

By the Committee on Corrections and 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; providing a definition
8 of "prisoner"; amending s. 944.31, F.S.;
9 revising duties of the inspector general or
10 inspectors of the Department of Corrections
11 with respect to contraband interdiction,
12 internal audit, criminal and investigation
13 investigations, and compliance review of the
14 correctional system, including certain
15 privatized facilities or entities under
16 contract; amending s. 944.35, F.S., relating to
17 authorized use of force by departmental
18 employee against inmate or supervised offender;
19 removing requirement that report on such use of
20 force be kept in file of employee; providing
21 for notation of use-of-force incident and
22 outcome in the file of employee; amending s.
23 944.472, F.S., relating to drug-free
24 corrections; providing legislative findings and
25 purposes with respect to reasonable suspicion
26 of substance abuse testing programs for
27 inmates; amending s. 944.473, F.S.; providing
28 for adoption of rules for such programs;
29 amending s. 944.801, F.S., relating to
30 education for state prisoners; entitling
31 certain inmates who qualify for special

1 educational services and programs under federal
2 law to request hearings before the Division of
3 Administrative Hearings; providing that
4 administrative law judges are not required to
5 travel to state and private correctional
6 institutions and facilities to conduct such
7 hearings; providing effective dates.

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

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11 Section 1. Section 944.279, Florida Statutes, 1996
12 Supplement, is amended to read:

13 944.279 Disciplinary procedures applicable to prisoner
14 ~~Loss of gain-time~~ for filing frivolous or malicious actions or
15 bringing false information before court.--

16 (1) At any time, and upon its own motion or on motion
17 of a party, a court may conduct an inquiry into whether any
18 action or appeal brought by a prisoner was brought in good
19 faith. A prisoner who is found by a court to have brought a
20 frivolous or malicious suit, action, claim, proceeding, or
21 appeal in any court of this state or in any federal court,
22 which is filed after June 30, 1996, or who knowingly or with
23 reckless disregard for the truth brought false information or
24 evidence before the court, is subject to disciplinary
25 procedures pursuant to the rules of the Department of
26 Corrections forfeiture of gain-time and the right to earn
27 gain-time. The court shall issue a written finding and direct
28 that a certified copy be forwarded to the appropriate
29 institution or facility for disciplinary procedures pursuant
30 to the rules of the department ~~action~~ as provided in s. 944.09
31 ~~944.28(2)~~.

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

3 (3) For purposes of this section, "prisoner" means a
4 person who is convicted of a crime and is incarcerated for
5 that crime or who is being held in custody pending extradition
6 or sentencing.

7 Section 2. Section 944.31, Florida Statutes, 1996
8 Supplement, is amended to read:

9 944.31 Inspector general; inspectors; power and
10 duties.--The inspector general shall be responsible for prison
11 inspection and investigation, internal affairs investigations,
12 inmate grievances, contraband interdiction, internal audit,
13 and management reviews. The office of the inspector general
14 shall be charged with the duty of inspecting and auditing,
15 conducting investigations of, and reviewing compliance with
16 standards of the ~~penal and~~ correctional systems of the state,
17 including privatized facilities. The office of the inspector
18 general may ~~shall~~ inspect, review, or audit each correctional
19 institution or any place in which state prisoners are housed,
20 worked, or kept within the state, ~~with reference to its~~
21 ~~physical conditions, cleanliness, sanitation, safety, and~~
22 ~~comfort; the quality and supply of all bedding; the quality,~~
23 ~~quantity, and diversity of food served and the manner in which~~
24 ~~it is served; the number and condition of the prisoners~~
25 ~~confined therein; and the general conditions of each~~
26 ~~institution.~~ The office of inspector general shall see that
27 all the rules and regulations issued by the department are
28 strictly observed and followed by all persons connected with
29 the correctional systems of the state. The office of the
30 inspector general shall coordinate and supervise the work of
31 inspectors, reviewers, and auditors throughout the state

1 subject to the provisions of s. 20.055(5). The inspector
2 general, the ~~and~~ inspectors, the reviewers, and the auditors
3 of the inspector general staff may enter any place where
4 prisoners in this state are kept and shall be immediately
5 admitted to such place as they desire and may consult and
6 confer with any prisoner privately and without molestation and
7 review any documents or records relating to the operation and
8 administration of any such place where prisoners in this state
9 are kept. The inspector general and inspectors shall be
10 responsible for criminal and administrative investigation of
11 matters relating to the Department of Corrections and entities
12 under contract for the custody and care of state inmates or
13 offenders. In such investigations, the inspector general and
14 inspectors may consult and confer with any prisoner or staff
15 member privately and without molestation and shall have the
16 authority to detain any person for violations of the criminal
17 laws of the state. Such detention shall be made only on
18 properties owned or leased by the department, and the detained
19 person shall be surrendered without delay to the sheriff of
20 the county in which the detention is made, with a formal
21 complaint subsequently made against him in accordance with
22 law.

