

Senate Bill No. 1148

An act relating to corrections; revising provisions relating to leased or managed work programs to conform to current operations and applications; amending ss. 946.502, 946.5025, 946.5026, 946.503, 946.506, 946.509, 946.511, 946.514, 946.516, 946.518, 946.520, F.S.; conforming internal cross-references; deleting obsolete provisions; clarifying a definition; changing a reporting date; amending s. 957.04, F.S., to conform a cross-reference; providing a declaration of important state interest; creating s. 946.525, F.S.; establishing participation requirements; amending s. 948.09, F.S.; revising the amount of the surcharge paid to the Department of Corrections by offenders placed on community control; providing an effective date.

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

Section 1. Subsections (2), (3), and (4) of section 946.502, Florida Statutes, are amended to read:

946.502 Legislative intent with respect to operation of correctional work programs.—

(2) It is further the intent of the Legislature that, once one such nonprofit corporation is organized, no other nonprofit corporation be organized for the purpose of carrying out this part ss. 946.502-946.518. In carrying out this part ss. 946.502-946.518, the corporation is not an “agency” within the meaning of s. 20.03(11).

(3) It is further the intent of the Legislature that, ~~by July 1, 1985,~~ the corporation shall lease ~~have leased~~ all correctional work programs from the department.

(4) It is further the intent of the Legislature that the state shall have a continuing interest in assuring continuity and stability in the operation of correctional work programs and that this part ss. 946.502-946.518 be construed in furtherance of such goals.

Section 2. Section 946.5025, Florida Statutes, is amended to read:

946.5025 Authorization of corporation to enter into contracts.—The corporation established under this part chapter may enter into contracts to operate correctional work programs with any county or municipal authority that operates a correctional facility or with a contractor authorized under chapter 944 or chapter 957 to operate a private correctional facility. The corporation has the same powers, privileges, and immunities in carrying out such contracts as it has under this chapter.

Section 3. Section 946.5026, Florida Statutes, is amended to read:

946.5026 Sovereign immunity in tort actions.—The provisions of s. 768.28 shall be applicable to the corporation established under this part

pursuant to s. 946.504(1), which is deemed to be a corporation primarily acting as an instrumentality of the state.

Section 4. Section 946.503, Florida Statutes, is amended to read:

946.503 Definitions to be used with respect to correctional work programs.—As used in this part ss. 946.502-946.518, the term:

(1) “Corporation” means the private nonprofit corporation established pursuant to s. 946.504(1), or a private nonprofit corporation whose sole member is the private nonprofit corporation established pursuant to s. 946.504(1), and at least 51 percent of the board of which contains members of the board of directors of the private nonprofit corporation established pursuant to s. 946.504(1), to carry out this part ss. 946.502-946.518.

(2) “Correctional work program” means any program presently a part of the prison industries program operated by the department or any other correctional work program carried on at any state correctional facility presently or in the future, but the term does not include any program authorized by s. 945.091 or s. 946.40.

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

(4) “Facilities” means the buildings and land used in the operation of an industry program on state property.

(5) “Inmate” means any person incarcerated within any state, county, municipal, or private correctional facility.

(6) “Private correctional facility” means a facility authorized by chapter 944 or chapter 957.

Section 5. Section 946.506, Florida Statutes, is amended to read:

946.506 Modification or termination of correctional work program by the corporation.—This part does Sections 946.502-946.518 do not prevent the corporation from modifying, altering, or terminating any correctional work program, once assumed, so long as the corporation is otherwise carrying out the provisions of this part ss. 946.502-946.518.

Section 6. Subsection (1) of section 946.509, Florida Statutes, is amended to read:

946.509 Insurance of property leased or acquired by the corporation.—

(1) The State Risk Management Trust Fund created under s. 284.30 shall insure all property eligible for coverage under part I of chapter 284 which is leased by the department to the corporation or which is subsequently acquired and owned or leased by the corporation and subject to the reversionary ownership interest of the state established in s. 946.505.

