

## Committee Substitute for Senate Bill No. 1742

An act relating to corrections; amending s. 20.315, F.S.; revising department goals; revising the organization of the state correctional system; authorizing the Secretary of Corrections to appoint assistant secretaries, directors, and other persons in specified areas of program responsibility; providing for the administration of department operations through regions; deleting requirements that the regions follow judicial circuits; deleting provisions authorizing the appointment of regional directors; revising requirements for the annual department budget; amending ss. 944.31, 944.331, F.S.; providing for the department's office of general counsel rather than the inspector general to oversee inmate grievances; amending s. 944.10, F.S.; limiting the services that may be provided by the department when contracting with governmental entities for planning and designing buildings, parks, roads, and other projects; amending s. 944.40, F.S.; providing that it is a second-degree felony to escape or attempt to escape from a private correctional facility or other correctional facility operated by a governmental entity or under contract with a governmental entity; amending s. 957.04, F.S.; providing for the status of specified property and leases of the Correctional Privatization Commission; providing for payment in lieu of taxes from appropriated funds; providing for preparation of a reviser's bill to change the term "superintendent" to "warden"; amending s. 944.09, F.S.; authorizing the department to take digitized photographs of inmates or offenders under its supervision; amending s. 944.09, F.S.; providing the department authority to make rules relating to community corrections; amending s. 110.205, F.S.; exempting certain positions in the Department of Corrections and the Department of Children and Family Services from membership in the Career Service System; requiring the Office of Program Policy Analysis and Government Accountability to conduct a performance review of the Department of Corrections' reorganization efforts; requiring a report; providing legislative intent regarding the reorganization of the Department of Corrections; creating s. 944.8031, F.S.; relating to inmate's family visitation services and programs; providing legislative intent; requiring the department to provide certain minimum services and programs for persons visiting inmates; requiring the secretary to submit legislative budget requests necessary to improve the quality and frequency of family visits and improve visitation services and programs; amending s. 945.215, F.S., relating to the Inmate Welfare Trust Fund; requiring such funds to be used for visitation and family programs and services; requiring funds from vending machines used by visitors to go into the fund; transferring the contract for the Gadsden Correctional Institution from the Department of Corrections to the Correctional Privatization Commission; creating s. 944.115, F.S.; providing legislative intent; requiring the Department of Corrections and private vendors operating state correctional facilities to make smoking-cessation assistance available to inmates; requiring full implementation of the act by a speci-

fied date; providing definitions; prohibiting an inmate within a state correctional facility from using tobacco products in prohibited areas; prohibiting employees or visitors from using tobacco products in prohibited areas; providing penalties; authorizing the department to adopt rules; providing an effective date.

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

Section 1. Section 20.315, Florida Statutes, 1998 Supplement, is amended to read:

20.315 Department of Corrections.—There is created a Department of Corrections.

(1) PURPOSE.—The purpose of the Department of Corrections is to protect the public through the incarceration and supervision of offenders and to rehabilitate offenders through the application of work, programs, and services. The goals of the department shall be:

(a) To protect society by providing incarceration that will support the intentions of established criminal law.

(b) To ensure that inmates work while they are incarcerated and that the department makes every effort to collect restitution and other monetary assessments from inmates while they are incarcerated or under supervision.

(c) To work in partnerships with local communities to further efforts toward crime prevention.

(d) To provide a safe and humane environment for offenders and staff in which rehabilitation is possible. This should include the protection of the offender from victimization within the institution and the development of a system of due process, where applicable.

(e) To provide appropriate supervision for offenders released on community supervision, based on public safety risks and offender needs, and, in conjunction with the judiciary, public safety agencies, and local communities, develop safe, community-based alternatives to ~~traditional incarceration.~~

(f) To provide programs, which may include academic, vocational, ~~and career education~~ and treatment, to incarcerated offenders and supervised offenders which will prepare them for occupations available in the community.

(g) To provide library services at correctional institutions, which includes general and law library services.

(h) To provide judges with effective evaluative tools and information for use in sentencing decisions.

(i) To provide the level of security in institutions commensurate with the custody requirements and management needs of inmates.

(j) To ensure that the rights and needs of crime victims are recognized and met, including the need for the victim to be timely notified of the release or escape of an inmate utilize advanced technology to accomplish the responsibilities of the department.

