

Committee Substitute for
Committee Substitute for Senate Bill No. 1792

An act relating to the Department of Corrections; amending s. 316.003, F.S.; including vehicles operated by the department within the definition of the term “authorized emergency vehicles” for purposes of the Florida Uniform Traffic Control Law; amending s. 316.2397, F.S.; authorizing the department to operate vehicles that have emergency lights and sirens; amending s. 945.215, F.S.; providing for the funds in the Employee Benefit Trust Fund to be used for certain additional purposes; limiting the types of donations that the department may accept for deposit into the fund; requiring that the fund be subject to oversight by the Secretary of Corrections and an annual audit; requiring that the department provide an annual report concerning allocations from the trust fund at the request of the Legislature and Governor; requiring that the department adopt rules; amending s. 945.21501, F.S.; requiring that facilities constructed using funds from the Employee Benefit Trust Fund provide maximum benefit for all employees; requiring that the department adopt rules; amending s. 948.06, F.S.; authorizing the court to issue a notice to appear for certain violators; providing for service of notices to appear; providing for tolling of the probationary period; providing for the use of a notification letter of a technical violation of a term of probation or community control; authorizing the court to allow the submission of certain documents electronically or by facsimile; requiring the Department of Corrections to provide the court with recommendations as to disposition by the court; requiring the Department of Corrections to conduct a study and submit a report; providing an effective date.

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

Section 1. Subsection (1) of section 316.003, Florida Statutes, is amended to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(1) **AUTHORIZED EMERGENCY VEHICLES.**—Vehicles of the fire department (fire patrol), police vehicles, and such ambulances and emergency vehicles of municipal departments, public service corporations operated by private corporations, the Department of Environmental Protection, the Department of Health, ~~and the Department of Transportation, and the Department of Corrections~~ as are designated or authorized by their respective department or the chief of police of an incorporated city or any sheriff of any of the various counties.

Section 2. Subsection (3) of section 316.2397, Florida Statutes, is amended to read:

316.2397 Certain lights prohibited; exceptions.—

(3) Vehicles of the fire department and fire patrol, including vehicles of volunteer firefighters as permitted under s. 316.2398, vehicles of medical staff physicians or technicians of medical facilities licensed by the state as authorized under s. 316.2398, ambulances as authorized under this chapter, and buses and taxicabs as authorized under s. 316.2399 are permitted to show or display red lights. Vehicles of the fire department, fire patrol, police vehicles, and such ambulances and emergency vehicles of municipal and county departments, public service corporations operated by private corporations, the Department of Environmental Protection, the Department of Transportation, ~~and the Department of Agriculture and Consumer Services, and the Department of Corrections~~ as are designated or authorized by their respective department or the chief of police of an incorporated city or any sheriff of any county are hereby authorized to operate emergency lights and sirens in an emergency. Wreckers, mosquito control fog and spray vehicles, and emergency vehicles of governmental departments or public service corporations may show or display amber lights when in actual operation or when a hazard exists provided they are not used going to and from the scene of operation or hazard without specific authorization of a law enforcement officer or law enforcement agency. Wreckers must use amber rotating or flashing lights while performing recoveries and loading on the roadside day or night, and may use such lights while towing a vehicle on wheel lifts, slings, or under reach if the operator of the wrecker deems such lights necessary. A flatbed, car carrier, or rollback may not use amber rotating or flashing lights when hauling a vehicle on the bed unless it creates a hazard to other motorists because of protruding objects. Further, escort vehicles may show or display amber lights when in the actual process of escorting overdimensioned equipment, material, or buildings as authorized by law. Vehicles of private watch, guard, or patrol agencies licensed pursuant to chapter 493 may show or display amber lights while patrolling condominium, cooperative, and private residential and business communities by which employed and which traverse public streets or highways.

Section 3. Subsection (3) of section 945.215, Florida Statutes, is amended to read:

945.215 Inmate welfare and employee benefit trust funds.—

(3) EMPLOYEE BENEFIT TRUST FUND; DEPARTMENT OF CORRECTIONS.—

(a) The department may establish an Employee Benefit Trust Fund. Trust fund sources may be derived from any of the following:

1. Proceeds of vending machines, staff canteens, or other such services not intended for use by inmates.

2. Net proceeds of the recycling program.

~~3.2.~~ Donations, except for donations made by, or on behalf of, an individual inmate, and except for donations made by a person who provides, or

seeks to provide, goods or services to the department under a contract or an agreement, individually or through a corporation or organization.

4.3. Additional trust funds and grants which may become available.

(b) Funds from the Employee Benefit Trust Fund may be used for employee appreciation programs and activities and to construct, operate, and maintain training and recreation facilities at correctional facilities for the exclusive use of department employees. Such facilities are the property of the department and must provide the maximum benefit to all interested employees, regardless of gender.

(c) The Employee Benefit Trust Fund shall be established as a separate and distinct set of accounts, which shall be maintained centrally by the department, overseen by the secretary, and subject to an annual audit by the department's inspector general.

