschenberg

Approved as to Form and Content:

Karl Bohne, Jr.  
Karl Bohne, Jr., Town Attorney

**ATTEST:**

Debby K. Franklin  
Debby K. Franklin  
Town Clerk/Treasurer

(seal)