Section 7. Subsection (1) of section 946.511, Florida Statutes, is amended to read:

946.511 Provision of inmate labor to operate correctional work programs; policies and procedures.—

(1) Inmates shall be evaluated and identified during the reception process to determine basic literacy, employment skills, academic skills, vocational skills, and remedial and rehabilitative needs. The evaluation shall prescribe education, work, and work-training for each inmate. Assignment to programs shall be based on the evaluation and the length of time the inmate will be in the custody of the department. Assignment to programs shall be reviewed every 6 months to ensure proper placement based on bed space availability. Assignment of inmates shall be governed by the following objectives and priorities:

(a) Inmates shall be assigned to meet the needs of the work requirements of the Department of Corrections, including essential operational functions and revenue-generating contracts.

(b) Inmates shall be assigned to correctional education.

(c) Inmates shall be assigned to meet all other work requirements of the department, including remaining operational functions and nonrevenue-generating contracts.

As used in this subsection, the term “revenue-generating contracts” includes contracts with the Department of Transportation, the corporation authorized to conduct the correctional work programs under this part II, the corporation and private sector businesses operating programs authorized under s. 946.523 ~~946.006(3)~~, and federal, state, or local governmental entities or subdivisions authorized under s. 944.10(7).

Section 8. Subsections (1) and (2) of section 946.514, Florida Statutes, are amended to read:

946.514 Civil rights of inmates; inmates not state employees; liability of corporation for inmate injuries.—

(1) Nothing contained in this part ~~ss. 946.502-946.517~~ is intended to restore in whole or in part the civil rights of inmates.

(2) No inmate compensated under this part ~~ss. 946.502-946.517~~ or by the corporation or the department shall be considered as an employee of the state, the department, or the corporation.

Section 9. Subsection (1) of section 946.516, Florida Statutes, is amended to read:

946.516 Report to Governor, Legislature, and Auditor General by the corporation; Department of Corrections report; annual financial audit.—

(1) The corporation shall submit to the Governor and the Legislature, on or before ~~July~~ January 1 of each year, a report on the status of the correctional work programs, including, but not limited to, the proposed use of the profits from such programs, a breakdown of the amount of noninmate labor

used, work subcontracted to other vendors, use of consultants, finished goods purchased for resale, and the number of inmates working in the correctional work programs at the time of such report. In addition, the corporation shall submit to the department, the Governor, the Legislature, and the Auditor General an annual financial audit report and such other information as may be requested by the Legislature, together with recommendations relating to provisions for reasonable tax incentives to private enterprises which employ inmates, parolees, or former inmates who have participated in correctional work programs.

Section 10. Section 946.518, Florida Statutes, is amended to read:

946.518 Sale of goods made by prisoners; when prohibited, when permitted.—Goods, wares, or merchandise manufactured or mined in whole or in part by prisoners (except prisoners on parole or probation) may not be sold or offered for sale in this state by any person or by any federal authority or state or political subdivision thereof; however, this section does not forbid the sale, exchange, or disposition of such goods within the limitations set forth in s. 946.515, s. 946.523, or s. 946.524.

Section 11. Section 946.520, Florida Statutes, is amended to read:

946.520 Assignment of inmates by Department of Corrections.—

(1) The department shall exert its best efforts to assign inmates to the corporation, or the private sector business authorized under this part I of ~~this chapter~~, who have not less than 1 nor more than 5 years remaining before their tentative release dates. Beginning January 1, 1998, the department shall maintain the assignment of at least 60 percent of inmates to all correctional work programs collectively to the corporation, or to the private sector business authorized under this part I of ~~this chapter~~, who have less than 10 years remaining before their tentative release dates. This 60-percent requirement does not apply to any correctional work program, or private sector business authorized under this part I of ~~this chapter~~, within an institution for any year in which, as of January 1 of that year, the average years remaining before the tentative release date of all inmates assigned to that institution exceeds 12 years.

(2) The department may not remove an inmate once assigned to the corporation or to the private sector business authorized under this part I of ~~this chapter~~, except upon request of or consent of such corporation or private sector business or for the purposes of population management, for inmate conduct that may subject the inmate to disciplinary confinement or loss of gain-time, or for security and safety concerns specifically set forth in writing to the corporation or private sector business.

