

## House Bill No. 5017

An act relating to corrections; amending s. 20.315, F.S.; abolishing the Florida Corrections Commission; amending s. 944.8041, F.S.; requiring the Department of Corrections, in lieu of the commission, to submit an annual report on certain elderly offenders; amending s. 957.04, F.S.; requiring the Department of Management Services, in lieu of the commission, to consider proposed waivers of rules, policies, and procedures of the Department of Corrections for contractors of private correctional facilities; amending s. 957.07, F.S.; revising the membership of the Prison Per-Diem Workgroup; revising meeting requirements of the workgroup; revising information to be included in the consensus per diem rates developed by the workgroup; revising use of the per diem rates developed by the workgroup; eliminating a provision that s. 957.07(5), F.S., supersedes certain proviso language in the Conference Report on CS for SB 2-C, ch. 2001-367, Laws of Florida; providing an effective date.

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

Section 1. Subsections (7) through (13) of section 20.315, Florida Statutes, are renumbered as subsections (6) through (12), respectively, and present subsection (6) of that section is amended to read:

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

~~(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. Members of the commission shall serve terms of 4 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 former 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.~~

~~9. Resolve disputes between the Department of Corrections and the contractors for the private correctional facilities entered into under chapter 957 when a contractor proposes to waive a rule, policy, or procedure concerning operation standards.~~

~~(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.~~

~~(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.~~

Section 2. Section 944.8041, Florida Statutes, is amended to read:

944.8041 Elderly offenders; annual review.—For the purpose of providing information to the Legislature on elderly offenders within the correctional system, the department ~~Florida Corrections Commission~~ and the Correctional Medical Authority shall each submit annually a report on the status and treatment of elderly offenders in the state-administered and private state correctional systems, as well as such information on the River Junction Correctional Institution. In order to adequately prepare the reports, the department of ~~Corrections~~ and the Department of Management Services shall grant access to ~~the Florida Corrections Commission and the Correctional Medical Authority~~ which includes access to the facilities, offenders, and any information the agencies require to complete their reports. The review shall also include an examination of promising geriatric policies, practices, and programs currently implemented in other correctional systems within the United States. The reports, with specific findings and recommendations for implementation, shall be submitted to the President of the Senate and the Speaker of the House of Representatives on or before December 31 of each year.

Section 3. Paragraph (e) 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:

(e) Establish operations standards for correctional facilities subject to the contract. However, if the department and the contractor disagree with an operations standard, the contractor may propose to waive any rule, policy, or procedure of the department related to the operations standards of correctional facilities which is inconsistent with the mission of the contractor to establish cost-effective, privately operated correctional facilities. The Department of Management Services ~~Florida Corrections Commission~~ shall be responsible for considering all proposals from the contractor to waive any rule, policy, or procedure and shall render a final decision granting or denying such request.

Section 4. Subsection (5) of section 957.07, Florida Statutes, is amended to read:

957.07 Cost-saving requirements.—

(5)(a) At the request of the Speaker of the House of Representatives or the President of the Senate By February 1 each year, the Prison Per-Diem Workgroup shall develop consensus per diem rates for use by the Legislature ~~to be used when determining per diem rates of privately operated prisons.~~

The Office of Program Policy Analysis and Government Accountability, ~~the Office of the Auditor General~~, and the staffs of the appropriations committees of both the Senate and the House of Representatives are the principals of the workgroup. The workgroup may consult with other experts to assist in the development of the consensus per diem rates. All meetings of the workgroup shall be open to the public as provided in chapter 286.

(b) When developing the consensus per diem rates, the workgroup must:

1. Use data provided by the Department of Corrections from the most recent fiscal year to determine per diem costs for the following activities:

- a. Custody and control;
- b. Health services;
- c. Substance abuse programs; and
- d. Educational programs;

2. Include the cost of departmental, regional, institutional, and program administration and any other fixed costs of the department;

3. Calculate average per diem rates for the following offender populations: adult male, youthful offender male, and female; and

4. Make per diem adjustments, as appropriate, to account for variations in size and location of correctional facilities.

(c) ~~It is the intent of the Legislature that~~ The consensus per diem rates determined by the workgroup may shall be used to assist the Legislature in determining ~~determine~~ the level of funding provided to privately operated prisons to meet the, which must reflect at least a 7-percent savings required of private prisons by this chapter when compared to the Department of Corrections.

(d) If a private vendor chooses not to renew the contract at the appropriated level, the Department of Management Services shall terminate the contract as provided in s. 957.14.

~~(e) This subsection supersedes the proviso language immediately following Specific Appropriation 570 in the Conference Report on CS for SB 2-C.~~

Section 5. This act shall take effect July 1, 2006.

Approved by the Governor May 25, 2006.

Filed in Office Secretary of State May 25, 2006.