

By Senator Bracy

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1 A bill to be entitled
2 An act relating to the Department of Corrections;
3 amending s. 110.205, F.S.; exempting specified
4 positions from the career service system; amending s.
5 943.04, F.S.; authorizing the Department of Law
6 Enforcement to issue an investigative demand seeking
7 the production of an inmate's protected health
8 information, medical records, or mental health records
9 under certain circumstances; specifying requirements
10 for the investigative demand; amending s. 944.151,
11 F.S.; revising legislative intent; revising membership
12 requirements for the safety and security review
13 committee appointed by the Department of Corrections;
14 specifying the duties of the committee; requiring the
15 department to direct appropriate staff to complete
16 specified duties of the department; revising
17 scheduling requirements for inspections of state and
18 private correctional institutions and facilities;
19 revising the list of institutions that must be given
20 priority for inspection; revising the list of
21 institutions that must be given priority for certain
22 security audits; revising minimum audit and evaluation
23 requirements; requiring the department to direct
24 appropriate staff to review staffing policies and
25 practices as needed; conforming provisions to changes
26 made by the act; amending s. 944.17, F.S.; authorizing
27 the department to receive specified documents
28 electronically at its discretion; amending s. 944.275,
29 F.S.; revising the conditions on which an inmate may

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30 be granted a one-time award of 60 additional days of
31 incentive gain-time by the department; amending s.
32 944.597, F.S.; revising provisions relating to
33 training of transport company's employees before
34 transporting prisoners; amending s. 945.36, F.S.;
35 exempting employees of a contracted community
36 correctional center from certain health testing
37 regulations for the limited purpose of administering
38 urine screen drug tests on inmates and releasees;
39 amending s. 958.11, F.S.; deleting a provision
40 authorizing the department to assign 18-year-old
41 youthful offenders to the 19-24 age group facility
42 under certain circumstances; deleting a condition that
43 all female youth offenders are allowed to continue to
44 be housed together only until certain institutions are
45 established or adapted for separation by age and
46 custody classifications; authorizing inmates who are
47 17 years of age or under to be placed at an adult
48 facility for specified purposes, subject to certain
49 conditions; authorizing the department to retain
50 certain youthful offenders until 25 years of age in a
51 facility designated for 18- to 22-year-old youth
52 offenders under certain circumstances; conforming
53 provisions to changes made by the act; providing an
54 effective date.

55
56 Be It Enacted by the Legislature of the State of Florida:

57
58 Section 1. Paragraph (m) of subsection (2) of section

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59 110.205, Florida Statutes, is amended to read:

60 110.205 Career service; exemptions.—

61 (2) EXEMPT POSITIONS.—The exempt positions that are not
62 covered by this part include the following:

63 (m) All assistant division director, deputy division
64 director, and bureau chief positions in any department, and
65 those positions determined by the department to have managerial
66 responsibilities comparable to such positions, which include,
67 but are not limited to:

68 1. Positions in the Department of Health and the Department
69 of Children and Families which are assigned primary duties of
70 serving as the superintendent or assistant superintendent of an
71 institution.

72 2. Positions in the Department of Corrections which are
73 assigned primary duties of serving as the warden, assistant
74 warden, colonel, ~~or major,~~ captain, or lieutenant of an
75 institution or which that are assigned primary duties of serving
76 as the circuit administrator, ~~or deputy circuit administrator,~~
77 correctional probation supervisor, or senior supervisor.

78 3. Positions in the Department of Transportation which are
79 assigned primary duties of serving as regional toll managers and
80 managers of offices, as specified in s. 20.23(3)(b) and (4)(c).

81 4. Positions in the Department of Environmental Protection
82 which are assigned the duty of an Environmental Administrator or
83 program administrator.

84 5. Positions in the Department of Health which are assigned
85 the duties of Environmental Administrator, Assistant County
86 Health Department Director, and County Health Department
87 Financial Administrator.

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88 6. Positions in the Department of Highway Safety and Motor
89 Vehicles which are assigned primary duties of serving as
90 captains in the Florida Highway Patrol.

91
92 Unless otherwise fixed by law, the department shall set the
93 salary and benefits of the positions listed in this paragraph in
94 accordance with the rules established for the Selected Exempt
95 Service.