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

25 944.35 Authorized use of force; malicious battery and
26 sexual misconduct prohibited; reporting required; penalties.--

27 (2) Each employee of the department who either applies
28 physical force or was responsible for making the decision to
29 apply physical force upon an inmate or an offender supervised
30 by the department in the community pursuant to this subsection
31 shall prepare, date, and sign an independent report within 5

1 working days of the incident. The report shall be delivered to
2 the superintendent or the regional administrator, who shall
3 have an investigation made and shall approve or disapprove the
4 force used. The employee's report, together with the
5 superintendent's or regional administrator's written approval
6 or disapproval of the force used and the reasons therefor,
7 shall be forwarded within 5 working days of the date of the
8 completion of the investigation to the regional director. The
9 regional director shall, in writing, concur in the
10 superintendent's or regional administrator's evaluation or
11 disapprove it. Copies of the employee's report, the
12 superintendent's or regional administrator's evaluation, and
13 the regional director's review shall be kept in the files of
14 ~~both the inmate or the offender supervised by the department~~
15 ~~in the community, and the employee.~~ A notation of each
16 incident involving use of force and the outcome based on the
17 superintendent's or regional director's evaluation and the
18 regional administrator's review shall be kept in the
19 employee's file.

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

23 944.472 Drug-free corrections; legislative findings
24 and purposes.--

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

26 (c) Certain substance abuse testing standards are
27 necessary to ensure uniform and economical application of
28 policy throughout the state's institutions and to protect both
29 inmates and employers participating in random and reasonable
30 suspicion substance abuse testing programs.

31

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

3 (a) Promote the goal of a drug-free correctional
4 system through fair, economical, and reasonable methods of
5 random and reasonable suspicion substance abuse testing of
6 inmates for the protection of inmates, employees, employers,
7 and the public.

8 (b) Establish an aggressive, routine random substance
9 abuse testing program and a reasonable suspicion substance
10 abuse testing program to identify substance-abusing inmates,
11 determine appropriate treatment, and provide a strong
12 deterrent to future substance abuse.

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

15 944.473 Inmate substance abuse testing program.--

16 (1) RULES AND PROCEDURES.--The department shall
17 establish programs ~~a program~~ for random and reasonable
18 suspicion drug and alcohol testing by urinalysis or other
19 noninvasive procedure for inmates to effectively identify
20 those inmates abusing drugs, alcohol, or both. The department
21 shall also adopt rules relating to fair, economical, and
22 accurate operations and procedures of a random inmate
23 substance abuse testing program and a reasonable suspicion
24 substance abuse testing program by urinalysis or other
25 noninvasive procedure which enumerate penalties for positive
26 test results, including but not limited to the forfeiture of
27 both basic and incentive gain-time, and which do not limit the
28 number of times an inmate may be tested in any one fiscal or
29 calendar year.

30 (3) REPORTING REQUIREMENT.--The department shall, as
31 part of its annual report, report the number of random and

1 reasonable suspicion substance abuse tests administered in the
2 fiscal year, the number of positive results obtained, the
3 number of negative results obtained, the number of inmates
4 requesting and participating in substance abuse treatment
5 programs as the result of a positive random or reasonable
6 suspicion substance abuse test, and the number of repeat
7 substance abuse offenders.

8 Section 6. Effective upon this section becoming a law,
9 subsection (4) is added to section 944.801, Florida Statutes,
10 1996 Supplement, to read:

11 944.801 Education for state prisoners.--

12 (4) Notwithstanding s. 120.81(3), all inmates under 22
13 years of age who qualify for special educational services and
14 programs pursuant to the Individuals with Disabilities
15 Education Act, 20 U.S.C. ss. 1400 et seq., and who request a
16 due process hearing as provided by that act shall be entitled
17 to such hearing before the Division of Administrative
18 Hearings. Administrative law judges shall not be required to
19 travel to state or private correctional institutions and
20 facilities in order to conduct these hearings.

21 Section 7. Except as otherwise provided herein, this
22 act shall take effect October 1, 1997.

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