

CHAPTER 2023-268

Committee Substitute for Committee Substitute for Senate Bill No. 7016

An act relating to the Department of Corrections; amending s. 944.35, F.S.; defining the terms “private correctional facility” and “volunteer”; providing criminal penalties for any volunteer or employee of a contractor or subcontractor of the Department of Corrections who engages in sexual misconduct with specified inmates or offenders; providing exceptions; providing for a type two transfer of private correctional facilities from the Department of Management Services to the Department of Corrections; providing construction; amending ss. 287.042, 394.9151, 943.13, 944.02, 944.115, 944.72, 944.8041, 945.215, 946.504, 957.04, 957.06, 957.07, 957.08, 957.12, 957.14, 957.15, and 957.16, F.S.; conforming provisions to changes made by the act; reenacting s. 944.47(2)(b), F.S., relating to the penalty for the introduction, removal, or possession of contraband, to incorporate the amendment made to s. 944.115, F.S., in a reference thereto; providing an effective date.

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

Section 1. Subsection (3) of section 944.35, Florida Statutes, is amended to read:

944.35 Authorized use of force; malicious battery and sexual misconduct prohibited; reporting required; penalties.—

(3)(a)1. Any employee of the department who, with malicious intent, commits a battery upon an inmate or an offender supervised by the department in the community, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

2. Any employee of the department who, with malicious intent, commits a battery or inflicts cruel or inhuman treatment by neglect or otherwise, and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to an inmate or an offender supervised by the department in the community, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b)1. As used in this paragraph, the term:

a. “Female genitals” includes the labia minora, labia majora, clitoris, vulva, hymen, and vagina.

b. “Private correctional facility” has the same meaning as in s. 944.710.

~~c.~~ b. “Sexual misconduct” means the oral, anal, or female genital penetration by, or union with, the sexual organ of another or the anal or female genital penetration of another by any other object, but does not

include an act done for a bona fide medical purpose or an internal search conducted in the lawful performance of the employee's duty.

d. “Volunteer” means a person registered with the department or a private correctional facility who is engaged in specific voluntary service activities on an ongoing or continual basis.

2. Any employee of the department or a private correctional facility or any volunteer in, or any employee of a contractor or subcontractor of, the department or a private correctional facility as defined in s. 944.710 who engages in sexual misconduct with an inmate or an offender supervised by the department in the community, without committing the crime of sexual battery, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. The consent of the inmate or offender supervised by the department in the community to any act of sexual misconduct may not be raised as a defense to a prosecution under this paragraph.

4. This paragraph does not apply to any employee, volunteer, or employee of a contractor or subcontractor of the department or any employee, volunteer, or employee of a contractor or subcontractor of a private correctional facility who is legally married to an inmate or an offender supervised by the department in the community, nor does it apply to any employee, volunteer, or employee of a contractor or subcontractor who has no knowledge, and would have no reason to believe, that the person with whom the employee, volunteer, or employee of a contractor or subcontractor has engaged in sexual misconduct is an inmate or an offender under community supervision of the department.

(c) Notwithstanding prosecution, any violation of the provisions of this subsection, as determined by the Public Employees Relations Commission, shall constitute sufficient cause under s. 110.227 for dismissal from employment with the department, and such person shall not again be employed in any capacity in connection with the correctional system.

(d) Each employee who witnesses, or has reasonable cause to suspect, that an inmate or an offender under the supervision of the department in the community has been unlawfully abused or is the subject of sexual misconduct pursuant to this subsection shall immediately prepare, date, and sign an independent report specifically describing the nature of the force used or the nature of the sexual misconduct, the location and time of the incident, and the persons involved. The report shall be delivered to the inspector general of the department with a copy to be delivered to the warden of the institution or the regional administrator. The inspector general shall immediately conduct an appropriate investigation, and, if probable cause is determined that a violation of this subsection has occurred, the respective state attorney in the circuit in which the incident occurred shall be notified.