96 Section 2. Subsection (6) is added to section 943.04,
97 Florida Statutes, to read:

98 943.04 Criminal Justice Investigations and Forensic Science
99 Program; creation; investigative, forensic, and related
100 authority.—

101 (6) (a) In furtherance of the duties and responsibilities of
102 the inspector general under s. 944.31, if the Department of Law
103 Enforcement is conducting an investigation or assisting in the
104 investigation of an injury to or death of an inmate which occurs
105 while the inmate is under the custody or control of the
106 Department of Corrections, the department is authorized to,
107 before the initiation of a criminal proceeding relating to such
108 injury or death, issue in writing and serve upon the Department
109 of Corrections an investigative demand seeking the production of
110 the inmate's protected health information, medical records, or
111 mental health records as specified in s. 945.10(1) (a). The
112 department shall use such records for the limited purpose of
113 investigating or assisting in an investigation of an injury to
114 or death of an inmate for which the records were requested. Any
115 records disclosed pursuant to this subsection remain
116 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I

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117 of the State Constitution in accordance with s. 945.10(2).

118 (b) The investigative demand must be specific and limited
119 in scope to the extent reasonably practicable in light of the
120 purpose for which the protected health information or records
121 are sought and must include a certification that:

122 1. The protected health information or records sought are
123 relevant and material to a legitimate law enforcement inquiry;

124 2. There is a clear connection between the investigated
125 incident and the inmate whose protected health information and
126 records are sought; and

127 3. De-identified information could not reasonably be used.

128 Section 3. Section 944.151, Florida Statutes, is amended to
129 read:

130 944.151 Safe operation and security of correctional
131 institutions and facilities.—It is the intent of the Legislature
132 that the Department of Corrections shall be responsible for the
133 safe operation and security of the correctional institutions and
134 facilities. The safe operation and security of the state's
135 correctional institutions and facilities are ~~is~~ critical to
136 ensure public safety and the safety of department employees and
137 offenders, and to contain violent and chronic offenders until
138 offenders are otherwise released from the department's custody
139 pursuant to law. The Secretary of Corrections shall, at a
140 minimum:

141 (1) Appoint appropriate department staff to a safety and
142 security review committee that ~~which~~ shall evaluate new safety
143 and security technology, review and discuss current issues
144 impacting state and private correctional institutions and
145 facilities, and review and discuss other issues as requested by

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146 ~~department management, at a minimum, be composed of: the~~
147 ~~inspector general, the statewide security coordinator, the~~
148 ~~regional security coordinators, and three wardens and one~~
149 ~~correctional officer. The security review committee shall:~~

150 (2)(a) Direct appropriate department staff to establish a
151 periodic schedule for the physical inspection of buildings and
152 structures of each state and private correctional institution
153 and facility to determine safety and security deficiencies. In
154 scheduling the inspections, priority shall be given to older
155 institutions and facilities; ~~institutions and facilities that~~
156 ~~house a large proportion of violent offenders;~~ institutions and
157 facilities that have experienced a significant number of
158 inappropriate incidents of use of force on inmates, assaults on
159 employees, or inmate sexual abuse; ~~and institutions and~~
160 ~~facilities that have experienced a significant number of escapes~~
161 ~~or escape attempts in the past.~~

162 (3)(b) Direct appropriate department staff to conduct or
163 cause to be conducted announced and unannounced comprehensive
164 security audits of all state and private correctional
165 institutions and facilities. Priority shall be given to those
166 institutions and facilities that have experienced a significant
167 number of inappropriate incidents of use of force on inmates,
168 assaults on employees, or sexual abuse ~~In conducting the~~
169 ~~security audits, priority shall be given to older institutions,~~
170 ~~institutions that house a large proportion of violent offenders,~~
171 ~~and institutions that have experienced a history of escapes or~~
172 ~~escape attempts. At a minimum, the audit must shall include an~~
173 ~~evaluation of the physical plant, landscaping, fencing, security~~
174 ~~alarms and perimeter lighting, and~~ confinement, arsenal, key and

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175 lock, and entrance and exit inmate classification and staffing
176 policies. The evaluation of the physical plant policies must
177 include the identification of blind spots or areas where staff
178 or inmates may be isolated and the deployment of video
179 monitoring systems and other appropriate monitoring technologies
180 in such spots or areas. Each correctional institution and
181 facility shall be audited at least annually. The secretary shall
182 annually report the audit ~~general survey~~ findings annually to
183 the Governor and the Legislature.

