

By Representative Martinez

1 A bill to be entitled
2 An act relating to the state correctional
3 system; amending s. 944.279, F.S.; providing
4 that a prisoner who is found to have brought a
5 frivolous or malicious action or brought false
6 information before the court is subject to
7 disciplinary procedures; amending s. 944.31,
8 F.S.; revising duties of the inspector general
9 or inspectors of the Department of Corrections
10 with respect to contraband interdiction,
11 internal audit, criminal and investigation
12 investigations, and compliance review of the
13 correctional system, including certain
14 privatized facilities or entities under
15 contract; amending s. 944.35, F.S., relating to
16 authorized use of force by departmental
17 employee against inmate or supervised offender;
18 removing requirement that report on such use of
19 force be kept in file of employee; amending s.
20 944.472, F.S., relating to drug-free
21 corrections; providing legislative findings and
22 purposes with respect to reasonable suspicion
23 of substance abuse testing programs for
24 inmates; amending s. 944.473, F.S.; providing
25 for adoption of rules for such programs;
26 providing an effective date.

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

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30 Section 1. Section 944.279, Florida Statutes, 1996
31 Supplement, is amended to read:

1 944.279 Disciplinary procedures applicable to prisoner
2 ~~Loss of gain-time~~ for filing frivolous or malicious actions or
3 bringing false information before court.--

4 (1) At any time, and upon its own motion or on motion
5 of a party, a court may conduct an inquiry into whether any
6 action or appeal brought by a prisoner was brought in good
7 faith. A prisoner who is found by a court to have brought a
8 frivolous or malicious suit, action, claim, proceeding, or
9 appeal in any court of this state or in any federal court,
10 which is filed after June 30, 1996, or who knowingly or with
11 reckless disregard for the truth brought false information or
12 evidence before the court, is subject to disciplinary
13 procedures pursuant to the rules of the Department of
14 Corrections forfeiture of gain-time and the right to earn
15 gain-time. The court shall issue a written finding and direct
16 that a certified copy be forwarded to the appropriate
17 institution or facility for disciplinary procedures pursuant
18 to the rules of the department ~~action~~ as provided in s. 944.09
19 944.28(2).

20 (2) This section does not apply to a criminal
21 proceeding or a collateral criminal proceeding.

22 Section 2. Section 944.31, Florida Statutes, 1996
23 Supplement, is amended to read:

24 944.31 Inspector general; inspectors; power and
25 duties.--The inspector general shall be responsible for prison
26 inspection and investigation, internal affairs investigations,
27 inmate grievances, contraband interdiction, internal audit,
28 and management reviews. The office of the inspector general
29 shall be charged with the duty of inspecting and auditing,
30 conducting investigations of, and reviewing compliance with
31 standards of the ~~penal and~~ correctional systems of the state,

1 including privatized facilities. The office of the inspector
2 general may ~~shall~~ inspect, review, or audit each correctional
3 institution or any place in which state prisoners are housed,
4 worked, or kept within the state, ~~with reference to its~~
5 ~~physical conditions, cleanliness, sanitation, safety, and~~
6 ~~comfort; the quality and supply of all bedding; the quality,~~
7 ~~quantity, and diversity of food served and the manner in which~~
8 ~~it is served; the number and condition of the prisoners~~
9 ~~confined therein; and the general conditions of each~~
10 ~~institution~~. The office of inspector general shall see that
11 all the rules and regulations issued by the department are
12 strictly observed and followed by all persons connected with
13 the correctional systems of the state. The office of the
14 inspector general shall coordinate and supervise the work of
15 inspectors, reviewers, and auditors throughout the state
16 subject to the provisions of s. 20.055(5). The inspector
17 general, the and inspectors, the reviewers, and the auditors
18 of the inspector general staff may enter any place where
19 prisoners in this state are kept and shall be immediately
20 admitted to such place as they desire and may consult and
21 confer with any prisoner privately and without molestation and
22 review any documents or records relating to the operation and
23 administration of any such place where prisoners in this state
24 are kept. The inspector general and inspectors shall be
25 responsible for criminal and administrative investigation of
26 matters relating to the Department of Corrections and entities
27 under contract for the custody and care of state inmates or
28 offenders. In such investigations, the inspector general and
29 inspectors may consult and confer with any prisoner or staff
30 member privately and without molestation and shall have the
31 authority to detain any person for violations of the criminal

1 laws of the state. Such detention shall be made only on
2 properties owned or leased by the department, and the detained
3 person shall be surrendered without delay to the sheriff of
4 the county in which the detention is made, with a formal
5 complaint subsequently made against him in accordance with
6 law.