(2) LEGISLATIVE INTENT.—It is the intent of the Legislature that:

(a) The department focus its attention on the removal of barriers that could prevent the inmate's successful return to society while supervising and incarcerating offenders at a level of security commensurate with the danger they present to the public.

(b) The department work in partnership with communities in the construction of facilities and the development of programs to offenders.

(c) The department develop a comprehensive program for the treatment of youthful offenders and other special needs offenders committed to the department, including female, elderly, and disabled offenders.

(d) The department pursue partnerships with other governmental entities and private industry for the purpose of furthering mutual goals and expanding work and educational opportunities for offenders.

(3) SECRETARY OF CORRECTIONS.—The head of the Department of Corrections is the Secretary of Corrections. The secretary is appointed by the Governor, subject to confirmation by the Senate, and shall serve at the pleasure of the Governor. The secretary is responsible for planning, coordinating, and managing the corrections system of the state. The secretary shall ensure that the programs and services of the department are administered in accordance with state and federal laws, rules, and regulations, with established program standards, and consistent with legislative intent. The secretary shall identify the need for and recommend funding for the secure and efficient operation of the state correctional system.

(a) The secretary shall appoint a deputy secretary. The deputy secretary shall be directly responsible to the secretary and shall serve at the pleasure of the secretary.

(b) The secretary shall appoint a general counsel and an inspector general, who are exempt from part II of chapter 110 and are included in the Senior Management Service.

(c) The secretary may shall appoint assistant secretaries, directors, or other such persons that he or she deems are necessary to accomplish the mission and goals of the department, including, but not limited to, the following areas of program responsibility: an Assistant Secretary for

1. Security and institutional operations, which shall provide Management responsible for providing inmate work programs, offender programs, security administration, emergency operations response, and operational oversight of technical assistance to the regions.

2.(d) The secretary shall appoint an Assistant Secretary of Health services, which who shall be headed by a physician licensed under chapter 458

or an osteopathic physician licensed under chapter 459, or a professionally trained health care administrator with progressively responsible experience in health care administration. This individual shall be responsible for the delivery of health services to offenders within the system and shall have direct professional authority over such services.

~~(e) The secretary shall appoint an Assistant Secretary for Executive Services responsible for the provision of support to the agency through the management of human resources, research, planning and evaluation, and technology.~~

~~3.(f) The secretary shall appoint an Assistant Secretary for Community corrections, which shall provide responsible for coordination of community alternatives to incarceration and operational oversight of community corrections regions.~~

~~4.(g) Administrative services, which shall provide The secretary shall appoint an Assistant Secretary for Administration, responsible for the budget and accounting services activities within the department, including the construction and maintenance of correctional institutions, human-resource management, research, planning and evaluation, and technology.~~

~~5.(h) Program services, which shall provide for the direct management and supervision of all departmental programs, including The secretary shall appoint an Assistant Secretary for Education and Job Training, responsible for the coordination and delivery of education and job training to the offenders in the custody of the department.~~

(4) REGIONS.—The department shall plan and administer its program of services for community corrections, security, and institutional operations through regions through a maximum of five regional offices. The secretary shall establish the geographical boundaries of each region. In establishing each region, the secretary shall, to the extent possible, follow the boundaries of the judicial circuits and balance the regions by geographical size or workload of the department.

~~(a) The secretary shall appoint regional directors who shall serve at the pleasure of the secretary. Though organizationally located within the office of the Assistant Secretary for Security and Institutional Management for administrative purposes, the regional directors are accountable to the secretary for administration of all affairs under their jurisdiction. The secretary shall develop performance agreements with each assistant secretary and regional director each biennium. Such agreements shall evaluate the execution of the agency mission, strategic plan, and performance budget measures and outcomes.~~

~~(b) Each regional director shall appoint, with the advice and consent of the secretary, the following offices within the region. Each shall be headed by a director and shall be classified at a level of division director:~~

~~1.—Administration.~~

~~2.—Community Corrections.~~

- ~~3.—Executive Services.~~
- ~~4.—Security and Institutional Management.~~
- ~~5.—Health Care Administration.~~
- ~~6.—Education and Job Training.~~

(5) ANNUAL REPORTING.—The department shall report annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives recounting its activities and making recommendations for improvements to the performance of the department.