Section 2. (1) All powers, duties, functions, records, personnel, associated administrative support positions, property, administrative authority, and administrative rules relating to private correctional facilities are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, from the Department of Management Services to the Department of Corrections. The Department of Management Services must ensure any unexpended funds or trust funds are transferred. Any binding contract or interagency agreement concerning private correctional facilities entered into and between the Department of Management Services and any other agency, entity, or person continues as a binding contract or an interagency agreement with the Department of Corrections for the remainder of the term of the contract or agreement, except for any contract or agreement entered into as a result of state appropriations from the federal Coronavirus State Fiscal Recovery Fund (Public Law 117-2) for fixed capital outlay projects. The Department of Corrections assumes all rights and responsibilities of the Department of Management Services under such contract or interagency agreement as if it were the original party to the agreement, except as it pertains to the Department of Management Services' rights with regard to action against any state contractor pursuant to law, which rights remain with the Department of Management Services. Notwithstanding the above, for any client agency agreements concerning private correctional facilities, the rights and responsibilities of the client agency, and only those rights and responsibilities, are transferred to the Department of Corrections.

(2) In no way shall the transfer under this act affect any existing agreements, bonds, certificates of participation, or other instruments of indebtedness entered into by the Department of Management Services. All undertakings of the Department of Management Services in connection with the issuance of certificates of participation and the obligations to make rent payments thereunder to the Florida Correctional Finance Corporation are validated and continue to be valid and binding on the Department of Corrections in accordance with their respective terms, conditions, and covenants.

Section 3. Subsection (17) of section 287.042, Florida Statutes, is amended to read:

287.042 Powers, duties, and functions.—The department shall have the following powers, duties, and functions:

~~(17)(a) To enter into contracts pursuant to chapter 957 for the designing, financing, acquiring, leasing, constructing, or operating of private correctional facilities. The department shall enter into a contract or contracts with one contractor per facility for the designing, acquiring, financing, leasing, constructing, and operating of that facility or may, if specifically authorized by the Legislature, separately contract for any such services.~~

~~(b) To manage and enforce compliance with existing or future contracts entered into pursuant to chapter 957.~~

~~The department may not delegate the responsibilities conferred by this subsection.~~

Section 4. Section 394.9151, Florida Statutes, is amended to read:

394.9151 Contract authority.—The Department of Children and Families may contract with a private entity or state agency for use of and operation of facilities to comply with the requirements of this act. The Department of Children and Families may also contract with the Department of Corrections Management Services to issue a request for proposals and monitor contract compliance for these services.

Section 5. Section 943.13, Florida Statutes, is amended to read:

943.13 Officers' minimum qualifications for employment or appointment.—On or after October 1, 1984, any person employed or appointed as a full-time, part-time, or auxiliary law enforcement officer or correctional officer; on or after October 1, 1986, any person employed as a full-time, part-time, or auxiliary correctional probation officer; and on or after October 1, 1986, any person employed as a full-time, part-time, or auxiliary correctional officer by a private entity under contract to the Department of Corrections ~~or, to a county commission, or to the Department of Management Services~~ shall:

(1) Be at least 19 years of age, except that any person employed as a full-time, a part-time, or an auxiliary correctional officer must be at least 18 years of age.

(2) Be a citizen of the United States, notwithstanding any law of the state to the contrary.

(3) Be a high school graduate or its “equivalent” as the commission has defined the term by rule.

(4) Not have been convicted of any felony or of a misdemeanor involving perjury or a false statement, or have received a dishonorable discharge from any of the Armed Forces of the United States. Any person who, after July 1, 1981, pleads guilty or nolo contendere to or is found guilty of any felony or of a misdemeanor involving perjury or a false statement is not eligible for employment or appointment as an officer, notwithstanding suspension of sentence or withholding of adjudication. Notwithstanding this subsection, any person who has pled nolo contendere to a misdemeanor involving a false statement, prior to December 1, 1985, and has had such record sealed or expunged shall not be deemed ineligible for employment or appointment as an officer.

(5) Have documentation of his or her processed fingerprints on file with the employing agency or, if a private correctional officer, have documentation of his or her processed fingerprints on file with the Department of Corrections or the Criminal Justice Standards and Training Commission. The department shall retain and enter into the statewide automated

biometric identification system authorized by s. 943.05 all fingerprints submitted to the department as required by this section. Thereafter, the fingerprints shall be available for all purposes and uses authorized for arrest fingerprints entered in the statewide automated biometric identification system pursuant to s. 943.051. The department shall search all arrest fingerprints received pursuant to s. 943.051 against the fingerprints retained in the statewide automated biometric identification system pursuant to this section and report to the employing agency any arrest records that are identified with the retained employee's fingerprints. These fingerprints must be forwarded to the department for processing and retention.

