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LEGISLATIVE ACTION

Senate

House

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Floor: 5/RS/2R

03/24/2015 11:57 AM

Senator Evers moved the following:

Senate Amendment (with title amendment)

Delete lines 756 - 841

and insert:

(b)1. An employee of the department, private provider, or private correctional facility who:

a. Willfully or by culpable negligence withholds food, water, clothing, shelter, supervision, medicine, or medical services from an inmate that a prudent person would consider essential for the well-being of the inmate: and

b. Causes the inmate to suffer great bodily harm, permanent



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12 disability, or permanent disfigurement by such action;
13
14 commits a felony of the third degree, punishable as provided is
15 s. 775.082, s. 775.083, or s. 775.084.

16 2. This section does not preclude prosecution for a
17 criminal act under any other law.

18 (c) Any employee of the department, private provider, or
19 private correctional facility who:

20 1. Knowingly and willfully fails to report the withholding
21 of food, water, clothing, shelter, supervision, medicine, or
22 medical services from an inmate that a prudent person would
23 consider essential for the well-being of the inmate; and

24 2. The withholding causes the inmate to suffer great bodily
25 harm, permanent disability, or permanent disfigurement by such
26 action;

27
28 commits a misdemeanor of the second degree, punishable as
29 provided in s. 775.082 or s. 775.083.

30 (d) ~~(b)~~1. As used in this paragraph, the term "sexual
31 misconduct" means the oral, anal, or vaginal penetration by, or
32 union with, the sexual organ of another or the anal or vaginal
33 penetration of another by any other object, but does not include
34 an act done for a bona fide medical purpose or an internal
35 search conducted in the lawful performance of the employee's
36 duty.

37 2. Any employee of the department or a private correctional
38 facility as defined in s. 944.710 who engages in sexual
39 misconduct with an inmate or an offender supervised by the
40 department in the community, without committing the crime of



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41 sexual battery, commits a felony of the third degree, punishable
42 as provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

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

61 (f)~~(d)~~ Each employee who witnesses, or has reasonable cause
62 to suspect, that an inmate or an offender under the supervision
63 of the department in the community has been unlawfully abused or
64 is the subject of sexual misconduct pursuant to this subsection
65 shall immediately prepare, date, and sign an independent report
66 specifically describing the nature of the force used or the
67 nature of the sexual misconduct, the location and time of the
68 incident, and the persons involved. The report shall be
69 delivered to the inspector general of the department with a copy



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70 to be delivered to the warden of the institution or the regional
71 administrator. The inspector general shall immediately conduct
72 an appropriate investigation, and, if probable cause is
73 determined that a violation of this subsection has occurred, the
74 respective state attorney in the circuit in which the incident
75 occurred shall be notified.

76 (g) If an employee of the department, private provider, or
77 private correctional facility who witnesses unlawful abuse or
78 neglect or has reasonable cause to suspect that an inmate has
79 been unlawfully abused or neglected, as the term "neglected" is
80 defined in paragraph (b), fears retaliation by coworkers or
81 supervisors if he or she submits a report as provided in
82 paragraph (e), the employee may anonymously and confidentially
83 report the inmate abuse or neglect directly to the department's
84 Office of Inspector General.

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86

87 ===== T I T L E A M E N D M E N T =====

88 And the title is amended as follows:

89 Delete lines 71 - 75

90 and insert:

91 correctional facilities; creating criminal penalties
92 for employees who willfully or by culpable negligence
93 withhold food and water and other essential services
94 or fail to report the withholding of essential
95 services; providing for anonymous reporting of