(6) FLORIDA CORRECTIONS COMMISSION.—

(a)1. The Florida Corrections Commission is hereby created. The primary focus of the commission shall be on corrections; however, in those instances in which the policies of other components of the criminal justice system affect corrections, the commission shall advise and make recommendations.

2. The commission shall consist of nine members appointed by the Governor subject to confirmation by the Senate. The initial members of the commission shall be appointed by October 1, 1994. Members of the commission shall serve terms of 4 years each, except that four of the initial members shall be appointed for terms of 2 years each. Members must be appointed in such a manner as to equitably represent all geographic areas of the state. Each member of the commission must be a citizen and registered voter of the state. A member of the commission shall represent the public safety needs of the state as a whole and may not subordinate the needs of the state to those of any particular area of the state. The commission's membership should, to the extent possible, contain persons who are knowledgeable about construction, health care, information technology, education, business, food services, law, and inmate and youthful offender rehabilitation and services.

3. The commission is assigned to the office of the Secretary of Corrections for administrative and fiscal accountability purposes, but it shall otherwise function independently of the control and direction of the Department of Corrections.

(b) The primary functions of the commission are to:

1. Recommend major correctional policies for the Governor's approval, and assure that approved policies and any revisions thereto are properly executed.

2. Periodically review the status of the state correctional system and recommend improvements therein to the Governor and the Legislature.

3. Annually perform an in-depth review of community-based intermediate sanctions and recommend to the Governor and the Legislature intergovernmental approaches through the Community Corrections Partnership Act for planning and implementing such sanctions and programs.

4. Perform an in-depth evaluation of the annual budget request of the Department of Corrections, the comprehensive correctional master plan, and the tentative construction program for compliance with all applicable laws and established departmental policies. The commission may not consider individual construction projects, but shall consider methods of accomplishing the department's goals in the most effective, efficient, and business-like manner.

5. Routinely monitor the financial status of the Department of Corrections to assure that the department is managing revenue and any applicable bond proceeds responsibly and in accordance with law and established policy.

6. Evaluate, at least quarterly, the efficiency, productivity, and management of the Department of Corrections, using performance and production standards developed by the department under subsection (18).

7. Provide public education on corrections and criminal justice issues.

8. Report to the President of the Senate, the Speaker of the House of Representatives, and the Governor by November 1 of each year.

(c) The commission or a member thereof may not enter into the day-to-day operation of the Department of Corrections and is specifically prohibited from taking part in:

1. The awarding of contracts by the department.

2. The selection by the department of a consultant or contractor or the prequalification by the department of any individual consultant or contractor. However, the commission may recommend to the Secretary of Corrections standards and policies governing the procedure for selection and prequalification of consultants and contractors.

3. The selection by the department of a county for a specific project.

4. The selection by the department of a specific location for a correctional facility.

5. The employment, promotion, demotion, suspension, transfer, or discharge of any departmental personnel.

6. The enforcement of minimum standards for any county or municipal detention facility.

(d)1. The chair of the commission shall be selected by the members for a term of 1 year.

2. The commission shall hold a minimum of four regular meetings annually, and other meetings may be called by the chair upon giving at least 7 days' notice to all members and the public pursuant to chapter 120. Meetings may also be held upon the written request of at least four members, upon at least 7 days' notice of such meeting being given to all members and the public by the chair pursuant to chapter 120. Emergency meetings may

be held without notice upon the request of all members. The meetings of the commission shall be held in the central office of the Department of Corrections in Tallahassee unless the chair determines that special circumstances warrant meeting at another location.

3. A majority of the membership of the commission constitutes a quorum at any meeting of the commission. An action of the commission is not binding unless the action is taken pursuant to an affirmative vote of a majority of the members present, but not fewer than four members of the commission must be present, and the vote must be recorded in the minutes of the meeting.

4. The chair shall cause to be made a complete record of the proceedings of the commission, which record shall be open for public inspection.

(e) The commission shall appoint an executive director and an assistant executive director, who shall serve under the direction, supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such staff as are necessary to perform adequately the functions of the commission, within budgetary limitations. All employees of the commission are exempt from part II of chapter 110 and serve at the pleasure of the commission. The salaries and benefits of all employees of the commission shall be set in accordance with the Selected Exempt Service rules; however, the commission shall have complete authority for fixing the salaries of the executive director and the assistant executive director. The executive director and staff of the Task Force for Review of the Criminal Justice and Corrections System, created under chapter 93-404, Laws of Florida, shall serve as the staff for the commission until the commission hires an executive director.