(6) Have passed a physical examination by a licensed physician, physician assistant, or licensed advanced practice registered nurse, based on specifications established by the commission. In order to be eligible for the presumption set forth in s. 112.18 while employed with an employing agency, a law enforcement officer, correctional officer, or correctional probation officer must have successfully passed the physical examination required by this subsection upon entering into service as a law enforcement officer, correctional officer, or correctional probation officer with the employing agency, which examination must have failed to reveal any evidence of tuberculosis, heart disease, or hypertension. A law enforcement officer, correctional officer, or correctional probation officer may not use a physical examination from a former employing agency for purposes of claiming the presumption set forth in s. 112.18 against the current employing agency. The employing agency must maintain records of the physical examination for at least 5 years after the employee's separation from the employing agency. If the employing agency fails to maintain the records of the physical examination for the 5-year period after the employee's separation, it is presumed that the employee has met the requirements of this subsection.

(7) Have a good moral character as determined by a background investigation under procedures established by the commission.

(8) Execute and submit to the employing agency or, if a private correctional officer, submit to the appropriate governmental entity an affidavit-of-applicant form, adopted by the commission, attesting to his or her compliance with subsections (1)-(7). The affidavit shall require the applicant to disclose any pending investigation by a local, state, or federal agency or entity for criminal, civil, or administrative wrongdoing and whether the applicant separated or resigned from previous criminal justice employment while he or she was under investigation. The affidavit shall be executed under oath and constitutes an official statement within the purview of s. 837.06. The affidavit shall include conspicuous language that the intentional false execution of the affidavit constitutes a misdemeanor of the second degree. The affidavit shall be retained by the employing agency.

(9) Complete a commission-approved basic recruit training program for the applicable criminal justice discipline, unless exempt under this subsection. An applicant who has:

(a) Completed a comparable basic recruit training program for the applicable criminal justice discipline in another state or for the Federal Government and served as a full-time sworn officer in another state or for the Federal Government for at least 1 year, provided there is no more than an 8-year break in employment, as measured from the separation date of the most recent qualifying employment to the time a complete application for an exemption under this subsection is submitted; or

(b) Served in the special operations forces for a minimum of 5 years, provided there is no more than a 4-year break from the applicant’s special operations forces experience, as measured from the separation date from the special operations forces to the time a complete application for an exemption under this subsection is submitted,

is exempt in accordance with s. 943.131(2) from completing the commission-approved basic recruit training program.

(10) Achieve an acceptable score on the officer certification examination for the applicable criminal justice discipline.

(11) Comply with the continuing training or education requirements of s. 943.135.

Section 6. Subsection (4) of section 944.02, Florida Statutes, is amended, and subsection (3) of that section is republished, to read:

944.02 Definitions.—The following words and phrases used in this chapter shall, unless the context clearly indicates otherwise, have the following meanings:

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

(4) “Elderly offender” means a prisoner age 50 or older in a state correctional institution or facility operated by the department of Corrections or the Department of Management Services.

Section 7. Paragraph (b) of subsection (2) of section 944.115, Florida Statutes, is amended, and paragraph (a) of that subsection is republished, to read:

944.115 Smoking prohibited inside state correctional facilities.—

(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 Department of Management Services~~, and includes persons such as contractors, volunteers, or law enforcement officers who are within a state correctional facility to perform a professional service.

Section 8. Subsection (1) of section 944.72, Florida Statutes, is amended to read:

944.72 Privately Operated Institutions Inmate Welfare Trust Fund.—

(1) There is hereby created in the Department of Corrections the Privately Operated Institutions Inmate Welfare Trust Fund. The purpose of the trust fund shall be the benefit and welfare of inmates incarcerated in private correctional facilities under contract with the department pursuant to this chapter or ~~the Department of Management Services pursuant to chapter 957~~. Moneys shall be deposited in the trust fund and expenditures made from the trust fund as provided in s. 945.215.