7 Section 3. Subsection (2) of section 944.35, Florida
8 Statutes, 1996 Supplement, is amended to read:

9 944.35 Authorized use of force; malicious battery and
10 sexual misconduct prohibited; reporting required; penalties.--

11 (2) Each employee of the department who either applies
12 physical force or was responsible for making the decision to
13 apply physical force upon an inmate or an offender supervised
14 by the department in the community pursuant to this subsection
15 shall prepare, date, and sign an independent report within 5
16 working days of the incident. The report shall be delivered to
17 the superintendent or the regional administrator, who shall
18 have an investigation made and shall approve or disapprove the
19 force used. The employee's report, together with the
20 superintendent's or regional administrator's written approval
21 or disapproval of the force used and the reasons therefor,
22 shall be forwarded within 5 working days of the date of the
23 completion of the investigation to the regional director. The
24 regional director shall, in writing, concur in the
25 superintendent's or regional administrator's evaluation or
26 disapprove it. Copies of the employee's report, the
27 superintendent's or regional administrator's evaluation, and
28 the regional director's review shall be kept in the files of
29 ~~both~~ the inmate or the offender supervised by the department
30 in the community, ~~and the employee.~~

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1 Section 4. Paragraph (c) of subsection (1) and
2 subsection (2) of section 944.472, Florida Statutes, are
3 amended to read:

4 944.472 Drug-free corrections; legislative findings
5 and purposes.--

6 (1) FINDINGS.--The Legislature finds that:

7 (c) Certain substance abuse testing standards are
8 necessary to ensure uniform and economical application of
9 policy throughout the state's institutions and to protect both
10 inmates and employers participating in random and reasonable
11 suspicion substance abuse testing programs.

12 (2) PURPOSES.--The purposes of the Drug-Free
13 Corrections Act of 1992 are to:

14 (a) Promote the goal of a drug-free correctional
15 system through fair, economical, and reasonable methods of
16 random and reasonable suspicion substance abuse testing of
17 inmates for the protection of inmates, employees, employers,
18 and the public.

19 (b) Establish an aggressive, routine random substance
20 abuse testing program and a reasonable suspicion substance
21 abuse testing program to identify substance-abusing inmates,
22 determine appropriate treatment, and provide a strong
23 deterrent to future substance abuse.

24 Section 5. Subsections (1) and (3) of section 944.473,
25 Florida Statutes, are amended to read:

26 944.473 Inmate substance abuse testing program.--

27 (1) RULES AND PROCEDURES.--The department shall
28 establish programs ~~a program~~ for random and reasonable
29 suspicion drug and alcohol testing by urinalysis or other
30 noninvasive procedure for inmates to effectively identify
31 those inmates abusing drugs, alcohol, or both. The department

1 shall also adopt rules relating to fair, economical, and
2 accurate operations and procedures of a random inmate
3 substance abuse testing program and a reasonable suspicion
4 substance abuse testing program by urinalysis or other
5 noninvasive procedure which enumerate penalties for positive
6 test results, including but not limited to the forfeiture of
7 both basic and incentive gain-time, and which do not limit the
8 number of times an inmate may be tested in any one fiscal or
9 calendar year.

10 (3) REPORTING REQUIREMENT.--The department shall, as
11 part of its annual report, report the number of random and
12 reasonable suspicion substance abuse tests administered in the
13 fiscal year, the number of positive results obtained, the
14 number of negative results obtained, the number of inmates
15 requesting and participating in substance abuse treatment
16 programs as the result of a positive random or reasonable
17 suspicion substance abuse test, and the number of repeat
18 substance abuse offenders.

19 Section 6. This act shall take effect October 1, 1997.
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HOUSE SUMMARY

Revises duties of the inspector general or inspectors of the Department of Corrections with respect to contraband interdiction, internal audit, criminal and investigation investigations, and compliance review of the correctional system, including certain privatized facilities or entities under contract. Provides that a prisoner who is found to have brought a frivolous or malicious action or brought false information before the court is subject to disciplinary procedures. Removes requirement that report on authorized use of force by departmental employee against inmate or supervised offender be kept in file of employee.

Provides legislative findings and purposes with respect to reasonable suspicion substance abuse testing programs. Provides for departmental establishment of reasonable suspicion substance abuse testing programs. Provides for adoption of rules. Requires certain reports.