(f) Members of the commission are entitled to per diem and travel expenses pursuant to s. 112.061.

(g) A member of the commission may not have any interest, direct or indirect, in any contract, franchise, privilege, or other benefit granted or awarded by the department during the term of his or her appointment and for 2 years after the termination of that appointment.

(h) The commission shall develop a budget pursuant to chapter 216. The budget is not subject to change by the department, but such budget shall be submitted to the Governor along with the budget of the department.

#### (7) DEPARTMENTAL BUDGETS.—

(a) The secretary shall develop and submit annually to the Legislature a comprehensive departmental budget request document. ~~This summary document shall, for the purpose of legislative appropriation, consist of four distinct budget entities:~~

1. ~~Department Administration.~~

2. ~~Department Operations.~~

3.—~~Health Services.~~

4.—~~Education and Job Training.~~

(b) The department shall revise its budget entity designations to conform ~~with the four distinct budget entities, or to the~~ such other budget entities as are designated by the Executive Office of the Governor ~~under pursuant~~ to s. 216.0235. The department, consistent in accordance with chapter 216, ~~may shall~~ transfer, as necessary, funds and positions among budget entities to realign appropriations with the revised budget entity designations. Such authorized revisions must be consistent with the intent of the approved operating budget. ~~The various regional budget requests developed shall be included in the comprehensive department budget document.~~ The department shall periodically review the appropriateness of the budget entity designations and the adequacy of its delegated authority to transfer funds between entities and submit the reviews to the Governor's office of Planning and Budget. To fulfill this responsibility, the secretary shall have the authority to review, amend, and approve the annual budget requests of all departmental activities. ~~Recommendations on departmental budget priorities shall be furnished to the secretary by the deputy secretary, assistant secretaries, and regional directors.~~

(c) ~~It is the responsibility of the Assistant Secretary for Administration to promulgate the necessary budget timetables, formats, and data requirements for all departmental budget requests. This shall be done in accordance with statewide budget requirements of the Executive Office of the Governor.~~

(d) ~~It is the responsibility of the regional directors to develop an annual budget request to be reviewed, amended, and approved by the secretary and incorporated into the agency budget request.~~

(8) PLACEMENT OF OFFENDERS.—The department shall classify its programs according to the character and range of services available for its clients. The department shall place each offender in the program or facility most appropriate to the offender's needs, subject to budgetary limitations and the availability of space.

(9) DISCHARGE FROM COMMITMENT.—When the law grants to an agent, officer, or administrator of the Department of Corrections the authority to make a discharge from commitment, such authority shall be vested in the Secretary of Corrections or in any agent who, in his or her discretion, the secretary may authorize.

(10) FORM OF COMMITMENT; NOTICE OF PAROLE VIOLATION.—All commitments shall state the statutory authority therefor. The Secretary of Corrections shall have the authority to prescribe the form to be used for commitments. Nothing in this act shall be construed to abridge the authority and responsibility of the Parole Commission with respect to the granting and revocation of parole. The Department of Corrections shall notify the Parole Commission of all violations of parole conditions and provide reports connected thereto as may be requested by the commission. The commission



shall have the authority to issue orders dealing with supervision of specific parolees, and such orders shall be binding on all parties.

(11) SINGLE INFORMATION AND RECORDS SYSTEM.—There shall be only one offender-based information and records system maintained by the Department of Corrections for the joint use of the department and the Parole Commission. This data system is managed through the Justice Data Center, which is hereby transferred to the department under this act pursuant to a type two transfer authorized under s. 20.06(2). The department shall develop and maintain, in consultation with the Criminal and Juvenile Justice Information Systems Council under s. 943.08, such offender-based information system designed to serve the needs of both the department and the Parole Commission. The department shall notify the commission of all violations of parole and the circumstances thereof.

(12) TRANSFER OF AUTHORITY.—All statutory functions of the department not otherwise herein assigned to a specific unit of the department are assigned generally to the department and may be allocated and reallocated by the secretary to an authorized unit of the department.

(13) PURCHASE OF SERVICES.—Whenever possible, the department, in accordance with the established program objectives and performance criteria, may contract for the provision of services by counties, municipalities, nonprofit corporations, and other entities capable of providing needed services, if services so provided are more cost-efficient, cost-effective, or timely than those provided by the department or available to it under existing law.