Section 9. 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 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 and the department’s geriatric facilities and dorms. In order to adequately prepare the reports, the department and ~~the Department of Management Services~~ shall grant access to the Correctional Medical Authority that 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 10. Subsection (3) of section 945.215, Florida Statutes, is amended to read:

945.215 Inmate welfare and employee benefit trust funds.—

(3) PRIVATELY OPERATED INSTITUTIONS INMATE WELFARE TRUST FUND; PRIVATE CORRECTIONAL FACILITIES.—

(a) For purposes of this subsection, privately operated institutions or private correctional facilities are those correctional facilities under contract with the department pursuant to chapter 944 or ~~the Department of Management Services pursuant to chapter 957~~.

(b)1. The net proceeds derived from inmate canteens, vending machines used primarily by inmates, telephone commissions, and similar sources at

private correctional facilities shall be deposited in the Privately Operated Institutions Inmate Welfare Trust Fund.

2. Funds in the Privately Operated Institutions Inmate Welfare Trust Fund shall be expended only pursuant to legislative appropriation.

(c) ~~The department of Management Services shall annually compile a report that documents Privately Operated Institutions Inmate Welfare Trust Fund receipts and expenditures at each private correctional facility. This report must specifically identify receipt sources and expenditures. The department of Management Services shall compile this report for the prior fiscal year and shall submit the report by September 1 of each year to the chairs of the appropriate substantive and fiscal committees of the Senate and House of Representatives and to the Executive Office of the Governor.~~

Section 11. Subsection (3) and paragraph (a) of subsection (6) of section 946.504, Florida Statutes, are amended to read:

946.504 Organization of corporation to operate correctional work programs; lease of facilities.—

(3) ~~The corporation shall negotiate with the department of Management Services to reach and enter into an agreement for the lease of each correctional work program proposed by the corporation. The facilities to be leased and the amount of rental for such facilities shall be agreed upon by the department of Management Services and the corporation, with consultation with the department. The length of such lease shall be mutually agreed upon between among the department, the Department of Management Services, and the corporation; however, the initial lease may not exceed 7 years. The department shall continue to manage and operate the various correctional work programs until the lease between the department and the corporation is effective.~~

(6)(a) Upon the effective date of each lease of each correctional work program, the department shall cause to be remitted to the corporation all funds appropriated for, associated with, or budgeted for the operation of that correctional work program, as agreed upon between among the department, ~~the Department of Management Services,~~ and the corporation.

Section 12. 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:

(a) Be negotiated with the firm found most qualified. However, a contract for private correctional services may not be entered into by the department of Management Services unless the department of Management Services determines that the contractor has demonstrated that it has:

1. The qualifications, experience, and management personnel necessary to carry out the terms of the contract.

2. The ability to expedite the siting, design, and construction of correctional facilities.

3. The ability to comply with applicable laws, court orders, and national correctional standards.

(b) Indemnify the state and the department, including their officials and agents, against any and all liability, including, but not limited to, civil rights liability. Proof of satisfactory insurance is required in an amount to be determined by the department of ~~Management Services~~.

(c) Require that the contractor seek, obtain, and maintain accreditation by the American Correctional Association for the facility under that contract. Compliance with amendments to the accreditation standards of the association is required upon the approval of such amendments by the department commission.

(d) Require that the proposed facilities and the management plans for the inmates meet applicable American Correctional Association standards and the requirements of all applicable court orders and state law.

(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~~ 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.

(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.

(g) Require the selection and appointment of a full-time contract monitor. The contract monitor shall be appointed and supervised by the department of ~~Management Services~~. The contractor is required to reimburse the department of ~~Management Services~~ for the salary and expenses of the contract monitor. It is the obligation of the contractor to provide suitable office space for the contract monitor at the correctional facility. The contract monitor shall have unlimited access to the correctional facility.

(h) Be for a period of 3 years and may be renewed for successive 2-year periods thereafter. However, the state is not obligated for any payments to the contractor beyond current annual appropriations.

(2) Each contract entered into for the design and construction of a private correctional facility or juvenile commitment facility must include:

(a) Notwithstanding any provision of chapter 255 to the contrary, a specific provision authorizing the use of tax-exempt financing through the issuance of tax-exempt bonds, certificates of participation, lease-purchase agreements, or other tax-exempt financing methods. Pursuant to s. 255.25, approval is hereby provided for the lease-purchase of up to two private correctional facilities and any other facility authorized by the General Appropriations Act.

(b) A specific provision requiring the design and construction of the proposed facilities to meet the applicable standards of the American Correctional Association and the requirements of all applicable court orders and state law.