(d) The department shall maintain sufficient data to provide an annual report, upon request, to the President of the Senate, the Speaker of the House of Representatives, and the Executive Office of the Governor on December 1 which lists the types of services provided using moneys in the trust fund and the allocations of funds spent.

(e) The department shall adopt rules under ss. 120.536(1) and 120.54 to administer this subsection.

Section 4. Section 945.21501, Florida Statutes, is amended to read:

945.21501 Employee Benefit Trust Fund.—

(1) There is hereby created in the Department of Corrections the Employee Benefit Trust Fund. The purpose of the trust fund shall be to:

(a) Construct, operate, and maintain training and recreation facilities at correctional facilities for the exclusive use of department employees. Any facility constructed using funds from the Employee Benefit Trust Fund is the property of the department and must provide the maximum benefit to all interested employees, regardless of gender.

(b) Provide funding for employee appreciation programs and activities designed to enhance the morale of employees.

Moneys shall be deposited in the trust fund as provided in s. 945.215.

(2) Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year shall remain in the trust fund at the end of the year and shall be available for carrying out the purposes of the trust fund.

(3) The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section.

Section 5. Subsection (1) of section 948.06, Florida Statutes, is amended and paragraph (h) is added to subsection (2) of that section, to read:

948.06 Violation of probation or community control; revocation; modification; continuance; failure to pay restitution or cost of supervision.—

(1)(a) Whenever within the period of probation or community control there are reasonable grounds to believe that a probationer or offender in community control has violated his or her probation or community control in a material respect, any law enforcement officer who is aware of the probationary or community control status of the probationer or offender in community control or any parole or probation supervisor may arrest or request any county or municipal law enforcement officer to arrest such probationer or offender without warrant wherever found and ~~forthwith~~ return him or her to the court granting such probation or community control.

(b) Any committing trial court judge may issue a warrant, upon the facts being made known to him or her by affidavit of one having knowledge of such facts, for the arrest of the probationer or offender, returnable ~~forthwith~~ before the court granting such probation or community control. In lieu of issuing a warrant for arrest, the committing trial court judge may issue a notice to appear if the probationer or offender in community control has never been convicted of committing, and is not currently alleged to have committed, a qualifying offense as defined in this section.

(c) Any parole or probation supervisor, any officer authorized to serve criminal process, or any peace officer of this state is authorized to serve and execute such warrant. Any parole or probation supervisor is authorized to serve such notice to appear.

(d) Upon the filing of an affidavit alleging a violation of probation or community control and following issuance of a warrant under s. 901.02, a warrantless arrest under this section, or a notice to appear under this section, the probationary period is tolled until the court enters a ruling on the violation. Notwithstanding the tolling of probation ~~as provided in this subsection~~, the court shall retain jurisdiction over the offender for any violation of the conditions of probation or community control that is alleged to have occurred during the tolling period. The probation officer is permitted to continue to supervise any offender who remains available to the officer for supervision until the supervision expires pursuant to the order of probation or community control or until the court revokes or terminates the probation or community control, whichever comes first.

(e) The chief judge of each judicial circuit may direct the department to use a notification letter of a technical violation in appropriate cases in lieu of a violation report, affidavit, and warrant when the alleged violation is not a new felony or misdemeanor offense. Such direction must be in writing and must specify the types of specific violations which are to be reported by a notification letter of a technical violation, any exceptions to those violations, and the required process for submission. At the direction of the chief judge, the department shall send the notification letter of a technical violation to the court.

(f) The court may allow the department to file an affidavit, notification letter, violation report, or other report under this section by facsimile or electronic submission.

(2)

(h)1. For each case in which the offender admits to committing a violation or is found to have committed a violation, the department shall provide the court with a recommendation as to disposition by the court. The department shall provide the reasons for its recommendation and include an evaluation of:

a. The appropriateness or inappropriateness of community facilities, programs, or services for treating or supervising the offender;

b. The ability or inability of the department to provide an adequate level of supervision of the offender in the community and a statement of what constitutes an adequate level of supervision; and

c. The existence of treatment modalities that the offender could use but that do not currently exist in the community.

2. The report must also include a summary of the offender's prior supervision history, including the offender's prior participation in treatment, educational, and vocational programs, and any other actions by or circumstances concerning the offender which are relevant.

3. The court may specify whether the recommendation or report must be oral or written and may waive the requirement for a report in an individual case or a class of cases. This paragraph does not prohibit the department from making any other report or recommendation that is provided for by law or requested by the court.

Section 6. The Department of Corrections shall conduct a caseload and risk-assessment study to determine management caseload ratios for probation and community control and provide supervision based on an offender's level of risk. The department shall submit a final report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2007.

Section 7. This act shall take effect upon becoming a law.

Approved by the Governor June 20, 2007.

Filed in Office Secretary of State June 20, 2007.