Section 2. Section 944.31, Florida Statutes, is amended to read:

944.31 Inspector general; inspectors; power and duties.—The inspector general shall be responsible for prison inspection and investigation, internal affairs investigations, ~~inmate grievances~~, and management reviews. The office of the inspector general shall be charged with the duty of inspecting the penal and correctional systems of the state. The office of the inspector general shall inspect each correctional institution or any place in which state prisoners are housed, worked, or kept within the state, with reference to its physical conditions, cleanliness, sanitation, safety, and comfort; the quality and supply of all bedding; the quality, quantity, and diversity of food served and the manner in which it is served; the number and condition of the prisoners confined therein; and the general conditions of each institution. The office of inspector general shall see that all the rules and regulations issued by the department are strictly observed and followed by all persons connected with the correctional systems of the state. The office of the inspector general shall coordinate and supervise the work of inspectors throughout the state. The inspector general and inspectors may enter any place where prisoners in this state are kept and shall be immediately admitted to such place as they desire and may consult and confer with any prisoner privately and without molestation. The inspector general and inspectors shall be responsible for criminal and administrative investigation of matters relating to the Department of Corrections. In such investigations, the inspector general and inspectors may consult and confer with any prisoner or staff member privately and without molestation and shall have the

authority to detain any person for violations of the criminal laws of the state. Such detention shall be made only on properties owned or leased by the department, and the detained person shall be surrendered without delay to the sheriff of the county in which the detention is made, with a formal complaint subsequently made against her or him in accordance with law.

Section 3. Section 944.331, Florida Statutes, is amended to read:

944.331 Inmate grievance procedure.—The department shall establish by rule an inmate grievance procedure that must ~~which shall~~ conform to the Minimum Standards for Inmate Grievance Procedures as promulgated by the United States Department of Justice pursuant to 42 U.S.C. s. 1997e. The department's office of general counsel shall oversee the grievance procedures established by the department.

Section 4. Subsection (7) of section 944.10, Florida Statutes, 1998 Supplement, is amended to read:

944.10 Department of Corrections to provide buildings; sale and purchase of land; contracts to provide services and inmate labor.—

(7) The department may enter into contracts with federal, state, or local governmental entities or subdivisions to provide services and inmate labor for the construction of buildings, parks, roads, any detention or commitment facilities, or any other project deemed to be appropriate by the Department of Corrections, which includes ~~may include, but is not limited to, the planning, design,~~ site acquisition or preparation, management, or construction of such projects. The department may charge fees for providing such services. All fees collected must be placed in the Correctional Work Program Trust Fund.

Section 5. Section 944.40, Florida Statutes, is amended to read:

944.40 Escapes; penalty.—Any prisoner confined in any prison, jail, private correctional facility, road camp, or other penal institution, whether operated by the state, a county, or a municipality, or operated under a contract with the state, a county, or a municipality ~~municipal~~, working upon the public roads, or being transported to or from a place of confinement who escapes or attempts to escape from such confinement commits ~~shall be guilty of~~ a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The punishment of imprisonment imposed under this section shall run consecutive to any former sentence imposed upon any prisoner.

Section 6. Subsection (8) of section 957.04, Florida Statutes, is amended to read:

957.04 Contract requirements.—

(8) ~~For the 1996-1997 fiscal year only, the Correctional Privatization Commission may expend appropriated funds to assist in defraying impact costs that are incurred by a municipality or county and are associated with the opening and operating of a facility under the authority of the commission~~

~~and within that municipality or county. The amount that may be paid under this subsection for any facility may not exceed 1 percent of the facility construction cost, less any building and construction impact fees imposed during the permitting process for the facility. This subsection applies only to facilities contracted under the authority of the 1996-1997 General Appropriations Act. This subsection is repealed on July 1, 1997. Buildings and other improvements to real property which are financed under paragraph (2)(a) and which are leased to the Correctional Privatization Commission are considered to be owned by the Correctional Privatization Commission for the purposes of this section whereby the terms of the lease, the buildings, and other improvements will become the property of the state at the expiration of the lease. For any facility that is bid and built under the authority of requests for proposals made by the Correctional Privatization Commission between December 1993 and October 1994 and that is operated by a private vendor, a payment in lieu of taxes, from funds appropriated for the Correctional Privatization Commission, shall be paid until the expiration of the lease to local taxing authorities in the local government in which the facility is located in an amount equal to the ad valorem taxes assessed by counties, municipalities, school districts, and special districts.~~

Section 7. The Division of Statutory Revision is requested to prepare a reviser's bill that changes the term "superintendent" to "warden" wherever it appears in sections 110.205, 112.531, 121.0515(2)(c), 790.001, 922.052, 922.11, 922.12, and 922.15, and chapters 944, 945, 946, and 947, Florida Statutes, and the term "superintendent" in section 112.3145(1)(b)4., Florida Statutes, as it related to corrections, training, treatment, or rehabilitation.