(c) A specific provision requiring the contractor, and not the department of ~~Management Services~~, to obtain the financing required to design and construct the private correctional facility or juvenile commitment facility built under this chapter.

(d) A specific provision stating that the state is not obligated for any payments that exceed the amount of the current annual appropriation.

(3)(a) Each contract for the designing, financing, acquiring, leasing, constructing, and operating of a private correctional facility shall be subject to ss. 255.2502 and 255.2503.

(b) Each contract for the designing, financing, acquiring, leasing, and constructing of a private juvenile commitment facility shall be subject to ss. 255.2502 and 255.2503.

(4) A contract entered into under this chapter does not accord third-party beneficiary status to any inmate or juvenile offender or to any member of the general public.

(5) Each contract entered into by the department of ~~Management Services~~ must include substantial minority participation unless demonstrated by evidence, after a good faith effort, as impractical and must also include any other requirements the department of ~~Management Services~~ considers necessary and appropriate for carrying out the purposes of this chapter.

(6) Notwithstanding s. 253.025(9), the Board of Trustees of the Internal Improvement Trust Fund need not approve a lease-purchase agreement negotiated by the department of ~~Management Services~~ if the department of

~~Management Services~~ finds that there is a need to expedite the lease-purchase.

(7)(a) Notwithstanding s. 253.025 or s. 287.057, whenever the department of ~~Management Services~~ finds it to be in the best interest of timely site acquisition, it may contract without the need for competitive selection with one or more appraisers whose names are contained on the list of approved appraisers maintained by the Division of State Lands of the Department of Environmental Protection in accordance with s. 253.025(8). In those instances when the department of ~~Management Services~~ directly contracts for appraisal services, it shall also contract with an approved appraiser who is not employed by the same appraisal firm for review services.

(b) Notwithstanding s. 253.025(8), the department of ~~Management Services~~ may negotiate and enter into lease-purchase agreements before an appraisal is obtained. Any such agreement must state that the final purchase price cannot exceed the maximum value allowed by law.

Section 13. Subsection (2) of section 957.06, Florida Statutes, is amended to read:

957.06 Powers and duties not delegable to contractor.—A contract entered into under this chapter does not authorize, allow, or imply a delegation of authority to the contractor to:

(2) Choose the facility to which an inmate is initially assigned or subsequently transferred. The contractor may request, in writing, that an inmate be transferred to a facility operated by the department. The ~~Department of Management Services, the contractor,~~ and the department shall develop and implement a cooperative agreement for transferring inmates between a correctional facility operated by the department and a private correctional facility. The department, ~~the Department of Management Services,~~ and the contractor must comply with the cooperative agreement.

Section 14. Section 957.07, Florida Statutes, is amended to read:

957.07 Cost-saving requirements.—

(1) The department of ~~Management Services~~ may not enter into a contract or series of contracts unless the department determines that the contract or series of contracts in total for the facility will result in a cost savings to the state of at least 7 percent over the public provision of a similar facility. Such cost savings as ~~determined~~ and certified by the Auditor General ~~Department of Management Services~~ must be based upon the actual costs associated with the construction and operation of similar facilities or services as determined by the department of ~~Corrections and certified by the Auditor General~~. The department of ~~Corrections~~ shall calculate all of the cost components that determine the inmate per diem in correctional facilities of a substantially similar size, type, and location that

are operated by the department of ~~Corrections~~, including administrative costs associated with central administration. Services that are provided to the department of ~~Corrections~~ by other governmental agencies at no direct cost to the department shall be assigned an equivalent cost and included in the per diem.

(2) Reasonable projections of payments of any kind to the state or any political subdivision thereof for which the private entity would be liable because of its status as private rather than a public entity, including, but not limited to, corporate income and sales tax payments, shall be included as cost savings in all such determinations. In addition, the costs associated with the appointment and activities of each contract monitor shall be included in such determination.

(3) In counties where the department of ~~Corrections~~ pays its employees a competitive area differential, the cost for the public provision of a similar correctional facility may include the competitive area differential paid by the department.

(4) The department of ~~Corrections~~ shall provide a report detailing the state cost to design, finance, acquire, lease, construct, and operate a facility similar to the private correctional facility on a per diem basis. This report shall be provided to the Auditor General in sufficient time that it may be certified to the ~~Department of Management Services~~ to be included in the request for proposals.