184 ~~(c) Adopt and enforce minimum security standards and~~
185 ~~policies that include, but are not limited to:~~

- 186 ~~1. Random monitoring of outgoing telephone calls by~~
187 ~~inmates.~~
- 188 ~~2. Maintenance of current photographs of all inmates.~~
- 189 ~~3. Daily inmate counts at varied intervals.~~
- 190 ~~4. Use of canine units, where appropriate.~~
- 191 ~~5. Use of escape alarms and perimeter lighting.~~
- 192 ~~6. Florida Crime Information Center/National Crime~~
193 ~~Information Center capabilities.~~
- 194 ~~7. Employment background investigations.~~

195 ~~(d) Annually make written prioritized budget~~
196 ~~recommendations to the secretary that identify critical security~~
197 ~~deficiencies at major correctional institutions.~~

198 (4)(e) Direct appropriate department staff to investigate
199 and evaluate the usefulness and dependability of existing safety
200 and security technology at state and private correctional the
201 institutions and facilities, investigate and evaluate new
202 available safety and security technology, available and make
203 periodic written recommendations to the secretary on the

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204 discontinuation or purchase of various safety and security
205 devices.

206 (5)(f) Direct appropriate department staff to contract, if
207 deemed necessary, with security personnel, consulting engineers,
208 architects, or other safety and security experts the department
209 ~~committee~~ deems necessary for safety and security audits and
210 security consultant services.

211 (6)(g) Direct appropriate department staff, in conjunction
212 with the regional offices, to establish a periodic schedule for
213 conducting announced and unannounced escape simulation drills.

214 (7)(2) Direct appropriate department staff to maintain and
215 produce quarterly reports with accurate escape statistics. For
216 the purposes of these reports, the term "escape" includes all
217 possible types of escape, regardless of prosecution by the state
218 attorney, and includes ~~including~~ offenders who walk away from
219 nonsecure community facilities.

220 (8)(3) Direct appropriate department staff to adopt,
221 enforce, and annually evaluate the emergency escape response
222 procedures, which must ~~shall~~ at a minimum include the immediate
223 notification and inclusion of local and state law enforcement
224 through a mutual aid agreement.

225 (9) Direct appropriate department staff to review staffing
226 policies and practices as needed.

227 (10) Direct appropriate department staff to adopt and
228 enforce minimum safety and security standards and policies that
229 include, but are not limited to:

230 (a) Random monitoring of outgoing telephone calls by
231 inmates.

232 (b) Maintenance of current photographs of all inmates.

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- 233 (c) Daily inmate counts at varied intervals.
- 234 (d) Use of canine units, where appropriate.
- 235 (e) Use of escape alarms and perimeter lighting.
- 236 (f) Use of the Florida Crime Information Center and
 237 National Crime Information Center capabilities.
- 238 (g) Employment background investigations.
- 239 ~~(11)-(4)~~ Direct appropriate department staff to submit in
 240 the annual legislative budget request a prioritized summary of
 241 critical safety and security deficiencies and repair and
 242 renovation security needs.

243 Section 4. Subsection (5) of section 944.17, Florida
 244 Statutes, is amended to read:

245 944.17 Commitments and classification; transfers.—

246 (5) The department shall also refuse to accept a person
 247 into the state correctional system unless the following
 248 documents are presented in a completed form by the sheriff or
 249 chief correctional officer, or a designated representative, to
 250 the officer in charge of the reception process. The department
 251 may, at its discretion, receive such documents electronically:

252 (a) The uniform commitment and judgment and sentence forms
 253 as described in subsection (4).

254 (b) The sheriff's certificate as described in s. 921.161.

255 (c) A certified copy of the indictment or information
 256 relating to the offense for which the person was convicted.

257 (d) A copy of the probable cause affidavit for each offense
 258 identified in the current indictment or information.

259 (e) A copy of the Criminal Punishment Code scoresheet and
 260 any attachments thereto prepared pursuant to Rule 3.701, Rule
 261 3.702, or Rule 3.703, Florida Rules of Criminal Procedure, or

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262 any other rule pertaining to the preparation of felony
263 sentencing scoresheets.

264 (f) A copy of the restitution order or the reasons by the
265 court for not requiring restitution pursuant to s. 775.089(1).

266 (g) The name and address of any victim, if available.

267 (h) A printout of a current criminal history record as
268 provided through an FCIC/NCIC printer.

269 (i) Any available health assessments including medical,
270 mental health, and dental, including laboratory or test
271 findings; custody classification; disciplinary and adjustment;
272 and substance abuse assessment and treatment information which
273 may have been developed during the period of incarceration
274 before ~~prior to~~ the transfer of the person to the department's
275 custody. Available information shall be transmitted on standard
276 forms developed by the department.

277
278 In addition, the sheriff or other officer having such person in
279 charge shall also deliver with the foregoing documents any
280 available presentence investigation reports as described in s.
281 921.231 and any attached documents. After a prisoner is admitted
282 into the state correctional system, the department may request
283 such additional records relating to the prisoner as it considers
284 necessary from the clerk of the court, the Department of
285 Children and Families, or any other state or county agency for
286 the purpose of determining the prisoner's proper custody
287 classification, gain-time eligibility, or eligibility for early
288 release programs. An agency that receives such a request from
289 the department must provide the information requested. The
290 department may, at its discretion, receive such information

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291 electronically.