Section 8. Subsection (7) is added to section 944.09, Florida Statutes, 1998 Supplement, to read:

944.09 Rules of the department; offenders, probationers, and parolees.—

(7) The department may take a digitized photograph of any inmate or offender under its supervision.

Section 9. Paragraph (r) is added to subsection (1) of section 944.09, Florida Statutes, 1998 Supplement, to read:

944.09 Rules of the department; offenders, probationers, and parolees.—

(1) The department has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement its statutory authority. The rules must include rules relating to:

(r) The function and duties of employees working in the area of community corrections and the operations of probation field and administrative offices.

Section 10. Paragraph (l) of subsection (2) of section 110.205, Florida Statutes, is amended to read:

110.205 Career service; exemptions.—

(2) EXEMPT POSITIONS.—The exempt positions which are not covered by this part include the following, provided that no position, except for positions established for a limited period of time pursuant to paragraph (h), shall be exempted if the position reports to a position in the career service:

(1) All assistant division director, deputy division director, and bureau chief positions in any department, and those positions determined by the department to have managerial responsibilities comparable to such positions, which positions include, but are not limited to, positions in the Department of Children and Family Health and Rehabilitative Services and the Department of Corrections that are assigned primary duties of serving as the superintendent or assistant superintendent of an institution; positions in the Department of Corrections that are assigned primary duties of serving as the circuit administrator or deputy circuit administrator; positions in the Department of Transportation that are assigned primary duties of serving as regional toll managers and managers of offices as defined in s. 20.23(3)(d)3. and (4)(d); positions in the Department of Environmental Protection that are assigned the duty of an Environmental Administrator or program administrator; and positions in the Department of Health and Rehabilitative Services that are assigned the duty of an Environmental Administrator. Unless otherwise fixed by law, the department shall set the salary and benefits of these positions in accordance with the rules established for the Selected Exempt Service.

Section 11. (1) The Office of Program Policy Analysis and Government Accountability shall conduct a performance review of the Department of Corrections' reorganization efforts pursuant to the passage of HB 2161 or any similar legislation passed in the 1999 Legislative session.

(2) The review shall describe the methods and goals of the department's reorganization efforts and determine immediate and long term effects of such efforts upon department personnel and, to the extent possible, the operational effectiveness and accountability of the department anticipated by reorganization efforts.

(3) The Office of Program Policy Analysis and Governmental Accountability shall conduct the review in consultation with staff from the Governor's Office of Planning and Budgeting, the Florida Corrections Commission, the Correctional Medical Authority, and appropriate substantive and fiscal committees of the Senate and House of Representatives.

(4) The Office of Program Policy Analysis and Governmental Accountability shall submit a report to the Governor, the President of the Senate and the Speaker of the House of Representatives with findings and recommendations no later than December 31, 2000.

Section 12. (1) In implementing the reorganization of the Department of Corrections pursuant to HB 2161 or any similar legislation passed in the 1999 legislative session, it is the intent of the Legislature that, to the extent possible, no employee of the department shall lose their job as a result of the realignment of job functions anticipated by the reorganization plan.

(2) Furthermore, although no employee of the department will be required to change job locations due to reorganization efforts, employees of the department may choose to be reassigned to another position at their current job location or accept other opportunities at other locations with the department.

(3) No employee of the department shall receive a reduction in salary as a result of reorganization efforts and all personnel actions made as a result of reorganization efforts shall be in accordance with career service rules and regulations.

Section 13. Section 944.8031, Florida Statutes, is created to read:

944.8031 Inmate's family visitation; legislative intent; minimum services provided to visitors; budget requests.—

(1) The Legislature finds that maintaining an inmate's family and community relationships through enhancing visitor services and programs and increasing the frequency and quality of the visits is an underutilized correctional resource that can improve an inmate's behavior in the correctional facility and, upon an inmate's release from a correctional facility, will help to reduce recidivism.