Section 12. Paragraph (f) of subsection (1) of section 957.04, Florida Statutes, is amended to read:

957.04 Contract requirements.—

(1) A contract entered into under this chapter for the operation of private correctional facilities shall maximize the cost savings of such facilities and shall:

(f) Require the contractor to be responsible for a range of dental, medical, and psychological services; diet; education; and work programs at least equal to those provided by the department in comparable facilities. The work and education programs must be designed to reduce recidivism, and include opportunities to participate in such work programs as authorized pursuant to s. 946.523 ~~946.006~~.

Section 13. The Legislature finds that a proper and legitimate state purpose is served when employees of the corporation established under this part, which is primarily an instrumentality of the state and carries out a vital state purpose under the direction of a board of directors which is appointed by the Governor and confirmed by the Senate, are given additional choices for the basic protections afforded by group health and prescription drug coverage programs that also permit the continued operation of a competitive marketplace and assure that affordable and available coverage is extended to all interested parties. Therefore, the Legislature determines and declares that section 946.525, Florida Statutes, fulfills an important state interest.

Section 14. Section 946.525, Florida Statutes, is created to read:

946.525 Participation by the corporation in the state group health insurance and prescription drug programs.—

(1) The board of directors of the corporation established under this part may apply for participation in the state group health insurance program authorized in s. 110.123 and the prescription drug coverage program authorized by s. 110.12315 by submitting an application along with a \$500 nonrefundable fee to the Department of Management Services.

(2) As a prerequisite to the adoption of a resolution for participation in the state group health insurance and prescription drug coverage program, the corporation shall seek proposals to provide health insurance and prescription drug coverage which coverages are equivalent to those offered currently by the corporation and coverages equivalent to the state group health insurance and prescription drug coverage program. The corporation shall review and consider all responsive proposals prior to the adoption of any resolution for participation in the state group health insurance and prescription drug coverage program.

(3) If the Department of Management Services determines that the corporation is eligible to enroll, the corporation must agree to the following terms and conditions:

(a) The minimum enrollment or contractual period will be 3 years.

(b) The corporation must pay to the Department of Management Services an initial administrative fee not less than \$2.61 per enrollee per month, or such other amount established annually to fully reimburse the Department of Management Services for its costs.

(c) Termination of participation of the corporation requires written notice 1 year before the termination date.

(d) If participation is terminated, the corporation may not reapply for participation for a period of 2 years.

(e) The corporation shall reimburse the state for 100 percent of its costs, including administrative costs.

(f) If the corporation fails to make the payments required by this section to fully reimburse the state, the Department of Revenue or the Department of Banking and Finance shall, upon the request of the Department of Management Services, deduct the amount owed by the employer from any funds to be distributed by it to the corporation. The amounts so deducted shall be transferred to the Department of Management Services for further distribution to the trust funds in accordance with this chapter.

(g) The corporation shall furnish the Department of Management Services any information requested by the Department of Management Services which the Department of Management Services considers necessary to administer the state group health insurance program and the prescription drug program.

(4) The provisions of ss. 624.436-624.446 do not apply to the State Group Insurance Program or to this section.

(5) The Department of Management Services may adopt rules necessary to administer this section.

Section 15. The Department of Management Services shall request from the Internal Revenue Service, by October 1, 2001, a written determination letter and a favorable private letter ruling, stating that the State Group Self-Insurance Program, as amended by section 946.525, Florida Statutes, is a facially qualified plan. The department shall notify the President of the Senate and the Speaker of the House of Representatives within 30 days after the receipt of the favorable or unfavorable letters.

Section 16. Subsection (2) of section 948.09, Florida Statutes, is amended to read:

948.09 Payment for cost of supervision and rehabilitation.—

(2) Any person being electronically monitored by the department as a result of placement on community control shall be required to pay as a \$1-per-day surcharge an amount that may not exceed the full cost of the monitoring service in addition to the cost of supervision fee as directed by the sentencing court. The surcharge shall be deposited in the Operating Trust Fund to be used by the department for purchasing and maintaining electronic monitoring devices.

Section 17. This act shall take effect upon becoming a law, except that section 14 shall take effect only when the Department of Management Services receives the favorable letters requested by section 15. If the favorable letters are not received, section 14 shall not take effect.

Approved by the Governor June 15, 2001.

Filed in Office Secretary of State June 15, 2001.