292 Section 5. Paragraph (d) of subsection (4) of section
293 944.275, Florida Statutes, is amended to read:

294 944.275 Gain-time.—

295 (4)

296 (d) Notwithstanding the monthly maximum awards of incentive
297 gain-time under subparagraphs (b)1., ~~and 2.,~~ and 3., the
298 education program manager shall recommend, and the Department of
299 Corrections may grant, a one-time award of 60 additional days of
300 incentive gain-time to an inmate who is otherwise eligible and
301 who successfully completes requirements for and is, or has been
302 during the current commitment, awarded a high school equivalency
303 diploma or vocational certificate. Under no circumstances may an
304 inmate receive more than 60 days for educational attainment
305 pursuant to this section.

306 Section 6. Subsection (2) of section 944.597, Florida
307 Statutes, is amended to read:

308 944.597 Transportation and return of prisoners by private
309 transport company.—

310 (2) The department shall include, but is ~~shall~~ not ~~be~~
311 limited to, the following requirements in any contract with any
312 transport company:

313 (a) That the transport company shall maintain adequate
314 liability coverage with respect to the transportation of
315 prisoners. ~~;~~

316 (b) That the transport company shall require its employees
317 to complete at least 100 hours of training before transporting
318 prisoners. The curriculum for such training must be approved by
319 the department and include instruction in:

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- 320 1. Use of restraints;
- 321 2. Searches of prisoners;
- 322 3. Use of force, including use of appropriate weapons and
- 323 firearms;
- 324 4. Cardiopulmonary resuscitation;
- 325 5. Map reading; and
- 326 6. Defensive driving. ~~personnel employed with the transport~~
- 327 ~~company who are based in the state shall meet the minimum~~
- 328 ~~standards in accordance with s. 943.13 and that personnel~~
- 329 ~~employed with the transport company based outside of Florida~~
- 330 ~~shall meet the minimum standards for a correctional officer or~~
- 331 ~~law enforcement officer in the state where the employee is~~
- 332 ~~based;~~

333 (c) That the transport company shall adhere to standards
 334 which provide for humane treatment of prisoners while in the
 335 custody of the transport company.†

336 (d) That the transport company shall submit reports to the
 337 department regarding incidents of escape, use of force, and
 338 accidents involving prisoners in the custody of the transport
 339 company.

340 Section 7. Section 945.36, Florida Statutes, is amended to
 341 read:

342 945.36 Exemption from health testing regulations for law
 343 enforcement personnel conducting drug tests on inmates and
 344 releasees.—

345 (1) Any law enforcement officer, state or county probation
 346 officer, ~~or~~ employee of the Department of Corrections, or
 347 employee of a contracted community correctional center who is
 348 certified by the Department of Corrections pursuant to

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349 subsection (2), is exempt from part I of chapter 483, for the
350 limited purpose of administering a urine screen drug test to:

- 351 (a) Persons during incarceration;
- 352 (b) Persons released as a condition of probation for either
353 a felony or misdemeanor;
- 354 (c) Persons released as a condition of community control;
- 355 (d) Persons released as a condition of conditional release;
- 356 (e) Persons released as a condition of parole;
- 357 (f) Persons released as a condition of provisional release;
- 358 (g) Persons released as a condition of pretrial release; or
- 359 (h) Persons released as a condition of control release.

360 (2) The Department of Corrections shall develop a procedure
361 for certification of any law enforcement officer, state or
362 county probation officer, ~~or~~ employee of the Department of
363 Corrections, or employee of a contracted community correctional
364 center to perform a urine screen drug test on the persons
365 specified in subsection (1).

366 Section 8. Section 958.11, Florida Statutes, is amended to
367 read:

368 958.11 Designation of institutions and programs for
369 youthful offenders; assignment from youthful offender
370 institutions and programs.—

371 (1) The department shall by rule designate separate
372 institutions and programs for youthful offenders and shall
373 employ and utilize personnel specially qualified by training and
374 experience to operate all such institutions and programs for
375 youthful offenders. Youthful offenders who are at least 14 years
376 of age but who have not yet reached the age of 18 ~~19~~ years at
377 the time of reception shall be separated from ~~youthful~~ offenders

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378 who are 18 ~~19~~ years of age or older, ~~except that if the~~
379 ~~population of the facilities designated for 14-year-old to 18-~~
380 ~~year-old youthful offenders exceeds 100 percent of lawful~~
381 ~~capacity, the department may assign 18-year-old youthful~~
382 ~~offenders to the 19-24 age group facility.~~