(2) The department shall provide, at a minimum, the following services at designated visiting areas for approved visitors in state correctional facilities:

(a) Information relating to applicable visiting regulations, dress codes, and visiting procedures.

(b) A sheltered area, outside the security perimeter, for visitors waiting before and after visiting inmates.

(c) Food services with food choices which are nutritious and acceptable for children and youth visitors.

(d) Minimal equipment and supplies which assist staff and visitors in managing and occupying the time and meeting the needs of children and youth visitors.

(3) Upon determining any deficiencies and barriers to the effective and efficient operation of the department's visitation program and services, the secretary shall submit annual budget requests identifying capital improvements, staffing, and programmatic needs necessary to improve the quality and frequency of family visits and the visitation program and services.

Section 14. Paragraphs (a), (b), and (c) of subsection (1) of section 945.215, Florida Statutes, 1998 Supplement, are amended to read:

945.215 Inmate welfare and employee benefit trust funds.—

(1) INMATE WELFARE TRUST FUND; DEPARTMENT OF CORRECTIONS.—

(a) The Inmate Welfare Trust Fund constitutes a trust held by the department for the benefit and welfare of inmates incarcerated in correctional facilities operated directly by the department and for visitation and family programs and services in such correctional facilities. Funds shall be credited to the trust fund as follows:

1. All funds held in any auxiliary, canteen, welfare, or similar fund in any correctional facility operated directly by the department.

2. All net proceeds from operating inmate canteens, vending machines used primarily by inmates and visitors, hobby shops, and other such facilities; however, funds necessary to purchase items for resale at inmate canteens and vending machines must be deposited into local bank accounts designated by the department.

3. All proceeds from contracted telephone commissions. The department shall develop and update, as necessary, administrative procedures to verify that:

a. Contracted telephone companies accurately record and report all telephone calls made by inmates incarcerated in correctional facilities under the department's jurisdiction;

b. Persons who accept collect calls from inmates are charged the contracted rate; and

c. The department receives the contracted telephone commissions.

4. Any funds that may be assigned by inmates or donated to the department by the general public or an inmate service organization; however, the department shall not accept any donation from, or on behalf of, any individual inmate.

5. Repayment of the one-time sum of \$500,000 appropriated in fiscal year 1996-1997 from the Inmate Welfare Trust Fund for correctional work programs pursuant to s. 946.008.

6. All proceeds from:

a. The confiscation and liquidation of any contraband found upon, or in the possession of, any inmate;

b. Disciplinary fines imposed against inmates;

c. Forfeitures of inmate earnings; and

d. Unexpended balances in individual inmate trust fund accounts of less than \$1.

7. All interest earnings and other proceeds derived from investments of funds deposited in the trust fund. In the manner authorized by law for fiduciaries, the secretary of the department, or the secretary's designee, may invest any funds in the trust fund when it is determined that such funds are not needed for immediate use.

(b) Funds in the Inmate Welfare Trust Fund must be used exclusively for the following purposes at correctional facilities operated directly by the department:

1. To operate inmate canteens and vending machines, including purchasing items for resale at inmate canteens and vending machines; employing personnel and inmates to manage, supervise, and operate inmate canteens and vending machines; and covering other operating and fixed capital outlay expenses associated with operating inmate canteens and vending machines;
2. To employ personnel to manage and supervise the proceeds from telephone commissions;
3. To develop, implement, and maintain the medical copayment accounting system;
4. To provide literacy programs, vocational training programs, and educational programs that comply with standards of the Department of Education, including employing personnel and covering other operating and fixed capital outlay expenses associated with providing such programs;
5. To operate inmate chapels, faith-based programs, visiting pavilions, visiting services and programs, family services and programs, libraries, and law libraries, including employing personnel and covering other operating and fixed capital outlay expenses associated with operating inmate chapels, faith-based programs, visiting pavilions, visiting services and programs, family services and programs, libraries, and law libraries;
6. To provide for expenses associated with various inmate clubs;
7. To provide for expenses associated with legal services for inmates;
8. To provide inmate substance abuse treatment programs and transition and life skills training programs, including employing personnel and covering other operating and fixed capital outlay expenses associated with providing such programs.