(5)(a) At the request of the Speaker of the House of Representatives or the President of the Senate, the Prison Per-Diem Workgroup shall develop consensus per diem rates for use by the Legislature. The Office of Program Policy Analysis and Government Accountability 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) The consensus per diem rates determined by the workgroup may be used to assist the Legislature in determining the level of funding provided to privately operated prisons to meet the 7-percent savings required of private prisons by this chapter.

(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.

Section 15. Section 957.08, Florida Statutes, is amended to read:

957.08 Capacity requirements.—The department of Corrections shall transfer and assign prisoners to each private correctional facility opened pursuant to this chapter in an amount not less than 90 percent or more than 100 percent of the capacity of the facility pursuant to the contract with the Department of Management Services. The prisoners transferred by the department of Corrections shall represent a cross-section of the general inmate population, based on the grade of custody or the offense of conviction, at the most comparable facility operated by the department.

Section 16. Section 957.12, Florida Statutes, is amended to read:

957.12 Prohibition on contact.—A bidder or potential bidder is not permitted to have any contact with any member or employee of or consultant to the department ~~commission~~ regarding a request for proposal, a proposal, or the evaluation or selection process from the time a request for proposals for a private correctional facility is issued until the time a notification of intent to award is announced, except if such contact is in writing or in a meeting for which notice was provided in the Florida Administrative Register.

Section 17. Section 957.14, Florida Statutes, is amended to read:

957.14 Contract termination and control of a correctional facility by the department.—A detailed plan shall be provided by a private vendor under which the department shall assume temporary control of a private correctional facility upon termination of the contract. The department of Management Services may terminate the contract with cause after written notice of material deficiencies and after 60 workdays in order to correct the material deficiencies. If any event occurs that involves the noncompliance with or violation of contract terms and that presents a serious threat to the safety, health, or security of the inmates, employees, or the public, the department may temporarily assume control of the private correctional facility, ~~with the approval of the department of Management Services~~. A plan shall also be provided by a private vendor for the purchase and

temporary assumption of operations of a correctional facility by the department in the event of bankruptcy or the financial insolvency of the private vendor. The private vendor shall provide an emergency plan to address inmate disturbances, employee work stoppages, strikes, or other serious events in accordance with standards of the American Correctional Association.

Section 18. Section 957.15, Florida Statutes, is amended to read:

957.15 Funding of contracts for operation, maintenance, and lease-purchase of private correctional facilities.—The request for appropriation of funds to make payments pursuant to contracts entered into by the department of ~~Management Services~~ for the operation, maintenance, and lease-purchase of the private correctional facilities authorized by this chapter shall be included ~~made by the Department of Management Services in a request to the department.~~ The department shall include such request in its budget request to the Legislature as a separately identified item ~~and shall forward the request of the Department of Management Services without change.~~ After an appropriation has been made by the Legislature to the department for the private correctional facilities, the department shall have no authority over such funds other than to pay from such appropriation to the appropriate private vendor such amounts as are certified for payment by the department of ~~Management Services~~.

Section 19. Section 957.16, Florida Statutes, is amended to read:

957.16 Expanding capacity.—The department of ~~Management Services~~ is authorized to modify and execute agreements with contractors to expand up to the total capacity of contracted correctional facilities. Total capacity means the design capacity of all contracted correctional facilities increased by one-half as described under s. 944.023(1)(b). Any additional beds authorized under this section must comply with the cost-saving requirements set forth in s. 957.07. Any additional beds authorized as a result of expanded capacity under this section are contingent upon specified appropriations.

Section 20. For the purpose of incorporating the amendment made by this act to section 944.115, Florida Statutes, in a reference thereto, paragraph (b) of subsection (2) of section 944.47, Florida Statutes, is reenacted to read:

944.47 Introduction, removal, or possession of contraband; penalty.—

(2)

(b) A violation of this section by an employee, as defined in s. 944.115(2)(b), who uses or attempts to use the powers, rights, privileges, duties, or position of his or her employment in the commission of the violation is ranked one level above the ranking specified in s. 921.0022 or s. 921.0023 for the offense committed.

Section 21. This act shall take effect October 1, 2023.

Approved by the Governor June 20, 2023.

Filed in Office Secretary of State June 20, 2023.