383 (2) Youthful offender institutions and programs shall
384 contain only those youthful offenders sentenced as such by a
385 court or classified as such by the department, pursuant to the
386 requirements of subsections (7) ~~(4)~~ and (9) ~~(6)~~, except that
387 under special circumstances select adult offenders may be
388 assigned to youthful offender institutions. All female youthful
389 offenders ~~of all ages~~ may continue to be housed together at
390 those institutions designated by department rule ~~until such time~~
391 ~~as institutions for female youthful offenders are established or~~
392 ~~adapted to allow for separation by age and to accommodate all~~
393 ~~eustody classifications.~~

394 (3) The department may assign a youthful offender who is 18
395 years of age or older to a facility in the state correctional
396 system which is not designated for the care, custody, control,
397 and supervision of youthful offenders or an age group only in
398 the following circumstances:

399 (a) If the youthful offender is convicted of a new crime
400 that ~~which~~ is a felony under the laws of this state.

401 (b) If the youthful offender becomes such a serious
402 management or disciplinary problem resulting from serious
403 violations of the rules of the department that his or her
404 original assignment would be detrimental to the interests of the
405 program and to other inmates committed thereto.

406 (c) If the youthful offender needs medical treatment,

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407 health services, or other specialized treatment otherwise not
408 available at the youthful offender facility.

409 (d) If the department determines that the youthful offender
410 should be transferred outside of the state correctional system,
411 as provided by law, for services not provided by the department.

412 (e) If bed space is not available in a designated community
413 residential facility, the department may assign a youthful
414 offender to a community residential facility, provided that the
415 youthful offender is separated from other offenders insofar as
416 is practical.

417 (4) The department may assign a youthful offender whose age
418 does not exceed 17 years to an adult facility for medical or
419 mental health reasons, for protective management, or for close
420 management. The youthful offender shall be separated from
421 offenders who are 18 years of age or older.

422 (5)~~(f)~~ If the youthful offender was originally assigned to
423 a facility designated for 14- to 17-year-old ~~14-year-old to 18-~~
424 ~~year-old~~ youthful offenders, but subsequently reaches the age of
425 18 ~~19~~ years, the department may retain the youthful offender in
426 a the facility designated for 18- to 22-year-old youthful
427 offenders if the department determines that it is in the best
428 interest of the youthful offender and the department.

429 (6) If the youthful offender was originally assigned to a
430 facility designated for 18- to 22-year-old youthful offenders,
431 but subsequently reaches the age of 23 years, the department may
432 retain the offender in the facility until the age of 25 if the
433 department determines that it is in the best interest of the
434 youthful offender and the department.

435 ~~(g) If the department determines that a youthful offender~~

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436 originally assigned to a facility designated for the 19-24 age
437 group is mentally or physically vulnerable by such placement,
438 the department may reassign a youthful offender to a facility
439 designated for the 14-18 age group if the department determines
440 that a reassignment is necessary to protect the safety of the
441 youthful offender or the institution.

442 ~~(h)~~ If the department determines that a youthful offender
443 originally assigned to a facility designated for the 14-18 age
444 group is disruptive, incorrigible, or uncontrollable, the
445 department may reassign a youthful offender to a facility
446 designated for the 19-24 age group if the department determines
447 that a reassignment would best serve the interests of the
448 youthful offender and the department.

449 (7)~~(4)~~ The department shall continuously screen all
450 institutions, facilities, and programs for any inmate who meets
451 the eligibility requirements for youthful offender designation
452 specified in s. 958.04(1)(a) and (c) whose age does not exceed
453 24 years and whose total length of sentence does not exceed 10
454 years, and the department may classify and assign as a youthful
455 offender any inmate who meets the criteria of this subsection.

456 (8)~~(5)~~ The department shall coordinate all youthful
457 offender assignments or transfers and shall review and maintain
458 access to full and complete documentation and substantiation of
459 all such assignments or transfers of youthful offenders to or
460 from facilities in the state correctional system which are not
461 designated for their care, custody, and control, except
462 assignments or transfers made pursuant to paragraph (3)(c).

463 (9)~~(6)~~ The department may assign to a youthful offender
464 facility any inmate, except a capital or life felon, whose age

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465 does not exceed 19 years but who does not otherwise meet the
466 criteria of this section, if the department determines that such
467 inmate's mental or physical vulnerability would substantially or
468 materially jeopardize his or her safety in a nonyouthful
469 offender facility. Assignments made under this subsection shall
470 be included in the department's annual report.

471 Section 9. This act shall take effect July 1, 2017.