(c) The Legislature shall annually appropriate the funds deposited in the Inmate Welfare Trust Fund. It is the intent of the Legislature that total annual expenditures for providing literacy programs, vocational training programs, and educational programs exceed the combined total annual expenditures for operating inmate chapels, faith-based programs, visiting pavilions, visiting services and programs, family services and programs, libraries, and law libraries, covering expenses associated with inmate clubs, and providing inmate substance abuse treatment programs and transition and life skills training programs.

Section 15. No later than July 1, 1999, the Gadsden Correctional Institution, currently operated under a contract between the Department of Corrections and the Corrections Corporation of America pursuant to sections 944.710-944.72, Florida Statutes, shall be transferred to the Correctional Privatization Commission created in chapter 957, Florida Statutes, to be the sole contract manager and monitor for that facility.

Section 16. Section 944.115, Florida Statutes, is created to read:

944.115 Smoking prohibited inside state correctional facilities.—

(1) The purpose of this section is to protect the health, comfort, and environment of employees of the Department of Corrections, employees of privately operated correctional facilities, employees of the Correctional Privatization Commission, and inmates by prohibiting inmates from using tobacco products inside any office or building within state correctional facilities, and by ensuring that employees and visitors do not use tobacco products inside any office or building within state correctional facilities. Scientific evidence links the use of tobacco products with numerous significant health risks. The use of tobacco products by inmates, employees, or visitors is contrary to efforts by the Department of Corrections to reduce the cost of inmate health care and to limit unnecessary litigation. The Department of Corrections and the private vendors operating correctional facilities shall make smoking-cessation assistance available to inmates in order to implement this section. The Department of Corrections and the private vendors operating correctional facilities shall implement this section as soon as possible, and all provisions of this section must be fully implemented by January 1, 2000.

(2) As used in this section, the term:

(a) “Department” means the Department of Corrections.

(b) “Employee” means an employee of the department or a private vendor in a contractual relationship with either the Department of Corrections or the Correctional Privatization Commission, and includes persons such as contractors, volunteers, or law enforcement officers who are within a state correctional facility to perform a professional service.

(c) “State correctional facility” means a state or privately operated correctional institution as defined in s. 944.02, or a correctional institution or facility operated under s. 944.105 or chapter 957.

(d) “Tobacco products” means items such as cigars, cigarettes, snuff, loose tobacco, or similar goods made with any part of the tobacco plant, which are prepared or used for smoking, chewing, dipping, sniffing, or other personal use.

(e) “Visitor” means any person other than an inmate or employee who is within a state correctional facility for a lawful purpose and includes, but is not limited to, persons who are authorized to visit state correctional institutions pursuant to s. 944.23 and persons authorized to visit as prescribed by departmental rule or vendor policy.

(f) “Prohibited areas” means any indoor areas of any building, portable, or other enclosed structure within a state correctional facility. The secretary of the department may, by rule, designate other areas, including vehicles, as “prohibited areas” to be regulated under this section. Neither employee housing on the grounds of a state correctional facility nor maximum security inmate housing areas may be designated as prohibited areas under this section.



(3)(a) An inmate within a state correctional facility may not use tobacco products in prohibited areas at any time while in the custody of the department or under the supervision of a private vendor operating a correctional facility.

(b)1. An employee or visitor may not use any tobacco products in prohibited areas.

2. The superintendent, warden, or supervisor of a state correctional facility shall take reasonable steps to ensure that the tobacco prohibition for employees and visitors is strictly enforced.

(4) An inmate who violates this section commits a disciplinary infraction and is subject to punishment determined to be appropriate by the disciplinary authority in the state correctional facility, including, but not limited to, forfeiture of gain-time or the right to earn gain-time in the future under s. 944.28.

(5) The department may adopt rules and the private vendors operating correctional facilities may adopt policies and procedures for the implementation of this section, the designation of prohibited areas and smoking areas, and for the imposition of the following penalties:

(a) Inmates who violate this section will be subject to disciplinary action as provided by rule and in accordance with this section.

(b) Employees who violate this section will be subject to disciplinary action as provided by rule.

(c) Visitors who violate this section will be subject to removal of authorization to enter a correctional facility as provided by rule.

Section 17. This act shall take effect upon becoming a law.

Approved by the Governor June 8, 1999.

Filed in Office Secretary of State June 8, 1999.